THE LOAN TRAP REVISITED: TOWARDS A BORROWER-CENTRIC LEGAL REGIME FOR DIGITAL FINANCE IN INDIA

Harsh Srivastava, CHRIST (Deemed to be University)

ABSTRACT

The near-instant expansion of digital lending in India has led to the provision of financial access to millions of people but has precipitated new dangers of exploiting the borrowers, such as excessive interest rates and methods of forceful recovery, as well as breaches of data privacy and mental harm. Regardless of these systemic issues, India does not have a unified statutory framework that identifies and safeguards the rights of the borrower in the digital age. The issue of the research, then, is the discrepancy between the constitutional concepts of the dignity and privacy, expressed by the courts, and the piece-meal, lender-focused reality of the regulation.

The paper aims at critically analyzing the current statutory and judicial framework that regulates digital lending in India, evaluating how well this framework protects the rights of borrowers, and how it compares with regulatory frameworks in other countries. The goals are threefold: to map the contemporary Indian legal environment, including the Information Technology Act, the Consumer Protection Act, the Digital Personal Data Protection Act, FEMA, and RBI guidelines; to examine judicial precedents, including Puttaswamy, Shanti Devi Sharma, PC Financial Services, and Supertech to formulate the principles of borrower protection; and to make comparative conclusions relying on such jurisdictions as the United States, the United Kingdom, the European Union, South Africa, Nigeria, and Indonesia.

The research methodologically follows the doctrinal approach based on the statutory interpretation, the analysis of case law, and the comparative study of the law, which are backed by the secondary literature such as scholarly articles, regulatory reports, and international instruments. Normative evaluation and practical critique are both possible with this triangulation.

Th provisional finding is that the strategy used in India is still splintered, reactive, and limited in its focus, emphasising on the stability of the systems at the expense of the borrower dignity and psychosocial traumas. Comparative models demonstrate that rights of the borrowers may be

codified by using preventive regulation, harmonization and centralized oversight. This paper proposes that the only viable way to go is the introduction of the overall Borrower Protection Act which takes the constitutional values and makes them binding and enforceable in statutes.

Keywords: Digital Lending, Borrower Protection, Financial Regulation, Consumer Rights, Comparative Law

Introduction: The Rise of Digital Lending and the Borrower's Dilemma

The story of digital lending in India essentially involves the ultimate representation of a dichotomy. Mobile-based lending applications have become a gateway to financial inclusion to countless personal credit first-time borrowers to access the necessary minor loans with little effort to solve an immediate financial need such as an urgent medical issue, a school payment, or conducting business. To a daily-wage worker in their Telangana, or a small merchant in their Bihar countryside, mobile handsets have replaced the intimidating atmosphere of the old banking halls, and carry an air of instant credit with no agreed-upon red tape. but underneath this veil of convenience there is perceivable and irregularly, though becoming more chronicled, will be a trend of exploitation. They often get into traps of unclear rates, outrageous interest rates and intrusive recovery measures that go beyond the financial implication on borrowers. Some of them have attempted suicide upon facing constant harassment, being humiliated, or threatened by a crowd of people, who did this because of their members of the family. These heart-wrenching events are not mere isolated incidents; instead, they reflect a regulatory framework that has conspicuously failed to safeguard the dignity and rights of borrowers.[1]

The controversy is similar at the international level regarding digital credit. Digital lending has been labelled by OECD (2020) as a contributor to financial inclusion and a potential channel of oppression among the borrowers.[2]This predicament has been described as a dilemma in India by Ashish Srivastava (2021) who speaks of this phenomenon as a loan trap, a platform that distracts bad borrowers in ok-loan refinancing and accumulating debt into a loop.[3] The impression of dichotomy is evoked in the description given by Christopher Bradley (2018) of fintech as a technology perceived as a two-sided one (a technologizing of finance), which was associated with democratizing it at the same time as it has created inequality and harm to people

[1] Srivastava, *Digital Lending in India: The Loan Trap*, 52 J. Legal Stud. 1 (2021).
[2] OECD, *Digital Disruption in Banking and Its Impact on Competition* (2020).
[3] Srivastava, supra note 1.

in ways similar to how earlier technicalization had once caused inequality (and harming people).[4]

The ramifications for individuals are evident.Oyeleke, (2024) has reported occurrences of borrowers experiencing relentless harassment from numerous calls daily, as loan applications exploit their contact lists to disseminate slanderous messages to employers, acquaintances, and relatives.[5] For younger employees, this form of humiliation is intolerable, leading some to tragically take their own lives following threats of public disclosure. In these situations, the so-called "innovation" within the realm of digital finance appears to result in psychological distress rather than actual empowerment.

Scholars have been working fast to establish the structural origins of this crisis. As Amit Kumar Kashyap (2024)[6] has explained, the data protection legislation adopted in India, the Digital Personal Data Protection Act (2023)[7], does not interact well with the rules of the Reserve Bank of India on digital lending and, therefore, exposes the borrowers to the risks associated with forceful consent and algorithmic discrimination. Shreya Patel and Rishabh Patil (2022)[8], as well as Prakhar Prajapati (2023)[9], stress the reality that India's laws relating to consumer protection are enforced with limited effectiveness, often requiring borrowers to embark on a lengthy complaint procedure themselves. On the other hand, Nitika Upadhyaya (2023)[10] highlights regulators' optimism and their view that fintech has the potential to become more innovative in the banking sector, and that such rhetoric creates such ambivalence in gauging the potential and risks of innovation.

Comparative literature enriches this picture. Yesha Yadav (2020)[11] has described the “innovation trilemma” of fintech regulation: the difficulty of simultaneously promoting innovation, ensuring market stability, and protecting consumers. Hilary Allen (2025)[12] warns

[4] Christopher G. Bradley, *FinTech's Double Edges*, 93 Chi.-Kent L. Rev. 61 (2018).
[5] Oyeleke, *Mental Health Risks in Digital Debt Recovery: Insights from Nigeria's Digital Money Lending Sector* (2024), https://doi.org/10.23668/psycharchives.14915
[6] Amit Kumar Kashyap, *Rethinking FinTech Regulation under the Indian Data Protection Framework*, 14 Jurid. Trib. Rev. Compar. & Int'l L. 363 (2024).
[7] Digital Personal Protection Act, No. of 22 of 2023, INDIACODE (2023)
[8] Shreya Rajnikant Patel & Rishabh Patil, *An Analysis of the Fintech Regulations in India*, 2 Indian J. Integrated Rsch. L. 1 (2022).
[9] Prakhar Prajapati, *Fintech: Regulatory Framework in India*, 6 Int'l J.L. Mgmt. & Human. 1534 (2023).
[10] Nitika Upadhyaya, *FinTech: Boon for Banking Sector in India*, 5 Indian J.L. & Legal Rsch. 1 (2023).
[11] Yesha Yadav, *Fintech and International Financial Regulation*, 53 Vand. J. Transnat'l L. 1109 (2020).
[12] Hilary J. Allen, *Fintech and Techno-Solutionism*, 98 S. Cal. L. Rev. 761 (2025).

regulators against the seduction of "techno-solutionism," the belief that technology can solve structural inequalities without meaningful legal safeguards.

The judiciary of India has enshrined constitutional values directly applicable to safeguarding borrowers. Justice K.S. Puttaswamy v. Union of India (2017)[13], validated privacy as a fundamental right with consequences for proportionality in data use. In ICICI Bank v. Shanti Devi Sharma (2008),[14] declared coercive measures for recovery unconstitutional as infringements upon dignity in Article 21. More recent rulings, such as PC Financial Services v. Directorate of Enforcement (2024) and RBI v. Supertech Ltd. (2023)[15], highlight borrower exploitation as implicating financial sovereignty and regulatory authority.

But despite these judicial indications, India remains without a codified framework for borrower rights similar to the Fair Debt Collection Practices Act (U.S.), the FCA's Consumer Credit Sourcebook (U.K.), or South Africa's National Credit Act.[16] The protection remains in pieces as in the IT Act, Consumer Protection Act, FEMA, directions of RBI, and the DPDP Act, and is poorly accessible to ordinary borrowers. This essay asserts that regulation of borrower protection in India does not only rely on regulation as an art, but it is a constitutional duty. Through examination of statutory regimes, judicial precedents, and academic criticisms, and placing India in comparative perspective, it makes three key assertions. Firstly, India's regime of borrower protection is piecemeal and reactive and affords no satisfactory remedies to borrowers. Secondly, constitutional dignity, privacy, and equality principles require upholding borrower rights. Third, that comparative jurisdictions give examples on borrower-centric regulation that can be implemented in India. This paper ends by suggesting that awareness be put in place through the introduction of a Borrowers Rights Act, a Borrower Protection Authority, prophylaxis in the regulatory framework, and express consideration of psychosocial harms in the law on borrower protection.

Borrower Protection in Indian Law: Statutory and Judicial Perspectives

Indian borrower protection is not found in one harmonious statute but rather is diffused

[13] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).
[14] *ICICI Bank Ltd. v. Shanti Devi Sharma*, (2008) 2 SCC 345 (India).
[15] *PC Fin. Servs. Pvt. Ltd. v. Directorate of Enf't*, 2024 SCC OnLine Del 1789 (India); *RBI v. Supertech Ltd.*, 2023 SCC OnLine Del 3127 (India).
[16] Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692–1692p (2018); Consumer Credit Sourcebook (CONC), Fin. Conduct Auth. (U.K.), https://www.handbook.fca.org.uk/handbook/CONC/ (last visited Sept. 26, 2025); National Credit Act 34 of 2005 (S. Afr.).

throughout various laws and regulatory instruments. This piecemeal was never conceived with digital lending in mind; its provisions had been formed for wider issues such as cyber security, consumer markets, foreign exchange, and data protection. Thereby, the borrower tends to feature in law only obliquely—at times as a "consumer," at other times as a "data principal," and at yet other times as a target of prudential regulation. This doctrinal elusiveness has serious implications: it leaves borrowers to their own devices dealing with overlapping jurisdictions and fractured remedies, something not in itself other than formidable for anyone, though particularly formidable for someone who is vulnerable and possibly inexperienced in credits.

The Information Technology Act, 2000, must count as one of the most important early laws involved in digital lending. Sections 43A and 72, and the IT Rules of 2011[17], obligate corporations to keep personal data secure and procure consent to use it. On paper, these rules appear to give borrowers protection from invasive habits like debt-shaming, where lenders scrape contact lists and spam friends and relatives with defamatory posts. Yet in practice, consent is wrested coercively. A drowning borrower in search of a micro-loan to pay school fees is compelled to provide blanket access to her personal data not as a free option but as the cost of survival. The Supreme Court in Justice K.S. Puttaswamy v. Union of India (2017)[18] held that privacy was a right and that collection of data had to meet proportionality. That test would render scraping photos or contact lists for purposes of recovery manifestly unconstitutional. Yet enforcement by the IT Act has been forall-too-weak and these protections rarely translate from theory into practice. As Amit Kumar Kashyap (2024)[19] notes, not even the newer DPDP Act goes very far in addressing coercive consent and leaves borrowers vulnerable to algorithmic exploitation and profiling.

The Consumer Protection Act, 2019, offers one other possible avenue for protection. Unfair trading practices are prohibited, and consumer fora are empowered to award compensation for harassment. In ICICI Bank v. Shanti Devi Sharma (2008)[20], the Supreme Court condemned using musclemen for recovery. It upheld that dignity to borrowers is a vital element of the right to life under Article 21. However, CPA's usefulness for digital lending is limited. Shreya Patel and Rishabh Patil (2022)[21] comment that the Act leaves it to the mercy of borrowers to file complaints themselves, although many lack the resources or confidence to litigate. Prakhar

[17] Information Technology Act, No. 21 of 2000, INDIA CODE (2000).
[18] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).
[19] Kashyap, supra note 6, at 371–72.
[20] *ICICI Bank Ltd. v. Shanti Devi Sharma*, (2008) 2 SCC 345 (India).
[21] Patel & Patil, supra note 8, at 15–16.

Prajapati (2023)[22] adds that consumer fora are overburdened and not equipped for cases involving algorithmic scoring or cross-border apps. For an industrial worker in Hyderabad who is ashamed of having her loan app message her boss, the CPA offers a theoretical solution. Still, procedural limitations make it an unlikely prospect.

The Foreign Exchange Management Act, 1999, assumes greater significance since most exploitative loan apps are owned by foreigners. In PC Financial Services v.Directorate of Enforcement (2024)[23] Delhi High Court ruled in favour of the Directorate of Enforcement, asserting it had had jurisdiction to probe Chinese-managed loan applications and the question of consumer money exploitation was only variably described as a financial sovereignty versus radical their included borrower capitalism. Other projects have exhibited the same dynamics: Oyeleke [24] reports the activities of foreign supported lenders as an effort to exploit weak enforcement in Ghana and Kenya. FEMA is concerned not with the dignity of borrowers, but institutional integrity. That reasoning echoes similar dilemmas in developing economies. tampuri (2025) recounts how foreign-sponsored lenders take advantage of lax enforcement in Kenya and Ghana to siphon money outside and leave domestic borrowers distressed. Nevertheless, FEMA, just like the IT Act, was never conceptualized to shield dignity or autonomy; it addresses harm to borrowers as one among the by-products of financial malpractices and not something it is primarily protecting.

The RBI has responded with guidelines specific to digital lending issued in 2020 and updated in 2022, consolidated in 2025. They mandatorily require disclosure of terms, rule out disbursal by unchecked intermediaries, and expect lenders to involve grievance officers. In RBI v. Supertech Ltd. (2023)[25], Delhi High Court once again affirmed RBI's supervisory powers and hence indirectly supported RBI's authority over digital lending. Yet scholars such as Ashish Srivastava (2021) and K. Verma (2022) have been critical of RBI's response as one that is reactive not proactive and lender-centric not borrower-friendly. [26] For the borrower experiencing abundant abusive phone calls from recovery agents, RBI's requirement of having a grievance officer is not just insufficient—it's practically useless, as most do not know about

[22] Prajapati, supra note 9, at 1540.
[23] *PC Fin. Servs. Pvt. Ltd. v. Directorate of Enf't*, 2024 SCC OnLine Del 1789 (India).
[24]Oyeleke, supra note 5
[25] *RBI v. Supertech Ltd.*, 2023 SCC OnLine Del 3127
[26] Srivastava, supra note 1, at 8–10; K. Verma, *Legal and Regulatory Aspects of Digital Lending in India: A Critical Analysis*, 10 NLSIU J.L. & Tech. 20, 30–32 (2022).

it or lack resources to enforce it.

The Digital Personal Data Protection Act, 2023, brings a rights-based approach to governance of data by requiring consent, limitation of purpose, and accountability. On paper, it would presumably stop loan apps from requiring unnecessary permissions like access to photos or contacts. Yet here too reality departs. Consent under the DPDP Act is chimerical when refusal will mean exclusion from credit by any other name, according to Dasari (2023) and Kashyap (2024)[27]. Worse than that, the DPDP Act and the RBI framework act in isolation from one another, requiring the collector to shuttle between regulators. A young debtor bullied by an app will have to choose between going to the RBI, CCPA, ED, or the Data Protection Board—a maze that would intimidate even the law-literate.

Judicial precedents have, nonetheless, defined constitutional principles that must inform borrowing protection. Privacy is institutionalized by Puttaswamy, dignity by Shanti Devi Sharma, exploitation-sovereignty by PC Financial, and regulation supervision by Supertech. Collectively, these cases provide a constitutional template with the rights of the borrowers in the top positions. However, these ideals have not been codified in a sensible statutory code by Parliament.. Instead, the judiciary must plug holes through stopgap interventions on a case-by-case basis—a fragile system of protection that cannot make good on legislative clarity. In short, India's statutory and judicial framework exhibits disconnection between promise and practice. The law gestures toward borrower dignity and privacy but enables enforcement to become diffuse and ineffective. Borrowers experience humiliation, harassment, and despair not despite India's lack of law provisions, but because provisions are fragmented, reactive, and disconnected from lived experience with debt.

Global Approaches to Digital Lending: A Comparative Framework

The situation with the fragmented borrower protection regime in India is not an elephant. Global regulators throughout the world have struggled with the discontinuous emergence of digital lending. But as comparative analysis would show, other jurisdictions have exercised either by codifying rights of borrowers, being anticipatory and creating preventive obligations in borrowers or by centralizing supervisory capacity, whereas India is reactive and lender-oriented. Placing the experiences of the United States, the United Kingdom, the European

[27] Kashyap, supra note 6, at 375–76.

Union, South Africa, and emerging economies including Nigeria, Ghana, Kenya, and Indonesia in the limelight, both marks feasible models and some idols India has to learn.

The USA is unique in its' borrower focused statutory model. The Fair Debt Collection Practices Act equates harassment, threats, misrepresentation, and unfair practices by debt collectors and provides a right of action by individuals whom the bank refuses to finance to have their loan repaysment obligations clearly displayed[28], and the Dodd-Frank Act created the Consumer Financial Protection Bureau as a unified hub of consumer credit regulation[29]. In CFPB v. CashCall Inc., A case in which a federal court fined a payday lender who had sought to circumvent state usury rules by presenting their loans as tribal loans affirmed the role of CFPB in ensuring that the rights of a borrower were not subject to structural abuse[30].This structure shows that rights of a borrower could be embedded within statutory law to balance between innovation and a show of dignity. To a borrower who is harassed as an American, the FDCPA helps, offers both something to discourage the problem and something to retaliate--a remedy in and of itself that is non-existent in India.

The United Kingdom has a rather different approach also borrower-centric in nature, namely that of ex ante prevention. Established to regulate lending to consumers, the FCA has the authority to cancel licenses and fine lenders and stamp off regulations in the Consumer credit Source book requiring lenders to conduct an affordability assessment on the borrowers as well as regulate interest that can be charged so that it is not usury[31]. In contrast with the reactive action of the RBI, this preventive framework will expect to cause harm to the borrowers and deal with it in advance. Technology, Bradley describes it as being not only two-sided, but must be to serve borrowers, however it requires protections to ensure that it is not this side which lies sharpest in the sheath.

European Union has embraced harmonization model. The Consumer Credit Directive establishes transparency, pre-contractual disclosure, and withdrawal right in favor of the borrower in the civilized member states[32].Completely complementary, the Digital Finance

[28] Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692–1692p (2018).
[29] Truth in Lending Act, 15 U.S.C. §§ 1601–1667f (2018); Dodd–Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).
[30] *Consumer Fin. Prot. Bureau v. CashCall, Inc.*, No. 2:15-cv-7522, 2016 WL 4820635 (C.D. Cal. Aug. 31, 2016).
[31] Consumer Credit Sourcebook (CONC), FIN. CONDUCT AUTH. (U.K.), https://www.handbook.fca.org.uk/handbook/CONC/ (last visited Sept. 26, 2025).
[32] Directive 2008/48/EC, of the European Parliament and of the Council of 23 Apr. 2008 on Credit Agreements for Consumers, 2008 O.J. (L 133) 66 (as amended 2021).

Strategy aims at promoting innovation but at the same time safeguarding trans-national confidence to the exploitative market lenders that may avert the marketplace through weak consumer protection[33]. In contrast, regulatory silos in India being divided between the RBI, the Consumer Protection Authority, the Enforcement Directorate, and the Data Protection Board, provide no means to harmonized protection.

Another educative example of the Global South is South Africa. With its National Credit Act, it puts responsibilities on lending responsibly, necessitating assessments of affordability and outlawing irresponsible credit[34]. And responsible lenders can have their feet put to the fire by its ability to declare the borrowers impossible to pay back: the loans targeted at the impoverished as loan officers are no longer wolfram. The statute, in spite of its not-so even enforcement, puts the lawfulness of borrower dignities on a statutory basis instead of using lawsuits with chop-hammer judicial remedies. To the South African borrower, statutory existence of reckless credit gives them a weapon of taking the law into their own hands against the exploitation of vulnerable products, whilst to the Indian borrower, legal dignity through statutory statement has constitutionally to be repeated.

Emerging markets are the reflections of the weaknesses of India though they also invent new strategies. Digital debt-shaming has now become a widespread problem in Nigeria: loan applications face defamation and photo-bullying threats, beneficial in a distinct regulatory vacuum more akin to India and Russia than their own countries[35]. Tampuri documents that such practices provoke severe psychological effects among borrowers, such as depression, anxiety, and even suicidal events[36].35 In Ghana and Kenya, this has even turned into a successful business, with recovery practices being applied in a regulatory free-zone setting by foreign-backed loan app to ensuing regulatory vacuity alongside personal harms from harassment against borrowers.

A combination of these comparison experiences demonstrates four borrower protection models. The US records legally binding rights to which the central authority cannot offer, the UK tries to avoid damages by means of affordability controls and substantive fairness, the EU also balances allocation of protections across federal boundaries, and South Africa establishes

[33] Commission Communication on a Digital Finance Strategy for the EU, COM (2020) 591 final (Sept. 24, 2020).
[34] National Credit Act 34 of 2005 (S. Afr.).
[35] Fed. Competition & Consumer Prot. Comm'n (FCCPC), *Guidelines on Digital Lending* (Nigeria 2022).
[36] Eric Tampuri, *Digital Lending in Emerging Economies: The Nexus Between Financial Innovation and Consumer Protection* 12–14 (2023).

statutory responsibilities of responsible lending. It is possible to unveil the psychosocial and cross-border threat of low implementation in Nigeria, Ghana, and Kenya and deliberate as the case with Indonesia suggesting criminalizing harassment as the potential solution. Nevertheless, this does not apply with India. It has not institutionalized the rights of borrowers and has not been preventively regulated, is institutionally fragmented, and attentive to psychosocial damages. The point is that borrower protection is an essential regulatory but a comparative necessity in the form of a constitutional mandate. The future of Indian digital lending ecosystems will be that of humiliation unless India takes some lessons out of these world examples.

Fragmentation, Reactivity, and Narrowness: A Critical Appraisal of India's Framework

The Indian statutory and judicial environment is rather reflective of a disastrous disparity between the constitutional principle and the regulatory reality. Dignity, privacy and proportionality are leadership views expressed by courts, yet Parliament has not turned these indicators into a clear process of borrower protection. Borrowers thus remain dependent on piecemeal remedies, a situation that compares unfavorably to the integrated protections seen in other jurisdictions.

One persistent problem is fragmentation. Borrower grievances may implicate the RBI under its digital lending guidelines, the Central Consumer Protection Authority under the Consumer Protection Act, the Enforcement Directorate under FEMA, or the Data Protection Board under the DPDP Act. This diffusion of authority creates jurisdictional overlap and confusion. Borrowers facing harassment are often uncertain which body to approach, and regulators sometimes pass responsibility among themselves. In comparative perspective, this stands in sharp contrast to the centralized role of the CFPB in the United States, which consolidates oversight and provides borrowers a clear point of contact.

Another structural deficiency is reactivity rather than prevention. The guidelines by the RBI require disclosures to be made and grievance officers, but none of the substantive obligations such as affordability checks. In United Kingdom, by contrast, the FCA prohibits excessive lending in advance by requiring lenders to ensure that they can repay, and provides borrowers with statutory rights to such action[37].South Africa, in contrast, does not do so, waiting until it

[37] Consumer Credit Sourcebook (CONC), FIN. CONDUCT AUTH. (U.K.), https://www.handbook.fca.org.uk/handbook/CONC/ (last visited Sept. 26, 2025).

is already too late, and leaves borrowers to penetrate inaccessible legal forums.[38]

Thirdly is the limited definition of harm. The Indian regulation is concerned with financial prudence and system stability, but not with psychosocial effects. Unregulated problems are debt-shaming, mental health problems, and coercive consent practices. The experience in Nigeria illustrates the risks associated with overlooking such harms, and Oyeleke[39] is able to record the presence of serious mental health consequences such as depression, anxiety, and suicidality in Ghana and Kenya due to lack of adequate enforcement.Tampuri[40] indicates that the Nigerian experience partially validated the jeopardy of neglecting such harms.

India has begun to acknowledge privacy as a constitutional right in *Puttaswamy*[41], but this has yet to filter into borrower protection in digital lending.

Finally, India's regulatory response suffers from short-termism. Each wave of scandal—be it Chinese-backed loan apps, aggressive recovery practices, or data privacy breaches—has been followed by ad hoc circulars from the RBI or investigations by the ED. Yet no sustained legislative framework has emerged. As Allen has argued in another context, techno-solutionism encourages policymakers to treat fintech problems as temporary glitches rather than structural failures requiring statutory intervention[42].Without codified borrower rights, India risks lurching from crisis to crisis, always one scandal behind.

In sum, India's framework is marked by fragmentation, reactivity, narrowness, and short-termism. It takes fragments of the international models but combines none. The Indian protections are very weak and uneven as compared to the enforceable rights in the United States, the preventive provisions of the EU, and the codification of the laws in South Africa. To the borrowers, it translates to being exposed to harassment, coerced consent and debt traps, and there is little realistic chance of relief.

Towards a Borrower-Centric Regime: Recommendations for Reform

To ensure that India is to raise the digital lending ecosystem to a culture of empowerment as opposed to humiliation, the protection of borrowers should be made a statutory priority and not

[38] National Credit Act 34 of 2005 (S. Afr.).
[39] Oyeleke, supra note 5
[40] supra note 36
[41] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).
[42] supra note 12

an incidental regulation. Comparative jurisdictions indicate that a number of reforms can be made.

First, India will have to embrace a bill of rights of borrowers and unite the privacy rights, dignity rights, and the right against harassment in a single law. At the moment, the rights are distributed throughout the IT Act, Consumer Protection Act, FEMA, the DPDP Act, and RBI circulars with the borrowers in confusion, and the regulators clashing. An embedded borrower protection law in the United States in the form of the FDCPA would also grant borrowers legal rights and effective redresses.This would also allow borrowers to initiate their own lawsuits against predatory lenders instead of relying solely on the state to do so[43].

Second, India needs to change towards preventive regulation. The current policy of the RBI is to wait until the abuse is experienced and then act, a position that is a failed policy to the poorest of the poor borrowers. The affordability tests of the FCA in the United Kingdom, the ban on reckless credit in South Africa, demonstrates that ex ante obligations can stop borrowers being drawn into debt traps in the first place.This needs to be enabled by allowing regulators to prevent loans that do not pass basic sustenance tests, even at the expense of reducing the growth of short-term credit.

Third, psychosocial harms have to be mentioned in the borrower protection. Financial, emotional, and psychological harm is not only due to debt-shaming, coercive consent, and intimidation, but also to them[44]. The psychological effects of unregulated practices cannot be ignored, and the case of Nigeria, which is marked by harassment on a large scale, as reported by Oyeleke, is evidence of that.In India, where debt-related stigma and suicide are already burning societal health problems, the India cannot afford to ignore this. The regulation should not only prohibit the access to the contact lists but should also limit the communication to the borrowers themselves and punish the lenders in case of intimidation.

Fourth, regulators must be unified and accessible. Borrowers should not need to guess whether to approach the RBI, the ED, or the Data Protection Board. A centralized borrower protection authority—similar to the CFPB in the United States—would provide a single point of access.It would also reduce regulatory arbitrage, where lenders exploit gaps between overlapping agencies.

[43] See supra notes 28–35 (discussing FDCPA, TILA, and CFPB's centralized authority).
[44] Supra note 5

Finally, India must resist the temptation of techno-solutionism. Digital dashboards and grievance officers, while welcome, cannot substitute for structural reforms. As Allen warns, the belief that technology can fix the problems created by technology risks trivializing systemic abuses. Without statutory duties and enforceable rights, dashboards merely document grievances without ensuring remedies.

These recommendations converge on a single principle: borrower dignity must be codified, not presumed. Comparative experience demonstrates that where dignity is legislated—whether through rights, duties, harmonization, or centralized oversight—borrowers are empowered and lenders restrained. For India, the choice is stark: to continue lurching from scandal to scandal, or to enact a statutory framework that places the borrower at its core.

Conclusion

The rise of digital credit has greatly transformed the landscape of financial accessibility for India. It lowered barriers of entry, increased credit accessibility for first-time borrowers, and increased the velocity of financial transactions. But its efficiency drivers—i.e., speed, automation, and scale—also become its weaknesses if not regulated. For many of its borrowers, again those who belong to at-risk groups, digital credit wasn't a gateway of empowerment but an instrument of harassment, coercion, and circular debt.

The Indian legal framework has attempted to respond, but only piecemeal. The IT Act and the DPDP Act nod toward privacy but leave coercive consent practices intact. The Consumer Protection Act recognizes dignity in theory but burdens borrowers with inaccessible fora. FEMA and ED investigations focus on sovereignty rather than individual rights. The RBI issues guidelines, but they remain circulars without the force of a codified statute. Courts, through Justice K.S. Puttaswamy v. Union of India[45], which affirmed privacy as a fundamental right, ICICI Bank v. Shanti Devi Sharma[46], which condemned musclemen for debt recovery as a violation of dignity, PC Financial Services v. Directorate of Enforcement[47], which upheld investigations into foreign-controlled lending apps, and RBI v. Supertech Ltd.[48], which reaffirmed the RBI's supervisory powers, have articulated constitutional values but cannot substitute for legislative design. In short, the law has spoken in fragments, but the borrower has

[45] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).
[46] *ICICI Bank Ltd. v. Shanti Devi Sharma*, (2008) 2 SCC 345 (India).
[47] *PC Fin. Servs. Pvt. Ltd. v. Directorate of Enf't*, 2024 SCC OnLine Del 1789 (India).
[48] *RBI v. Supertech Ltd.*, 2023 SCC OnLine Del 3127 (India).

yet to hear a unified voice.

Comparative perspectives sharpen this contrast. The United States consolidates protections in statutes and institutions, giving borrowers enforceable rights and a centralized authority. The United Kingdom prevents harm through affordability checks. The European Union harmonizes protections across borders, preventing regulatory arbitrage. South Africa recognizes reckless credit as unlawful, codifying borrower dignity into its statutes. Nigeria and Ghana warn of the psychosocial consequences of unregulated harassment, while Indonesia suggests criminalizing abusive practices. India, meanwhile, stands alone in offering none of these models in full.

The course of the future requires codification. A Borrower Protection Act that harmonizes rights, injects responsibilities, and concentrates supervision could do more than harmonize India with international best practices; it could also fulfill its constitutional potential of dignity, privacy, and equality. Without codification, there will be no comprehensive nor sustained reform.

Effectively, digital lending goes beyond the world of finance and technology; it is actually about the issues of dignity and citizenship. Borrowers deserve more than fragmented fixes and regulatory arbitrage—they deserve respect as persons holding rights, whose autonomy and well-being need safeguarding. Delays of such reform amount not only to a policy choice but a constitutional failing.