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## REVIEW SYMPOSIUM

## Abetting the market: on property, propriety and actually existing capitalisms

### Rethinking Markets in Modern India: Embedded Exchange and Contested

**Jurisdiction**, edited by A. Gandhi, B. Harriss-White, D. E. Haynes, and S. Schwecke, Cambridge, Cambridge University Press, 2020, 300 pp., US\$110 (hardback), ISBN 978-1-108-48678-1 / US\$88 (e-book), ISBN 978-1-108-80685-5

### Introduction

Josy Joseph's descriptive reportage on India's political economy offers useful images to think with, as we frame our response to this symposium (2016). Joseph begins his book of journalism searching for investors of lucrative contracts for the 2010 Commonwealth Games in Delhi. According to company filings, these investors reside in an unauthorized village on the northern fringes of India's capital. Filled with shanties and cut off from the city, it is an unlikely place for holders of massive construction pacts. Ultimately, Joseph cannot find these men; they are among the fictitious shareholders and proxy directors indispensable to modern Indian markets, yet inaccessible and unaccountable to the public.

At the end of Joseph's book, he stands outside the 170-metre tall residence of India's richest man, Mukesh Ambani. Costing over \$2 billion, Antilla, as the tower is called, was built on the grounds of an orphanage owned by an Islamic trust or *wakf*. The plot has pivoted from customary religious holding to open asset on the commercial market. Joseph relates its below market-price sale to Ambani's company, Reliance, one of India's massive conglomerates, amidst a frenzy of legal suits and political jockeying at state and central levels of government.

In Joseph's accounts, we have the nexus of sovereignty and commerce that is diffuse and invisible on the one hand, yet theatrically omnipresent on the other. Joseph's account suggests the elusive complexity, the staged subterfuge, and the institutional collusion at the heart of transactional life in modern India (c.f. Harriss-White and Michelutti 2019, Jaffrelot *et al.* 2019). Readers may carry these images into our response to the four reviewers of our book – Llerena Searle, Leilah Vevaina, Stine Simonsen Puri, and Tsukasa Mizushima.

In particular, Joseph's investigation relates to three themes latent in our book, which Puri, Searle, Mizushima, and Vevaina's stimulating comments allow us to make explicit in our response here. First is a process we term *abetting the market*, referring to social actors converging to make and break norms, a kind of collusion-in-transgression. Second, we explore the twinned domains of *property and propriety*. Here we refer to the mutually reinforcing relations between the bundle of rights which constitute property and the nexus of norms which make up propriety. Finally, we discuss *actually existing capitalisms*: the contra-teleological, empirically uneven, always imperfect particularity and plurality of capitalist markets.

Throughout, we respond to the provocations and insights of Searle, Vevaina, Puri, and Mizushima, retrospectively reflecting on our book, and looking ahead to more scholarly dialogue about actually existing markets.

### Abetting the market

Searle, Puri, and Vevaina each highlight the political nature of markets, foremost in the state's top-down imposition of regulation and controls.

Puri, for example, notes how our focus on ‘marginal markets’ illustrates the operating logic of a ‘market center’ or ‘regulated economy.’ Here, the marginal market is not some idiosyncratic, peripheral, imperfect realm of transactions. Rather, our focus on so-called grey, bazaar, and informal transactions, illustrates widely relevant idioms and practices of Indian commerce.

Vevaina comments on the ‘contradictory logics’ of ‘laws and codes’ by which ‘markets are understood and enacted.’ As she notes, a wide variety of ‘sovereigns’ are ‘creating and maintaining moral hierarchies between proper markets and improper exchanges.’

Finally, Searle identifies the ‘contradictory mandates’ of a ‘non-unitary state’ – how the state is not monolithic but has its own fiefs and incongruities. Regulation is, in this sense, not an externality foisted upon market participants but rather a resource they manipulate to create and maneuver to advantage.

As many cases in our volume demonstrate, the state’s effort to order and systematize, catalyzes the very inverse.<sup>1</sup> This perverse dynamic means that formalization often produces informality, and regulation can produce its circumvention, despite the ostensible, publicly declared aim being otherwise.

But it is important to note how the political is not a synonym for the state. Political economy usually dwells on the creation and distribution of wealth, and on official regulation and authority. In contrast, our interest is in a *more extensive realm of politics which is embedded in social relations themselves* and fundamental to transactional life and market sovereignty in South Asia. This is not always easy to see, because practices of appropriation, resistance, circumvention, or evasion are generally seen as thwarting – instead of encouraging – the unfolding of markets and marketplaces. But we suggest that even, or perhaps especially, when discordance and demurrals from market norms are evident, that they may in effect converge to enact and produce a market.

For this process, we use the term *abetting the market* – a slight pun which makes a serious point. To *abet* is to encourage or assist a transgression. Indian marketplaces are replete with this kind of collusive urging on. From the lucrative economy in school exam papers, to kidneys and blood, to mobile spectrum and, as Barbara Harriss-White describes in our volume, sand mining, transactional spheres need incentives, whatever moral qualms exist, for a market to come into being.

Market participants – which include regulators and financiers, but also a host of others, including traders, brokers and consumers – are constantly enacting such markets with whatever tools are available. Matthew Hull’s chapter, from our volume, provides one seemingly banal but telling illustration. He describes a milieu in the Punjab where the state lottery competes with out-of-state lotteries as well as illegal lotteries. What is striking is how the authorized infrastructure of the state lottery – the small bits of paper used to bet – is used by betters, many of them in society’s insecure bottom tier. By scratching numbers on the backs of official papers, which are then used in illicit numbers games, punters, betting only a few rupees each, collaborate in aggregate to create a parallel and unruly illegal market.

What this example reveals is that the upper echelons of the regulatory apparatus have explicit intentions. But quite quickly, the transactional infrastructure they have helped to shape can be commandeered towards a very different goal. Rather than see this as failure or misuse or corruption, we might see it as a kind of inexplicit collusion in norm-busting. There is a distributed consciousness and force – akin to a crowd’s diffuse agency – in market-making.

Sebastian Schwecke, in contemporary Banaras, provides another example from his ongoing and unpublished research. There, police reports filed on property transgressions show a kind of ‘habituated ambiguity’ regarding the use and management of assets. Both movable and immovable possessions are not monopolized by singular owners. Rather, they are occupied and repurposed in myriad ways. Accusations of theft and encroachment emerge when disagreement to this baroque web of implicit and rolling capacities prove insurmountable. In other words, the default state of affairs is one in which the transgression of property rights is widely accepted.<sup>2</sup>

This shows not a state of lawlessness but rather of routinized acceptance of myriad bundles of rights. In other words, the repetition and regularity of transgressing against ‘proper’ exclusive rights

are encouraged and assisted by relational collusion. Society has abetted this market – assisting in its creation, one that is not opposed to but actually fostered by transgression. Languages in South Asia provide insight into this process: as a Tamil proverb has it, an ‘honest man is he who does not know how to live’ (Jairaj and Harriss-White 2006).

In abetting the market, transactional actors evoke the criminal category in Indian policing of the ‘habitual offender.’ That term, enshrined in law soon after independence in 1952, derives from a colonial notion of certain groups and psychologies – nomads, migrants, vagrants, shirkers – as predisposed towards ill-gain (Radhakrishna 2008). Borrowing it somewhat tongue in cheek, we may, as regards market domains, see ‘habitual offense’ as part of the humdrum machinations of commercial life.

It is quite common, for example, for a small Indian firm to be licensed with urban authorities and have multiple bank accounts. Yet its premises likely flout building regulations, its power supply may be from a knotted tangle of lines, its compliance with quality standards fickle and sporadic, its waste profligate and defying environmental regulations. The same goes for its labor relations and credit webs. These are not just contested jurisdictions but segmented ones, as in Mekhala Krishnamurthy’s chapter on seemingly technical but actually political contests at an agrarian wholesale market or *mandi*. We thus cannot ignore selective and dynamic non-compliance with regulative laws. These are not mere matters of adherence or compliance but the terrain for continual political contest.

A final demonstration is in Ajay Gandhi’s chapter from the volume, on a ubiquitous complicity in generating and deploying ‘black money’ in modern India. This shows that how a *de facto* consensus to transgress overwhelms the *de jure* prohibition on it. We therefore need a subtler account of the ways in which everyday forms of circumvention or collaboration are *not merely transgressing but effectively creating markets*.

## Property and propriety

In this sub-theme of our response, we pick up Vevaina’s concise and evocative pairing of the domains of *property* and *propriety*, and extend it to Mizushima’s depiction of the specific importance of land and real-estate markets. The creation of property – in whatever form – lies at the center of transactional activity. It concerns material outcomes as well as socially and politically licit ways of achieving this end. Thus, the transactional activity surrounding particularly durable forms of property, as in land markets, tends to make visible links between notions of property and propriety. It is worth probing this conceptual dyad, for it usefully evokes core concerns of our volume.

Property is often conflated with wholesale ownership of immovable assets such as land. But in most places, property is a more complex and contingent bundle of rights (Strathern 1988, Ostrom 2015). It may be legally conflated with full-range ownership, but more widely, it concerns fluid, negotiated realms of usage, extraction, and management. This is evident in the history of agrarian enclosure in the west (Thompson 1990 [1975]). It was also evident in the transition into capitalism in Eastern Europe after the end of the Cold War (Verdery 2003).

In the South Asian context, it is visible in Mizushima’s review, when he describes the early nineteenth-century in south India’s Madras Presidency. Here, mistranslations between colonial tenure regimes and customary authority of *mirasidars* in wetlands unfolded over several decades (c.f. Parthasarathi 2001).

Property, in other words, implies not just what is considered to constitute regular modes of ownership, belonging, attribution, possession, control, exchange, and accumulation. It also includes irregular ones – modes that showcase the key role of social construction in property relations. These disparate modes of property may be exclusive or shared. They can be bounded in time and space or fluctuate inter-generationally.

Moreover, these irregular practices of ownership and their navigation in exchange tend to leave traces in social memory and habit. These residual and alternative retentions may still inform social and moral dimensions of property long after a new property regime is instantiated. As Mizushima notes, in India historically, share-based and service-based forms of transactional leverage, including the *jajmani* system, were durable and influential into the modern period, shaping modes of production and distribution.

Propriety, on the other hand, is similarly varied. Like property, it relates to the *proper*, and both derive from the Latin *proprietas* or *proprius*: for what is one's own. Propriety has a strong element of social and normative fashioning, one in which moral hierarchies and political authority are meshed. Both refer to notions of the 'good' – of whatever description – and in this way serve as guidelines for ideal conduct.

Yet, we may say, both remain constantly contested and renegotiated in social practice. The meritorious trader may evade taxes: as Puri notes, legal and extra-legal markets are always 'framed by ambiguity.' In order to be socially and politically accepted as being owned, the process of acquisition – and thus the market surrounding the creation of this particular type of property – needs to be proper, and at times even legal. Nowhere in modern South Asia is this relationship as visible as in discourses on 'black money.' When ownership claims are determined to be discrepant with declared sources of income, the legal process reverses the burden of proof concerning the propriety of acquisition, asking litigants to demonstrate that they had not used black money to acquire it.

Where property and propriety come together is in their shared denotation of quality or characteristic. Property as well as propriety are the points at which the social and economic are ripped apart and sutured together, in an incessant, sometimes painful process of detaching and rebinding. These points of overlap relate to distinctive claims and potentials. To be socially recognized, they have to be unique and oriented towards a norm – as in the obsession, in business matters, with mastering proper codes of paperwork and procedure. This is mirrored by similar attentiveness in ritual matters with mastering proper codes of behavior and etiquette. The realms of property and of propriety both revolve around what is agreed-upon as appropriate and 'correct.'

These norms may include legal scaffolding but are not exhausted by it: the law has a privileged but not totalizing role to play in arbitrating the overlay of property and propriety.<sup>3</sup> Even though the intention of the law may often be to overcome constructions of property through alternative conceptions of propriety, the basis of legal constructions in itself may very well rest on the latter, even in seemingly unlikely contexts.

As the contested and imperfectly demarcated Sino-Indian border shows, opposing claims to sovereign territorial control may include the communication of claims to habitual rights that enter the legal system through notions of propriety. In border areas with overlapping sovereign claims, opposing states exchange demarches on their habit, for instance, of patrolling unopposed up to a certain point in the landscape. In so doing, they construct reference points for the assertion of territorial sovereignty via claims to the other side's implicit allowance of the propriety of exercising control in an area.

Bringing it back to market spheres, in the colonial South Asian context, we refer to the notion of the 'proper swindle,' a concept marking the ambiguity of appropriateness and appropriation (Birla 2009, pp. 33–66). Though marking a specific example from India, it is undoubtedly relevant to other social contexts, where what is 'proper' for state authority is a swindle for others. Our book shows how frequently this ambiguity recurs in market exchange. Indeed, it is striking how often, in postcolonial India, nebulous commercial activity – whether it concerns black marketing, adulteration, counterfeiting, tax evasion, and smuggling – has revolved around dispute of what is deemed socially appropriate and ethically correct (De 2018, pp. 92–99).

## Actually existing capitalisms

In the third and final theme stimulated by our reviewers' comments, we take up the idea of *actually existing capitalisms*. Why do we use this formulation? In part, it is because the market, perhaps more than most other fields of collective life, is suffused by an often unexamined ideal of what it should be or where it should head. By contrast, we seek to point out what one might term the *contra-teleological dimension of markets*: rather than being appraised on a calculus of bounded rationality, markets are marked by particularities and pluralities, and always exist in relation to transactional processes elsewhere. These dimensions can only be understood through ethnographies of the present and past that pay close attention to these particularities, pluralities and transactional processes.

As reviewers for this symposium point out, commerce – and the study of it – is riddled with an idea of what Searle terms the 'perfect market.' Rather than disable this myth, in some social science scholarship on market spheres – such as the literature on the performativity of markets – economics is given an outsized place in modeling the 'perfect' market. This reproduces the idea of other kinds of markets, such as those described in our volume, as being in Searle's words, 'already "imperfect".' We are surely better off scrutinizing what Mizushima identifies as the 'mixture of concessions, compromises, complications, and contradictions' in any market domain.

In other words, our task in the volume has been to illustrate not the seamless unfolding of modern capitalism. Rather, our examples expose the mistranslations and resistances, and, more broadly, the simultaneity of multiple transactional modes in the same market domains. Searle also notes how markets are the 'outcome of competing projects, goal-driven actions open to failure.' Here, the 'idealized, transparent market' hovers as a horizon of possibility in modern Indian market regulation – and is part of its ongoing negotiation.

We prefer to see the idea of the perfect market in terms of the reconfiguration, rather than dissolution, of the social. Socioeconomic interests partake in the reconfiguration of actually existing markets that – in the process – become differently embedded in society. Thus, we disagree with Mizushima's argument that a share-based system irrevocably transitions to a market economy. Instead, we can find many examples in contemporary India of durable and customary modes interweaving with bureaucratic and rationalist modes of exchange at the same time. Thinking in terms of Mizushima's 'stages' and 'shifts' – if these are understood as one-way – is not as helpful as identifying the co-dependency and co-existence of plural transactional modalities at the same time.

This aspect of *actually existing capitalisms* not only challenges the one-way periodization, and the geographic and cultural compartmentalization which afflicts some scholarship on markets. We can only agree with Puri of the need to look for 'possibilities for comparison' to other 'post-colonial economies,' and to 'place Indian markets in a global history' (c.f. Yazdani and Menon 2020). Just as no human is an island unto themselves, there is not a singular capitalism, no less than a self-contained 'South Asian capitalism': all market modes are in dynamic conversation with others.

Nor is there any universal logic or trajectory of change in capitalisms. Moments of transition – whether these reflect the entry of industrial producers in marketing processes, the emergence of branded products, or the dissolution of customary relationships – always bring contingent outcomes. These emerge from particular political contests and exertions of power, their situatedness in particular contexts over property, and vagaries of cultural meaning, all of which recombine to produce new forms of social imbrication or embeddedness.

This then allows for creative comparative study of intriguing regional parallels. For example, Mizushima notes the resonances between *zaibatsu* in Japan and the Chettiar financiers described by David Rudner in our volume. These modes of commercial organization, though perhaps initially seen as outgrowths of quintessentially Japanese or Indian culture, could well be studied as analogous modes of customary associational life, creatively reworking themselves into the modern capitalist era. Our volume is an opening for scholars to reflect comparatively beyond South Asia, and its

distinct periodizations. This echoes Searle's prodding to probe the plural and 'diverse capitalisms' that exist – rather than assuming there is a monolithic singular one.

## Conclusion

In our response to this book symposium, we have been prompted by the comments of Puri, Searle, Mizushima, and Vevaina. We have framed our discussion by drawing our attention to realms of often-obscure commercial collusion and complicity; to the entangled way in which bundles of rights mesh with moral senses of a person; and to the contra-teleological and comparative way in which capitalism develops. In elucidating these themes, we hope to have contributed towards a wider, more subtle scholarly understanding of how markets, in India and elsewhere, operate in practice.

Josy Joseph's reportage, which we described at the outset of this response, helped illustrate our three themes. First, the proliferation of fictitious and proxy actors, as well as the outsized theatricality and force of corporate power in modern India, shows the importance of accounting for the ways in which a diverse array of social actors help to *abet the market*, through individual and collective incentives to transgressive activity. Second, the array of legal jockeying and political subterfuge surrounding what is proper and transparent in Joseph's examples, exemplifies the ways in which *property and propriety* are entangled and constantly negotiated. And finally, rather than see Joseph's examples of commercial practice as pathologies of imperfect markets, we see them as variations of *actually existing capitalisms* in today's world.

## Notes

1. See Barbara Harriss-White's work on regulation as a resource (1996). In her sense, regulation is not an unproblematic administrative imposition upon market parties. Rather, market players consciously assist in its crafting, implementation, evasion and obstruction. This occurs for myriad reasons including competition and the evasion of official records, levies and taxes.
2. Schwecke bases this on a tentative study of first information reports filed in local police stations that did not lead to the commencement of court litigation. This demonstrates the ubiquity of collusive forms of transgressing the legal construction of property rights, even between the parties legally designated as owners and the seeming transgressors. The law, in many cases documented here, takes on the role of an ulterior appellate authority for the aspiring litigants, though an ineffectual one in resolving contestations of the social practice of property as evidenced by the failure of these allegations to move to court litigation. A parallel instance, also from Banaras, of navigating competing claims to property, is in regards to renegotiating credit dues in extra-legal financial markets, in this case contractually agreed-upon property-to-be (Schwecke 2022).
3. Law in South Asia long been analyzed through the prism of its contextual contingency, especially concerning lacunae in its supposed universality (Galanter 1989, Cohn 1965, 1996). See also Jauregui's argument on how resource allocation leads to changes in authority's acceptance in the case of north India's police forces (2016).

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