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*A Tangled Jungle of Disorderly Transactions? The production of a monetary outside in a north Indian town**

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Abstract

This article argues that, starting from the late colonial period, the Indian state in its correlated attempts to regulate and streamline the operation of monetary markets in line with capitalist development policies and to remove exploitative credit market practices instead produced a binary between a monetary outside and inside. While the state's efforts were intended to delineate the boundaries of the outside produced in this way, removing competing segments of Indian capital from the expanding monetary system, this process of delineation contributed to an already existing divergence in the operational modes. Correspondingly, it reinforced a process of differentiation that centred on the removal of liberal-bourgeois contractual law from market governance on the monetary outside that was gradually substituted by a reputational economy of debt. The monetary outside so produced constitutes one specific form of capitalist outsides in the Indian economy, interpreted as economic arenas and (extractive) accumulation regimes that functionally and procedurally differ from the dominant capitalist economic sector in modern India with which they co-exist. Both historiographic and ethnographic approaches are used to study the related processes of delineation and differentiation in the production of a monetary outside, with

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a special emphasis on the United Provinces/Uttar Pradesh and the north Indian town of Banaras (Varanasi).

Introduction

In 1913, the year Rosa Luxemburg published *Die Akkumulation des Kapitals*, the government of British India coincidentally initiated a sustained period of legislative activism against usurious practices and more generally the 'tangled jungle of disorderly transactions'[1] that supposedly formed the core of 'indigenous' monetary markets. The move by the British Indian government asking for recommendations on the proposed Usurious Loans Bill, eventually enacted in 1918, selectively followed models of legislation in continental Europe since the 1870s that had contributed to the reversion of utilitarian ideas on the futility of usury laws[2] in the United Kingdom with the enactment of the English Moneylenders Act in 1900.

Late and post-colonial legislation expressly aimed to 'modernize' monetary markets by creating and tightening a framework of market regulations that centred on the state's role as a registrar of economic activities and discretionary powers of the courts to estimate equitable costs of borrowing. In doing so, the colonial state hoped to bring Indian finance capital into the 'organized' banking sector and overcome what appeared to be unnecessarily wasteful, complex, and opaque modes of monetary organization to simplify and expand the facilitation of credit. Most importantly, it intended to use these regulations to control an escalating crisis of indebtedness, most prominently among Indian peasants, which had contributed to large-scale outbreaks of violence, as in the case of the Deccan Riots (1875). The need to address these issues was widely agreed upon by colonial policy-makers at the time, though legislation against informal financial practices gained urgency in the aftermath of the war, as high levels of inflation reinforced agrarian unrest and industrial conflict, and again in the wake of the economic fallout of the depression of the 1930s.

[1] The expression 'a tangled jungle of disorderly transactions' is used by the United Provinces Banking Enquiry Committee Report (UPBECR) to describe the kaleidoscope of financial practices and monetary markets that made up 'indigenous' finance. The UPBECR attributes the expression to the earlier Lt Governor, Alfred Comyn Lyall.

[2] J. Bentham, *Defence of Usury: Shewing the Impolicy of the Present Legal Restraints on Pecuniary Bargains in a Series of Letters to a Friend*, Payne and Foss, London, 1787/1818.

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Morally, it sought to end the exploitation of the (allegedly gullible) Indian peasant (a term often covering a range of social strata from landlords to poor tenants) from the predations of 'Shylocks'—sly moneylenders preying on either their customers' misfortunes or else their (assumed and often culturally defined) incapacity for thrift. The changing morality of the late colonial state regarding monetary markets is remarkable. From upholding the sanctity of liberal contractual law, it more or less seamlessly seemed to emerge as an agent of economic intervention in the interests of the poorer sections of Indian society. In the language of the recommendations on the proposed Usurious Loans Bill, through its courts, the state was to be transformed from a (supposedly involuntary) collaborator in exploitation into an 'instrument of active relief' for the exploited masses. The regulation of 'indigenous' credit facilities was to be part of a three-pronged approach that also included the expansion of the 'organized' banking sector and state support to co-operative banking, all of which resembled continental European monetary policies of the late nineteenth century. Regulating 'indigenous' credit, the vast array of (often petty) mercantile capitalists that had constituted important links between various layers and levels of production and exchange offered an avenue for developmental interventionism in line with Washbrook's argument on the character of the late colonial state in India: targeting middlemen in order to avoid taking clear-cut sides with either capital or labour.[3] At the same time, it was part of a much larger interventionist approach towards the 'framing' of the Indian economy that continues have considerable repercussions in contemporary India. While the state-led interventionism of the early decades of post-colonial India and its later (partial) dismantlement through 'liberalization' have evoked intense scholarly debate, the framing process of the Indian economy that started in the late nineteenth century has in many ways had much deeper ramifications and is in parts still reinforced by the present-day policies of the Indian state, notably including policies that result in an increasing dissection of economic arenas that are often defined by their extent of 'formality'—an approach originating from studies on labour that can nevertheless be extended to the study of business or capital with only minor adaptations, as it crucially depends on ideas of contractuality and effective state oversight that necessitates registration.

[3] D. A. Washbrook, 'Law, state and Agrarian society in colonial India', *Modern Asian Studies*, vol. 15, no. 3, 1981, pp. 649–721.

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While much of the framework of this three-pronged strategy of regulating finance in India was put in place before the transfer of power in 1947, the direction of policy regarding monetary markets remained remarkably consistent up to the present. Notwithstanding its incremental character, the expansion of 'organized' banking and co-operative finance in late colonial and Nehruvian India but also in the current period of liberalization has largely been a success story considering the scale of banking operations.

At the same time, the regulatory approach to monetary practices associated with 'indigenous' finance has mostly failed to prevent their continued operation and ubiquity in everyday life, though possibly at a reduced scale.[4] Instead, it has facilitated their reshaping as monetary practices taking place below the radar of state recognition. It is argued here that, instead of creating the conditions for a transition of 'indigenous' monetary markets in India towards capitalist finance, the regulatory approach that originated in late colonial legislation contributed to the production of a monetary outside—an arena for monetary practices that have been marked as 'improper' but circumvented regulation, in the process changing their operational modes to emerge as monetary markets that remain linked to a larger capitalistic mode of production, but remain functionally different in crucial ways from the dominant capitalist financial sector. In the following, I will briefly discuss some theoretical dimensions of this production of a monetary outside, before providing an empirical depiction of its two most significant elements—its delineation in law and public discourse as well as the differentiation of its constitutive practices—using both historiographical and ethnographic methods in the context of the United Provinces/Uttar Pradesh and the city of Banaras (Varanasi).

[4] Government reports concerned with these practices in independent India typically show declining market shares for non-banking and similar financial instruments and agents. However, these figures are hardly reliable as under-reporting can be expected to be rampant given the below-the-radar and partially criminalized nature of unregulated monetary transactions. As an example, data on 'trade credit' from the urban household indebtedness surveys of the National Sample Survey Organisation (NSSO) in 2002 for Uttar Pradesh would seem to be remarkably low for any observer of business practices in the bazaar areas of Banaras. The Radhakrishna Commission Report of 2007 stated that the significant expansion of institutional sources of credit to agriculturalists until 1991 was actually reversed afterwards, declining from 66 per cent in 1991 to 61 per cent in 2002, relying on the above-mentioned NSSO data (Government of India, Ministry of Finance, Banking Division, *Report of the Expert Group on Agricultural Indebtedness*, Government of India, New Delhi, 2007, p. 74.)

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Delineation, differentiation, and the production of a monetary outside

The Indian economy, both late colonial and post-colonial, comprises a large assortment of practices that differ from our understanding of what is capitalist, especially when observing capitalism primarily through its procedures and operational modes. A number of these practices have attracted recent scholarly attention. These include studies that foreground the social embedment of 'local' business practices, often related to petty, rural, or non-metropolitan capital[5] as well as studies on particular forms of intermediation on markets and brokerage.[6] Bear's work is particularly instructive in the way it depicts intermediation and brokerage as functional links between the actual everyday procedures of business in many parts of the Indian economy and the proceduralism superimposed on business activity by a regulatory state, thereby defining an arena for the operation of middlemen in catalyst roles in which non-capitalist modes of operation facilitate capitalist accumulation. Employing arguments originally depicted by Sanyal,[7] Chatterjee has drawn a distinction between corporate and non-corporate capital,[8] while Birla has used a distinction between *pakka* and *kacca* business practices based on a terminology used in official colonial sources that distinguishes economic behaviour through the 'solidity' of its practices.[9] In their historical origin, some (though not all) of the practices classified in this way, whichever terminology is used, appear to form 'modern' adaptations of business practices that have been associated in modern Indian history and

[5] Cf., amongst others, D. E. Haynes, *Small Town Capitalism in Western India: Artisans, Merchants, and the Making of the Informal Economy, 1870–1960*, Cambridge University Press, Cambridge, 2012; B. Harriss-White, *Local Capitalism and the Foodgrains Economy in Northern Tamil Nadu, 1973–2010*, MIDS Working Paper Series, Chennai, 2010.

[6] Cf., amongst others, L. Bear, 'Capitalist divination: popularist speculators and technologies of imagination on the Hooghly River', *Comparative Studies of South Asia, Africa and the Middle East*, vol. 35, no. 3, 2015, pp. 408–23; M. Levien, 'The land question: special economic zones and the political economy of dispossession in India', *Journal of Peasant Studies*, vol. 39, no. 3-4, 2012, pp. 933–69.

[7] K. Sanyal, *Rethinking Capitalist Development: Primitive Accumulation, Governmentality and Post-Colonial Capitalism*, Routledge, New Delhi, 2007.

[8] P. Chatterjee, 'Democracy and economic transformation in India', *Economic and Political Weekly*, 19 April, 2008, pp. 53–62.

[9] R. Birla, 'Speculation illicit and complicit: contract, uncertainty, and governmentality', *Comparative Studies of South Asia, Africa and the Middle East*, vol. 35, no. 3, 2015, pp. 392–407.

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anthropology with the '*bazaar* economy'[10] and—with reference to Ray's seminal work—can be interpreted as a legacy of the latter, lingering on in an economy increasingly dominated by capitalist business forms and socio-economic relationships. To use a term employed by Kaur in a fundamentally different context, they constitute 'residues' of the bazaar—remnants of earlier practices that remain functionally important.[11]

For the purposes of this article, I prefer to use a different terminology in order to draw attention to aspects that are visible in some of these practices, especially in their operational modes: as Chatterjee asserts in his distinction between corporate and non-corporate capital, many economic practices and relationships in modern India need to be distinguished from capitalist forms of accumulation, thereby making it necessary to re-engage with debates on primitive accumulation. Chatterjee's and Sanyal's arguments, however, similar to Harvey's that will be discussed later, clearly relate on-going primitive accumulation to historically located processes of dispossession in a literal interpretation of the concept, specific groups of farmers losing their land and therefore their means of production through state- or corporate capital-led land-acquisition processes, even though, in their arguments, dispossession of the means of production is alleviated by subsistence-guaranteeing measures by the contemporary Indian state or other agencies, in the process invalidating 'the narrative of transition' inherent in dispossession.[12] At the same time, many other on-going forms of non-capitalist accumulation in India cannot be linked to dispossession in this literal interpretation of primitive accumulation, either because the people involved are already dispossessed of the means of production (as with most of the urban poor) or because non-capitalist forms of accumulation and extraction do not necessarily (and directly) lead to dispossession (as with many petty traders and artisans). The literal reading significantly limits the processes that can be understood with reference to the concept. Primitive accumulation, rather, constitutes

[10] See, for example, R. K. Ray, 'Asian capital in the age of European domination: the rise of the bazaar, 1800–1914', *Modern Asian Studies*, vol. 29, no. 3, 1995, pp. 449–554; A. Gell, 'The market wheel: symbolic aspects of an Indian tribal market', *Man (New Series)*, vol. 17, no. 3, September 1982, pp. 470–91.

[11] R. Kaur, 'Bodies of partition: of widows, residue, and other historical waste', in *Histories of Victimhood*, Jensen, S. and Ronsbo, H. (eds), University of Pennsylvania Press, Philadelphia, 2014, pp. 44–63.

[12] Chatterjee, 'Democracy and economic transformation', p. 55.

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a wide range of non-capitalist accumulation processes, the *end result* of which is a reinforcement of dispossession, framing markets that can be encroached by capitalism, though this encroachment does not necessarily need to happen, as will be discussed later. Instead of the emphasis on dispossession in the literal sense of the concept, ongoing forms of primitive accumulation in modern India need to be identified through their procedural and operational difference from capitalist forms of accumulation that also affect their socio-economic functionality.

While Appadurai has recently underlined the 'deep affinity between legal and magical proceduralism' in capitalism 'at least in the era of intense financialization',[13] Birla's distinction between *pakka* and *kacca* forms of business points to a procedural differentiation between capitalist and non-capitalist forms of accumulation in which the capitalist form is defined as procedure in its assumed rationality just as much, though differently, as the non-capitalist. In Birla's argument, governmentality produces 'proper' (or *pakka*) economic behaviour, and therefore an arena in which capitalist procedural rationality can unfold.[14] Conversely, procedurally different business practices lack state recognition and affirmation (in part or entirely), even though they remain part of an economy that is predominantly and possibly even increasingly capitalist, and often interact with the latter, as for instance depicted in Bear's work on brokers.

In the following, I will address this distinction between coexisting procedurally different (capitalist and non-capitalist) arenas of accumulation with reference to Luxemburg as the production of inside and outside segments in the Indian economy. As I am primarily concerned with monetary markets, the term 'monetary outside' will be used to denote the specific capitalist outside produced by ongoing delineation and differentiation processes relating to financial practices in modern India. As 'outside' and 'inside' economic practices often interact, being parts of a single economy, they cannot always clearly be disentangled. Monetary markets, however, constitute a particularly instructive example: the construction of what is capitalist in finance is predominantly characterized by a proceduralism that finds its expression primarily in the bourgeois-liberal interpretation

[13] A. Appadurai, 'Afterword: the dreamworld of capitalism', *Comparative Studies of South Asia, Africa and the Middle East*, vol. 35, no. 3, 2015, pp. 481–5, 483.

[14] R. Birla, *Stages of Capital: Law, Culture, and Market Governance in Late Colonial India*, Duke University Press, Durham, 2009; Birla, 'Speculation illicit and complicit'.

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of contractual law, with the state acting as both registrar and regulator of capitalist finance. The relative lack of non-procedural elements in the construction of capitalist finance increases the visibility of the delineation and differentiation processes that led to the production of a monetary outside. As the term 'monetary outside' is originally taken from Luxemburg's concept of the capitalist outside, but differs quite significantly from the latter in its application and meaning, it is necessary to briefly outline the theoretical argument before returning to the empirical discussion of its production.

Luxemburg's concept of the capitalist outside consciously implies the continued presence of primitive accumulation. The capitalist outside accordingly corresponded to an arena of on-going (necessarily non-capitalist) dispossession that enables capitalist encroachment in times of crisis, notably crises of over-accumulation. The role of the capitalist outside in overcoming capitalist crisis is crucial for Luxemburg, though my use of the concept focuses on the description of an outside, not on its functional role. Luxemburg's argument has been taken up by a large number of scholars, most notably for the purposes of this article by Harvey's concept of accumulation by dispossession[15] and Patnaik's concept of reserve markets.[16]

Harvey's concept of accumulation by dispossession takes up a central space in his work on neo-liberalism (and its crises) and does not need to be comprehensively reviewed here. Crucially for the purposes of this article, Harvey deviates from Luxemburg's conception of the capitalist outside by assigning an inventive capacity to neo-liberal capitalism: neo-liberal capitalism can delineate arenas, creating boundaries between the capitalist inside and outside, and encroach on the outsides produced. Examples given by Harvey emphasize privatizations of the commons, though not exclusively so. One crucial difference to Harvey's work in my argument on the production of the monetary outside in modern India is the direction of capitalist expansion: in neglecting the argument on the outside's function for capitalist crisis, the question of whether the outside produced will be encroached upon and (eventually) subsumed into capitalism loses its centrality. Instead, it is argued here that the production of the monetary outside played an important role in capitalist expansion within what was delineated as

[15] D. Harvey, 'The "new" imperialism: accumulation by dispossession', *Socialist Register*, vol. 40, 2004, pp. 63–87.

[16] P. Patnaik, *The Value of Money*, Tulika, New Delhi, 2008.

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the monetary *inside* by excluding functionally different and competing monetary markets.

Patnaik's work includes an argument on why the outside in the form of 'reserve markets' needs not be subsumed eventually by capitalism, thereby making it possible to locate the major thrust of capitalist expansion with regard to monetary markets within the monetary inside and explain the continued co-existence of the monetary outside so produced. In essence, Patnaik diminishes the functional role of the capitalist outside in times of capitalist crisis to the provision of stimuli for the capitalist inside, instead of its designation as an area for encroachment. In doing so, Patnaik loosens the association of the capitalist outside with primitive accumulation, as dispossession within the outside does not necessarily create conditions for the emergence or expansion of capitalism. Nevertheless, by linking the concept of reserve markets to the capitalist outside, he accepts an implicit functional differentiation between the co-existing inside and outside.

The concept of the capitalist outside has not been intended to constitute a descriptive category by any of the three scholars discussed here, as their emphases are on its functional role in capitalist crisis. Since Harvey assigns an inventive capacity to neo-liberal capitalism in creating outsides and Patnaik theorizes the possibility of reserve market resilience against the capitalist inside, though, both allow for the institutionalization of difference between outside and inside. As my argument of the *production* of the monetary outside implies both agency and difference, it needs to be descriptive in order to evade the temptation to merely subsume the remnants of pre- or non-capitalist finance still existing at the time of the expansion of 'organized' banking in late colonial and early post-colonial India into a system of classification that would merely replace one binary classification with another. The concept of the production of capitalist outsides in the Indian economy does not only highlight the co-existence of these segments within a larger capitalist mode of production. It stipulates an on-going evolution of the outside in its procedures and operational modes, affecting its functionality in the larger mode of production and thereby the specific location of both inside and outside segments within this mode of production, in a way that binaries that define the non-capitalist as the Other of 'modern' forms of economic behaviour—whether 'formal' or 'organized'—cannot. At the same time, by accepting the functionality of the capitalist outsides for the larger mode of production—though in a broader, not in the

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literal, sense of dispossession—the concept seeks to complicate our understanding of capitalist expansion in modern India.

The concept of the production of a monetary outside clearly relates to other historiographical attempts to accord for the differentiation within Indian capital, including Chakrabarthy's argument on the distinction between History I and History II,[17] Birla's work on the 'proper swindle' and her more recent distinction between *pakka* and *kacca* forms of economic transactions, and various debates on the characteristics of pre-capitalist economies and capital in pre- or early colonial India.[18] However, at the core of the argument is the production of the monetary outside as something that has clear antecedents in pre-colonial forms of market governance, but has changed sufficiently to necessitate a new conceptualization in its encounter with the 'modern' state and new forms of capital. While the state's role was central to the delineation of the monetary outside, this delineation was rooted in existing differentiations among Indian capital and, in turn, required the economic arena designed as the monetary outside to adapt to changing contexts, resulting in a further differentiation in its modes of operation with respect to earlier business traditions.

The monetary outside differs from Ray's *bazaar* economy even though it remains linked to institutions that constitute equivalents especially to the *hundi*, and it has changed considerably when contrasted with Bayly's depiction of monetary markets in late pre-colonial and early colonial Banaras. The delineation of the monetary outside in many ways mirrors Birla's argument on the legal definition of the 'proper swindle', but the subsequent operation of the monetary outside below the radar of state recognition considerably affected the modes of operation of these business practices: the contemporary 'improper transactions' on Banarsi monetary markets possess a highly specific functionality that cannot merely be explained by the process of legal definition of propriety, but need to take into account the functional and procedural differentiations reinforced by it. Finally, it places the monetary outside in a larger mode of production that is dominated by capitalism, yet accounts for difference within this mode

[17] D. Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference*, Princeton University Press, Princeton, 2000.

[18] See, among many others, C. Markovits, *Merchants, Traders, Entrepreneurs: Indian Business in the Colonial Era*, Permanent Black, Ranikhet, 2014; C. A. Bayly, *Rulers, Townsmen, and Bazaars: North Indian Society in the Age of British Expansion, 1770–1870*, Cambridge University Press, Cambridge, 1983.

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of production in the way depicted by Banaji as both a functionally different segment and a discursively delineated, spatially bounded enclave.[19]

There is a clear contradiction between the intent of the law—regulating both 'modern' and 'indigenous' monetary markets—and its actual outcome: a regulatory approach to the 'inside' segment that combines state control over monetary markets (policies favouring debtors) and a restriction of laissez-faire attitudes with legislation that enables and strengthens recovery mechanisms while limiting liability (policies that favour creditors); a stridently regulatory approach to the 'outside' segment that was intended to favour debtors, but instead reinforced evasion of state regulation, thereby creating a truly laissez-faire segment of the market, devoid of enforced state regulations that might have benefited debtors and creditors alike. One result of these policies was to drive creditors who were able and willing to adapt to state policy into the 'inside' segment, leaving other creditors to operate beyond the reach of the state. For debtors unable or unwilling (a significant proportion, as will be shown later) to make use of the credit agencies on the monetary inside, it produced a monetary outside that is highly exploitative, despite operating relatively smoothly. The contradiction between the intent of the legislative process and its actual historical outcome can be interpreted as an unintended consequence, again following the argument of Washbrook.[20] The production of a monetary outside almost certainly was an unintentional result for many of the proponents of the legislation process. Yet, to interpret it in this way misses an important dimension of the entire regulatory approach: the production of a monetary outside was linked strongly to the process of creating a monetary inside. The intent of the late colonial state clearly was not only to help poorer debtors against exploitation by moneylenders, but also to lend a helping hand in the construction of 'properly' capitalist finance, by removing a specific type of 'indigenous' finance capital as competitors not only through regulatory measures, but also by creating conditions for more affluent debtors to make use of institutional sources of credit on the monetary inside. While there was a clear intent to protect debtors from exploitation by moneylenders, it is also clear that late colonial and post-colonial policy-makers were aware of

[19] J. Banaji, *Theory as History: Essays on Modes of Production and Exploitation*, Brill, Leiden, 2010.

[20] Washbrook, 'Law, state, and Agrarian society'.

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the fact that to many poorer debtors the shift towards the monetary inside was hardly possible. Remedial measures were implemented through the expansion of co-operative finance (and in post-colonial India through micro-finance institutions, in both cases reminiscent of Chatterjee's and Sanyal's argument on the invalidation of the narrative of transition in dispossession), though these never developed sufficiently to achieve their goals. Leaving poorer debtors within the monetary outside, though, actually strengthened the expansion of 'properly' capitalist finance within the monetary inside, as credit agencies there could focus on the more affluent, and forms of lending that were much less risky. To many policy-makers, relegating the poor to a monetary outside produced in the process may even have been justifiable as a temporary problem in a modernization process, since the extension of a helping hand to 'properly' capitalist finance was supposed to lead to the terminal decline of other segments of finance in India. The contradiction, therefore, is not only between the intent of the legislative process and its outcomes, but also a misjudgement of the resilience of non-capitalist financial practices, in addition to a misjudgement of the capabilities of capitalist finance and the extent to which the state's helping hand could actually reinforce the expansion of capitalist finance: a misplaced trust in the superiority of capitalist (both western and 'Westernized' Indian) over (customarily 'indigenous') non-capitalist entrepreneurship that accepted the co-existence of a highly exploitative segment of monetary markets for the time being.

Improper transactions: delineating the boundaries of a tangled jungle

While distinctions between 'indigenous' Indian and European banking and finance significantly preceded the early twentieth century,[21] the binary classifications between the 'indigenous' and the 'modern' increasingly were captured by the notion of organization. Organized/unorganized banking emerged as the principal way of ordering monetary markets, though later supplemented by the formal/informal divide. Early colonial distinctions had been founded on differences in accounting and other business practices, especially

[21] H. Sinha, *Early European Banking in India (with Some Reflections on Present Conditions)*, Macmillan and Co., London, 1927.

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the use of specific financial instruments for transferring money, though Sinha's work serves to highlight the difficulties faced by European banks in early colonial rule in operating outside the established *hundi* systems,[22] and Leonard provides insights into the importance of 'indigenous' business partners.[23] The United Provinces Banking Enquiry Committee Report (UPBECR) of 1930 conjoined 'indigenous' banking practices with moneylending and other financial transactions without providing any rationale for the construction of a binary classification distinguishing the 'indigenous' from the 'modern' rather than banking from moneylending. The indigenous/modern binary was constructed despite the fact that moneylending still had constituted a significant problem in the United Kingdom in the recent past, well within living memory of the committee's British members. Instead, the UPBECR provided a rather arbitrary distinction between 'indigenous' and European-style banking based on the acceptance of deposits by the bank/banker: while it noted that Indian bankers at times did accept deposits, the practice was depicted to be 'uncommon' and 'indigenous' bankers were perceived to be unlikely to lend the money accepted as deposits, restricting their lending activities to their own (family's) capital. Though unremarked by the UPBECR, the distinction between 'indigenous' and 'modern' banking, accordingly, rested rather on liability, the importance of which was emphasized by Birla[24] in a different context.[25]

The construction of the 'indigenous' in Indian finance as the unorganized not only conjoins very different financial practices and 'sanitize' the history of 'modern' European banking with regard to its origins, but depicts the expansion of one particular form of monetary markets as an (inexorable) advance of the (supposedly) more competitive form of monetary organization. Crucially, it avoids addressing agency in the construction of monetary markets and the significance of the late colonial and post-colonial state in its form as registrar of economic transactions and business, acting in favour of a specific form of capital. Instead of descriptively organizing monetary

[22] Ibid.

[23] K. Leonard, 'Palmer and Company: an Indian banking firm in Hyderabad state', *Modern Asian Studies*, vol. 47, no. 4, July 2013, pp. 1157–84.

[24] Birla, *Stages of Capital*.

[25] Sinha's work is highly instructive with regard to the early history of limited liability in his depiction of the failure of the Bank of Bengal's attempt to introduce limited liability in its operations in the early nineteenth century (Sinha, *Early European Banking*, p. 15).

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markets into binaries based on functionality, the state in tandem with the specific form of capital represented by 'organized' banking began to *produce* the monetary outside (and inside) based on its (in many ways justifiable) preferences for specific forms of economic organization and the sub-spectrum within the class of capital owners related to it.

The delineation of the boundaries of the monetary outside by law went hand in hand with a similar delineation in public perception. The focus here, though, is on the evolution of the law, as the process of legal delineation is far more visible. As this delineation is primarily concerned with the applicability of contractual law in its bourgeois-liberal interpretation, as argued above one of the most important characteristics marking what is capitalist in finance, the subsequent discussion will highlight the effects of regulation on contractual over other forms of law. As Birla shows, the colonial state in the last decades of the nineteenth century embarked on an endeavour to define the 'proper swindle', thereby taking on a much more interventionist role in the Indian economy. With regard to 'indigenous' monetary markets, this change in colonial policy was significantly delayed as the first attempt to enact comprehensive legislation against improper financial transactions was carried out only in 1918 with the passing of the Usurious Loans Act. Colonial rule had often perceived the principal agents of 'indigenous' finance as likely collaborators—an assessment that was especially valid in the case of Banaras with the well-documented role of Banarsi bankers in financing early colonial expansion[26]—but transgressed class boundaries between big and petty capital in encompassing even village moneylenders who might not have been perceived as honourable, but were certainly believed to play a useful role in the local economies.

Beyond the likes and dislikes of the colonial Administration, the delay in defining monetary propriety rested on widespread scepticism about the colonial capability to intervene effectively in Indian monetary markets without disrupting credit flows as well as still widely held ideological beliefs in utilitarian principles. Bentham's ideas on

[26] B. S. Cohn, 'The initial British impact on India: a case study of the Benares region', *Journal of Asian Studies*, vol. 19, no. 4, August 1960, pp. 418–31; V. Dalmia, *The Nationalization of Hindu Traditions: Bharatendu Harischandra and Nineteenth-Century Banaras*, Oxford University Press, Delhi, 1997; for other areas, see L. Subramanian, 'Banias and the British: the role of indigenous credit in the process of imperial expansion in western India in the second half of the eighteenth century', *Modern Asian Studies*, vol. 21, no. 3, 1987, pp. 473–510.

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the futility of usury legislation[27] remained at the core of British policy for monetary markets in the United Kingdom and the colonies significantly longer than in much of continental Europe and are still discernible, though rare, in the recommendations sought by the Indian government on the proposed Usurious Loans Bill between 1913 and 1917. Following utilitarian ideas and earlier British (and other European) legislation, British India had abolished all laws relating to usury in 1855, thereby effectively subjecting the governance of credit markets exclusively to contractual law. The centrality of bourgeois-liberal contractual law for the development of 'indigenous' monetary markets has been established by Hardiman[28] in his highly influential work on moneylending in colonial India.

According to Hardiman's argument, the Usury Laws (Repeal) Act of 1855 formed the starting point for the transition from a moral economy (according to Thompson's concept) to a capitalist economy on monetary markets. In fact, the UPBECR shows that, even until the late 1920s, customary or (in Hardiman's terminology) moral elements were still highly significant in the governance of monetary markets, but the repeal of the usury laws had a significant effect nonetheless: by law, credit was supposed to be treated in the same way as any other transaction—that is, as a contractual obligation between nominally free individuals. And this, in turn, meant that a lender was entitled to seek legal aid if contract obligations were not met. Essentially, the Usury Laws (Repeal) Act of 1855, as Hardiman argues, supplanted a moral economy between moneylenders and debtors by strong state backing for lenders in a 'policy of laissez-faire in the market—supported if necessary by the deployment of soldiers and police to prevent popular disturbance'[29] and replaced '[t]he existing system of customary enforcement of debt-agreements ... with a system of contract, enforced by law'.[30] This contributed to an escalation of a general crisis of indebtedness that led to eruptions of violence against moneylenders, the most prominent of which were the so-called Deccan Riots of 1875.

The transition described by Hardiman, instead of depicting a comprehensive transition to capitalist finance, indicates the beginning

[27] Bentham, *Defence of Usury*.
[28] D. Hardiman, 'Usury, dearth and famine in western India', *Past and Present*, vol. 152, August 1996, pp. 113–56.
[29] Ibid., p. 126.
[30] Ibid., p. 125.

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of a state-led endeavour to regulate monetary markets with the intention of expanding the capitalist organization of exchange regimes. Though based on very different understandings of the operation of monetary markets and divergent interpretations of liberal economic policy, both the regulation of 'indigenous' monetary markets by contractual law and the interventionist definition of the 'proper swindle' form related steps to regulate and order the 'tangled jungle' of 'indigenous' finance.

It is important to note the ambiguous relationship between these two sets of policies: there is a clear conflict between the development of commercial law (in this case mostly related to contractual law) and regulatory law in that the former benefits creditors by regulating entrepreneurial risk, while the latter attempts to safeguard debtors' interests in cases where the contractual conditions are perceived to be inequitable. Read in this way, from the creditors' point of view, the repeal of the usury laws constituted a triumph of creditor protection, while the subsequent regulation of moneylending activities formed an over-regulation in favour of defaulting debtors that necessitated the evasion of the legal framework. From the debtors' point of view, the repeal of the usury laws constituted an instance of the state siding with the creditors in the exploitation of the poor, while the subsequent regulatory attempts restored equitable relations between both parties. Both arguments clearly had their proponents within the British Indian Administration, similarly to the development of credit market policies in Britain at the time, with creditor protection remaining the most important goal throughout the second half of the nineteenth century. What changed in the early decades of the twentieth century was not so much the colonial state's perception of the importance of creditor protection vis-à-vis debtors' interests—the regulation of the 'organized' banking sector in the same period shows a significant concern with creditor protection—but rather the colonial state's perception of the utility of protecting one specific set of creditors, the 'unorganized' segment. Creditor protection for this segment was not abandoned entirely, but placed under significant restrictions based on perceptions of equity that affected the profitability of 'indigenous' credit agencies more than 'organized' banking, which, in turn, received greater advantages from other aspects of commercial law, especially after the foundation of the Reserve Bank of India. In line with continental European and British experience, this constituted a deliberate policy favouring 'organized' creditors with the aim of expanding procedurally 'proper' monetary

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markets, though, in practice, it created an incentive especially for the petty 'indigenous' lenders to evade state regulations.

Continental European policy on regulating moneylending and expanding the banking sector through variations of co-operative and agricultural banks eventually inspired a shift in British policy at home that resulted in the Moneylenders Act of 1900. To one of the most important proponents of this shift in British policy, H. H. L. Bellot, the laissez-faire attitude depicted by Hardiman already appeared anachronistic. Bellot, instead, interpreted utilitarian policy as a necessary step in civilizational progress. The properly capitalist nature of monetary markets, according to Bellot, was reached in a two-step sequence: the first step having destroyed traditional systems of usury and debt (Hardiman's moral economy of debt), the second necessitating strict state intervention to ensure the predominance of the proper forms of economic behaviour.[31]

The Usurious Loans Act sought to transform the courts from collaborators in the enforcement of debt obligations to 'instrument[s] of active relief from oppression'[32] and initiated a period of legislative activism that reached its height in the late 1930s. For the United Provinces, legislative measures included the U.P. Money Lenders Registration Bill, 1925; the Usurious Loans (Amendment) Act, 1926; the U.P. Agriculturalists Relief Act, 1934; the Usurious Loans (United Provinces Amendment) Act, 1934; the Agriculturalists' Loans (United Provinces Amendment) Act, 1934; the United Provinces Debtors' Relief Bill, 1937; the U.P. Regulation of Agricultural Credit Bill, 1939; the U.P. Moneylenders Bill, 1939; and the U.P. Debt Redemption Act, 1940. Finally, the state of Uttar Pradesh passed the U.P. Regulation of Money-Lending Act in 1976 which, in turn, was significantly amended in 1978.

In principle, the enactment of the Usurious Loans Bill had been foreshadowed by earlier legislative measures—notably the Deccan Agriculturists' Relief Act of 1879 that authorized the courts to trace the course of debt transactions to prevent 'unreasonable'

[31] H. H. L. Bellot, *The Legal Principles and Practice of Bargains with Money-Lenders in the United Kingdom of Great Britain and Ireland, British India, and the Colonies*, 2nd enlarged edn, Stevens and Haynes Law Publishers, London, 1906, pp. 28–9.

[32] W. Tudball, Hon'ble Justice, cited in letter no. 3750/47, dated Allahabad 13 December 1917 from B. H. Bourdillon, Esq., Registrar, High Court of Judicature, Allahabad to the Secretary of the U.P. Government. National Archives of India, Delhi, Home Department files Judl.–Mar.–342-345—PartB.

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interest rates[33] and the inclusion of the legal doctrine of undue influence into the Contracts Act in 1889. Both measures largely failed to achieve their stated aims (similarly to subsequent legislation). The recommendations sought on the proposed Usurious Loans Bill illustrate a significant shift in awareness of the effects of the debt crisis and the necessary remedies by the British Indian Administration. With the introduction of the legal doctrine of unconscionable bargains, the Usurious Loans Act granted comprehensive discretionary powers to all Indian courts to resettle obligations in debt transactions outside the 'organized' banking sector according to the court's perception of equity. The broad outlines of the proposed legislation were widely accepted by the majority of experts asked for recommendations: the specific targeting of the 'indigenous' sector of monetary markets remained by and large uncontested. Within the United Provinces, the only dissent to this in the collected recommendations came from Dr Tej Bahadur Sapru, Advocate at the High Court of the Northwestern Provinces. Notes of the Home Dept. remarked the following:

> [He] agrees that legislation on the lines of the English Money Lenders Act is desirable, but doubts whether banks should be excluded from any definition of money-lenders in India. He has had several cases in which respectable banks have figured as creditors. In two cases the rate of interest charged was 24 per cent per annum compoundable six-monthly, and the claims amounted to several lakhs, although the interval between the dates of the loan and of the suit was by no means great. In two or three other cases the rates varied between 10 and 18 per cent per annum compoundable six-monthly. In all these cases the claims were allowed at the contractual rate, which would have been reduced if the courts had discretionary power.[34]

The provision of vast discretionary powers to the courts and its impact on contractual law were widely held to be necessary, though. Remnants of utilitarian doctrine are apparent from the statement of the Second Additional Judicial Commissioner of Oudh, Kanhaiya Lal, Esq., who stated that '[t]he sanctity of contracts entered into with all the solemnity and formalities required by law will thus ... be seriously imperiled to the prejudice of the creditor and the demoralization of the

[33] V. R. Cirvante, *The Indian Capital Market*, Geoffrey Cumberledge Oxford University Press, London, 1956, p. 47.

[34] National Archives, Delhi. Notes A, May, 1918: Notes in the Home Department (in Proceedings, May, 1918, Nos. 39–56), in The Usurious Loans Bill. Office Memo from the Legislative Department, no. 314, dated 31 January 1918 (Home Dept., Judl.; Judl.–Mar.–342-345—Part B).

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debtor'.[35] Later statements show that his key anxiety was for landlords indebted to banks, rather than poorer debtors, while his reference to the 'demoralization of the debtor' refers to the much more widely held expectation that debtors would use the legal process to go back on voluntarily entered contract obligations, in the process leading to a loss of public morale and overwhelming the British Indian courts with litigation cases.

The most strident criticism of the discretionary power granted to the courts came from Pandit Sita Ram, Hon. Magistrate and Junior Vice-Chairman, Municipal Board Meerut, the statement of whom was described as 'instructive criticism . . . indicating the line of opposition likely to be taken by money-lenders to the Bill'[36] by the Commissioner of Meerut, H. M. R. Hopkins, who forwarded it to the government. Apart from listing the familiar utilitarian arguments on the futility of usury laws and the equally familiar distinction between a few 'black sheep' and the majority of lenders, Pandit Sita Ram observed that he expected moneylenders to either evade the regulations or else withhold credit:

> With due respect to the distinguished personages supporting it, I submit, the natural outcome of the Bill is likely to be the invention of new devices to override the law. I fear that the debtor, compelled by necessity, would, under it, either have to consent to the terms of his sowcar[37] or go without a loan or at least wander from one money-lender to another.[38]

This line of reasoning was followed by various administrators, notably by E. H. Ashworth, Esq., District Judge Cawnpore, and W. R. G. Moir, Esq., District Judge Gorakhpur, though with remarkably divergent conclusions. While Ashworth's statement approved the principle of the bill, his approval was 'not based on any great optimism as to relief that will be actually afforded by the proposed legislation to borrowers'; it

[35] National Archives, Delhi. Letter from C. H. Cordeux, Esq., Registrar, Court of Judicial Commission of Oudh. File no. 347/1917. No. 1995/VII-82, dated Lucknow, 4 December 1917, in The Usurious Loans Bill. Office Memo from the Legislative Department, no. 314, dated 31 January 1918 (Home Dept., Judl.; Judl.–Mar.–342-345—Part B).

[36] National Archives, Delhi. Letter of H. M. R. Hopkins, no. 556/XIX-1/17-18, dated Meerut 8 December 1917, in The Usurious Loans Bill. Office Memo from the Legislative Department, no. 314, dated 31 January 1918 (Home Dept., Judl.; Judl.–Mar.–342-345—Part B).

[37] Sahukar, a trader cum moneylender.

[38] Ibid.

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rested on the moral imperative that courts should not be 'compelled to give judgments or decrees which on the face of them are oppressive'.[39]

As opposed to Ashworth's pessimistic, but moral, argument, Moir appeared to anticipate the expected inefficacy of the legislation, at least as far as the proposed power to re-open historical cases was concerned, as it could be expected to drive debt transactions beyond the purview of the state's jurisdiction: 'This Act will make cases for recovery of money lent much more complicated than they are at present; but it will probably have the effect of reducing the number of such cases brought into courts, as creditors will prefer to settle these matters out of court.'[40]

Nonetheless, the vast majority of recommendations not only approved the bill, but remained optimistic as to its expected impacts. Dissent centred on details, including the bill's neglect of maximum rates of interest permissible or minimum rates of interest to be applied to the law, both cases expected to smooth the operation of the courts. The act was later amended to include a provision of maximum rates of interest.

The major direction of regulatory measures related to 'indigenous' monetary markets soon shifted from the doctrine of unconscionable bargains to the imposition of maximum rates of interest and even more to the necessary precondition of registration, including related questions like the imposition of specific rules for accounting and seizure of account books. Registration was made compulsory in the U.P. in the mid-1920s. The need to register widened the gap between the part of 'indigenous' finance that sought to adapt by adhering to the new regulations, and the part that adapted by shifting below the radar of state recognition. Registration emerged as a means to distinguish between 'honest' and 'reputable' moneylenders and the 'black sheep'. Thus, the *Times of India*, in a report on the Punjab Moneylenders Bill, 1938, quoted the objectives of the bill as follows:

> The statement of the objects and reasons says that the Bill is 'necessary in order to control money lending transactions and to check malpractices on the part of certain dishonest moneylenders. It is also in the interest of honest moneylenders that the profession should be purged of dishonest members

[39] National Archives, Delhi. No. 3750/47, dated Allahabad, 13 December 1917. Letter from B. H. Bourdillon, Esq., Registrar, High Court of Judicature at Allahabad, in The Usurious Loans Bill. Office Memo from the Legislative Department, no. 314, dated 31 January 1918 (Home Dept., Judl.; Judl.–Mar.–342-345—Part B).

[40] Ibid.

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whose methods and actions create a feeling of suspicion and hostility against the profession as a whole'.[41]

To refer to Birla's argument, registration, the regulation of forms of accounting, and similar legislative measures enforced 'propriety', thereby dissecting the 'proper' from the 'improper', and emphasized the role of the Indian state as a registrar of legitimate economic behaviour.

Violent and intimidating practices in the recovery of dues constituted another area taken up by legislation, and one that increasingly entered the public discourse. While most of this could be treated under already existing legal provisions, legislation included provisions against 'loitering' near the residence or workplace of a debtor, and even the otherwise much less strident U.P. Regulation of Money-Lending Act of 1976 stipulated in its provisions against (abetment of) molestation of debtors that a person who 'being a moneylender or an agent or employee of a moneylender, loiters on any pay day at or within fifty meters from the outer boundary or gate of the factory or office in which the debtor is employed, shall be deemed to molest such debtor'.[42] Violent practices of recovering dues, though certainly not uncommon among other moneylenders, became associated mostly with 'Pathan' (or 'Kabuli') moneylenders, with even some debates in the Legislative Assembly in danger of acquiring communal overtones when concerned with the topic.[43]

The Government of India encountered its own difficulties with lenders from Afghanistan. In 1936, Major J. A. Robinson, Dept. Director of Intelligence at Peshawar, raised the issue of a colony of Ghilzai moneylenders at Simla who lent money to menial employees, clerks, and occasionally even higher-level employees of the government. Based on his own investigations, he concluded that the indebtedness of government employees among other issues threatened the confidentiality of government information and had to be dealt with

[41] 'Move to control money lending: Punjab Bill', *Times of India*, 23 June 1938.

[42] U.P. Regulation of Money-Lending Act, 1976.

[43] National Archives, Delhi. Resolution in the Legislative Assembly by Seth Govind Das recommending that immediate and effective measures be adopted for putting a stop to the entry of transborder moneylenders into India (1938). F. 20/38-Judl. National Archives, Delhi. Proposed question in the Legislative Assembly by Bhai Parma Nand, regarding convictions of Muslims and non-Muslims got by the police in the various provinces in cases of dacoities and murders of moneylenders … during the past financial year (1934). F. 11/XIII/34-Police.

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by stern disciplinary action against indebted government employees in which regard an order was issued in 1938:

> Nothing could be more objectionable than this state of affairs in which so many clerks—and others—of the G. of I. are in the toils of a foreign money lending community. ... Scores of ministerial officers in practically every department of the Government of India were heavily in debt and there were quite a number of names of officers of comparatively high rank... This trouble [relating to earlier molestations of Anglo-Indian women as an enforcement strategy based on shame] ceased after I had, quite illegally, connived at several Ghilzais being severely thrashed by the police. That was many years ago and I suppose we are now far too civilized even to wink at such procedure. ... I issued an order as follows: 'If any of the staff, ministerial or menial, of this office borrows a single rupee from these Ghilzai sharks, I will take disciplinary action against him.' I do not see why such an order should not be passed in every department... Most officials in the Government of India deal with information which has a market value and it is utterly undesirable that such officials should be hopelessly in debt.[44]

Government concerns about the indebtedness of its employees to 'indigenous' finance (but not banks) also come out strongly in various other official files.[45] Notwithstanding these concerns, the larger intention of legislation clearly remained on relieving pressures of indebtedness from the Indian population and especially Indian farmers. The UPBECR demonstrates a significant bias in official concern in favour of the countryside, especially on the question of the transfer of land to moneylenders as collaterals, noticeable also in the series of remedial legislations specifically targeting agriculturalists. The focus on land mortgages to 'indigenous' finance demonstrates a conservative logic behind the relief measures in that it was hoped that poor farmers did not need to sell their land as collaterals, forcing them to migrate to the cities.

While the amalgamation of various quite different segments of the Indian credit structure into a category of 'indigenous' monetary markets that needed to 'organize' through registration and similar procedures was already apparent in governmental sources from the 1910s, the crucial question of whether indigenous banking should be treated on a par with moneylending, thereby delineating a monetary

[44] National Archives, Delhi. Office order regarding the indebtedness to the Pathan moneylenders. F. 288/35-Public.

[45] See, for example, National Archives, Delhi. Proposal to appoint a Commission of Enquiry ... to enquire into the conduct of Mr. S. S. Bajpai, ICS, U.P., in the matter of his indebtedness. F.212/38/Ests.

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outside across class boundaries of lenders, remained open much longer. Attempts by the recently founded Reserve Bank of India (RBI) to bring indigenous bankers into the formal credit structure in 1937 failed.[46] As Cirvante argues, the attempt to develop a bill market as a draft scheme to establish direct links between 'indigenous' big finance capital and the RBI, imposing specific forms of accounting and auditing, failed, as the indigenous bankers were used to getting similar benefits to those offered from the RBI from the Imperial Bank without need to conform to RBI prescriptions.[47] Anyway, the scale of operations by indigenous bankers was declining due to the effects of the depression, though an RBI report of 1975 still listed 4,327 indigenous bankers active in Uttar Pradesh.[48] While, in other parts of India, indigenous bankers were able to recover from this, most Banarsi banking families' businesses declined drastically from the 1930s onwards.[49] 'Organized' banks founded by indigenous bankers often failed to manage the transition from interpersonal to abstract forms of trust as—in the context of this study—for instance, the Bank of Banaras and subsequently the State Bank of Banaras, which was later nationalized and had to be merged with the (much more successful) Bank of Baroda in 2001, partially due to a lack of profitability. The subsequent expansion of banking—Varanasi district had 167 functioning bank offices in 1980, up from 40 in 1969[50]—therefore bypassed a significant section of the 'indigenous' financial capital.

The report of the Shroff Committee on Finance to the Private Sector recommended the integration of indigenous bankers through rediscounting facilities of usance bills at banks, but these recommendations were not implemented. In 1971, the Banking Commission's Report on indigenous bankers, as opposed to Cirvante, placed the blame for the failure of RBI efforts to accommodate 'indigenous' finance on the RBI and the estrangement of the two segments of monetary markets. It argued that:

[46] Cf. Reserve Bank of India, *History of the Reserve Bank of India (1935–51)*, Reserve Bank of India (prepared by S. L. N. Sinha), Bombay, 1970, pp. 213–18.

[47] Cirvante, *The Indian Capital Market*, p. 38.

[48] Reserve Bank of India, *Report of the Study Group on Non-Banking Companies*, Reserve Bank of India, Bombay, 1975, p. 113.

[49] Interviews with Shri Radha Raman Prasad, co-founder of the State Bank of Banaras and one of the last living members of the old banking families of Banaras who conducted 'indigenous' banking before the decline of this banking segment in Banaras; interviews with Shri Navneet Raman.

[50] Government of Uttar Pradesh, *Uttar Pradesh District Gazetteers, Varanasi (Supplementary)*, Government of Uttar Pradesh, Lucknow, 1988, p. 38.

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On several occasions in the past the [Reserve] Bank made attempts to establish contact with indigenous bankers. A historical review of the efforts to bring about a link clearly shows that pristine purity of banking concepts led to a breaking off of the attempts.[51]

In view of the legislative and practical difficulties in the way of integration of the two sectors, official thinking on this question has veered around to the approach that strengthening the co-operative movement and institutional spread of banking ... would be the most potent instruments for narrowing the operation of indigenous financial agencies. To the extent that the banking system covers a greater area of economic activity ... there is every likelihood of the less efficient of the indigenous agencies being slowly but surely squeezed out of business. The more efficient among them would have to accept some measures of regulation and control.[52]

At one time these arrangements could have been made the basis for the growth of an integrated money market through a direct link with the Reserve Bank. ... In the view of the Study Group, the hundi could have provided an appropriate basis for the development of a truly integrated bill market adapted to the needs of the local environment. The hardening of attitudes on both sides, however, rendered any direct link or integration with the organized sector difficult.[53]

The Commission's recommendations for integrating the two market segments, however, were not implemented, and Martin has depicted the way subsequent policies affected the operation of the *hundi* as the principal instrument of 'indigenous' banking in great detail.[54] The Banking Commission Report on Indigenous Bankers of 1971 also commented on the failure of the state of Uttar Pradesh to enact comprehensive legislation on moneylending in line with the Moneylenders Acts of other provinces/states, noting that the only effectively operating law in India's largest state was the Usurious Loans Act in its state-specific forms that provided for a maximum rate of interest of 12 and 24 per cent per annum, respectively, for secured and unsecured loans.[55]

Comprehensive legislation on moneylending in Uttar Pradesh was eventually enacted with the U.P. Regulation of Money Lending Act of 1976 that, however, took up exceptions from both the Madras

[51] Government of India, Banking Commission, *Report on Indigenous Bankers*, Banking Commission (Government of India), Bombay, 1971, p. 92.

[52] Ibid., p. 95.

[53] Ibid., p. 98.

[54] M. B. V. Martin, 'An economic history of Hundi, 1858–1978', unpublished PhD thesis submitted to the London School of Economics and Political Science, 2012.

[55] Government of India, Banking Commission, *Report on Indigenous Bankers*, p. 87.

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Moneylenders Act and the Bombay Moneylenders Act. In doing so, transactions above a limit of Rs 5,000 were exempted from the provisions as much as 'traders' credit'—that is, credit transactions between people registered in any trade or industry. The amendment of the act in 1978 repealed the Usurious Loans Act. By focusing legislation on the segment of lending to the poor, and liberalizing the remainder of 'indigenous' finance, the act was much weaker than its equivalents in other parts of India, though, in its emphasis, it returned to one of the original objectives of usury legislation as an instrument seeking to address the needs of poorer debtors.

Moneylending legislation never actually fulfilled its objectives in restricting the operations of moneylenders and, more generally, exploitative credit and other monetary instruments. While it certainly in part was intended for the benefit of poorer sections of society, it rather pushed 'indigenous' finance below the radar of the state. According to the Banking Commission's report on indigenous bankers, legislation needed to be backed up by an administrative structure to control its operation but, as an unintended consequence, it had negatively affected the parts of 'indigenous' finance that could have been integrated into India's new monetary order: 'The net effect of the legislation has been to drive the honest moneylenders out of business and substituting for them dishonest agencies whom the Act intends to regulate and control.'[56]

Rather than actually leading to significant results in restricting the operation of moneylenders, the legislative process had contributed to a legal and discursive delineation of the two spheres into an inside and outside. In essence, the Usurious Loans Act and subsequent legislation mostly in late colonial India removed liberal contractual law, the key component of capitalist monetary markets as identified by Hardiman, from the operation of the outside. By the time renewed efforts were recommended for the integration of inside and outside, the two arenas had diverged sufficiently in their respective functionalities to prevent this from happening. The most significant marker of this is constituted by the massive decline in litigation regarding monetary transactions that form part of the monetary outside that is linked to changes in the way trust is established there.

A much more tangible outcome of government policy was the assistance provided to the expanding banking sector in terms of

[56] Ibid., p. 88.

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facilitating their access to cheap loans from the RBI and the Imperial Bank, one of the main outcomes of the Banking Enquiry Committee Reports. In the case of Banaras, the emerging opposition of 'organized' and 'indigenous' banks or bankers is illustrated in the evidence given by the representative of the Bank of Banaras, Mohan Lal Bulchand. After providing his reasoning why various types of 'indigenous' lenders did not need any assistance in accessing cheap credit from the Imperial Bank, Bulchand's statement proceeds to note:

> I am therefore of the opinion that the development of banking in India on modern lines should be through the Indian joint-stock banks and what is needed most is legislation to assist these institutions by the simplification of the procedure for realization of debts from defaulters, the imposition of restrictions on such institutions as the Imperial Bank of India and the exchange banks to prevent them from competing with joint-stock banks and the starting of a State organisation which should render financial assistance to these concerns in times of stringency.[57]

It is important to note that, while monetary legislation was intended to free the poorer sections of Indian society from exploitation by moneylenders and to enforce the 'proper' conduct of monetary markets, including strictures against violence and intimidation common in recovery practices, this does not mean that similar tendencies would not occur in the 'organized' sector despite its strict regulation,[58] though the Indian state apparently did not envision this possibility. As late as 2007, the Allahabad High Court, for instance, remarked the following:

> [I]f loanee is unable to pay any one of the instalments, the default clause is often invoked and proceedings are initiated by employing private agents (often anti-social elements) ... [W]e decry money lending because it is immoral to convert the crisis of another into an opportunity to exploit him. Such exploitation of poor people by our banking sectors ... was never visualized by Constitutional framers. ... [I]n case of default ... beyond the control of farmer, the bank shall take accommodative attitude of employing coercive tactics and must explore measure like postponing recovery or re-scheduling recovery rather than preying upon farmers in the modernized version of Shylock's pound of flesh .... In connection with the argument that in most of the cases, ... the loanee is often compelled to affix signatures or thumb impressions on every page of the printed form, which is subsequently

[57] UPBECR IV, p. 100.

[58] Cf. C. A. Gregory, 'Village money lending, the World Bank and landlessness in central India', *Journal of Contemporary Asia*, vol. 18, no. 1, 1988, pp. 47–58.

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filled in by a person other than the petitioner, it is shocking to conscience that the poor agriculturists who are either illiterate or semi-literate are compelled to sign on dotted line without having any opportunity of understanding the terms of the agreement. ... The copy of agreement ... makes it clear that signatures has [*sic*] been affixed thereon at the bottom of every page. Most of the columns are also left blank and entries have been made by some person other than petitioner who [*sic*] according to learned Counsel for the petitioner was made at a subsequent date. ... [I]n order to execute a valid agreement both the parties to the agreement must arrive at an agreement by actual consent out of free will and without any coercion or undue influence.
(Chander S. O. Buddhu v. State of U.P.)

Debt in Banaras: functional differentiation in the monetary outside

The delineation of the monetary outside did not neatly dissect the 'customary' from the 'modern', though it formed a major prerequisite. Instead, it institutionalized and reinforced divergences in contractuality and other functional elements. The repeal of the usury laws superimposed liberal contractual law onto monetary traditions, while the Usurious Loans Act, as the crucial turning point towards the attempt to define propriety on monetary markets, started the removal of liberal contractual law from the outside that was emerging in the process. In order to study the functional differentiation of the outside while avoiding the preconceived rationale of the delineation process, one needs to study the manner in which the outside itself changed in its modes of operation after the start of the delineation process. Since this gradual change of a multitude of modes governing monetary transactions cannot be mapped comprehensively here by historiographic methods, I will in the following depict some important changes between the late colonial period and the present, based on the results of an ethnographic field study.

The monetary markets in both periods analysed here are highly complex and the descriptions given necessarily need to be seen as approximations. The operational modes of the markets vary greatly according to circumstances and the precise location of lenders and debtors within the local socio-economic context. The UPBECR is particularly instructive for the 1920s in the way it attempts to provide an overview of the different types of lenders: it dissects lenders first into 'amateur' and 'professional' categories, before going on to classify different types of lenders within the two categories based

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on a functional segregation of lending activities. The relatively high degree of functional specialization among 'professional' lenders in the 1920s is surprising when seen from the perspective of the present context where specialization only takes place in terms of services provided to lenders within the larger *bazaar* areas, namely in enclaves of sophistication. 'Professional' lending in the 1920s varied in its operational modes according to the amounts of capital involved, but also the specialization on various trades and industries, and according to specific target groups. The large variety of terms for lenders used in the 1920s as depicted in the report is reflective of this, especially when juxtaposed to the paucity of terms currently in use—mostly confined to the terms *sahukar* and *sudkhor*.[59] The UPBECR roughly distinguishes between terminologies relating to community (among others: Pathan, Kabuli, Harhia, Mahajan, Bania) and terminologies depicting professional specialization (among others: *sarraf*, *kothiwal sarraf*, *sahukar*, *arhatia*, *beopari*, *qistwala*).

Interest rates and the forms of quoting the costs of loans varied considerably in the late colonial period. In the countryside and rural–urban trade linkages where loans were more likely to be linked to the harvest cycle, the report indicates a prevalence of *sawai* loans that can technically be represented as loans with an interest rate of 25 per cent per season, compounded typically at half-yearly rests.[60] Compound interest rates are depicted as prevalent not only in the countryside, but for all secured loans, indicating a relatively strong importance of the collateral, although this needs to be understood in the context of official concerns that centred on the loss of land through debt transactions. Loans for consumption purposes, especially for the poorest in emergency situations, would have been much less likely to be secured and may not have involved compound rates of interest, though the UPBECR does not give any figures in this respect, except for the *qistbandi* system. The *qist*[61] system is depicted as fairly widespread and including variations in interest rates and systems of quotation, but

[59] Roughly: usurer.

[60] The predominance of the *sawai* rate, as depicted in the UPBECR, indicates changes in interest rates over the last decade. The Benares district gazetteer of 1909 argues that interest rates had been stable throughout most of the nineteenth century, with the *derhi* rate (50 per cent compound interest per season) being equally prominent, at least for loans in grain. (Government of India, *Benares: A Gazetteer, Being Vol. XXVI of the District Gazetteers of the United Provinces of Agra and Oudh*, Superintendent, Government Press, United Provinces, Allahabad, 1909, pp. 52–3.)

[61] Instalment.

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these roughly come up to slightly less than four per cent per mensem simple interest.[62]

The emphasis on the importance of the collateral can be interpreted as a continued prevalence of contractual law in the emerging monetary outside. Similarly, while it is clear that the elaborate system of credit (*sakh*) depicted by Bayly[63] as a particularly complex form of reputation is still of major concern in the present among 'old' banking families,[64] the UPBECR neglects this elaborate notion of merchant's credit. The incipient removal of bourgeois contractual law from the operation of 'indigenous' monetary markets can be seen in the lack of concern over penalties for default in the UPBECR. This had constituted one of the most widely shared concerns among the recommendations on the Usurious Loans Bill in the late 1910s, as it was perceived to make the courts complicit in enforcing highly exploitative debt spirals.

While there is no documentary evidence of any significant presence of Pathan moneylenders in late colonial Banaras, partially due to the absence of large-scale industrial units in the city,[65] a small number of registered moneylenders in present-day Banaras in and around Beniya Bagh are locally still described as Kabulis. In the countryside around Banaras, there was an equivalent influx of mendicant moneylenders, so-called *harhias* from Bihar. These did not have a similar reputation for violence but would attempt to enforce debt obligations through public shaming, typically squatting in front of the homes of defaulting debtors until debt obligations were met.[66] The regime of artisanal indebtedness in the city, at this time almost exclusively based on advances paid by *sahukars*, did not lead to any major apprehensions despite concerns on artisanal indebtedness.[67] The advance system was perceived to bridge seasonal fluctuations in the demand for artisanal products, especially in silk weaving, and accordingly was thought to bring stability to social relations in the city by tying the artisans to the trading community, while providing (meagre) means of livelihood

[62] For Banaras, the UPBECR reports the following: 'Four new types of loan are reported from Benares: in two cases the principal is repayable in monthly instalments of one rupee, in the other two it is repayable in daily instalments of one anna. The amounts are respectively Rs. 16 repayable in 20 monthly or 330 daily instalments; and Rs. 20 repayable in 25 monthly or 395 daily instalments' (UPBECR I, p. 64).

[63] Bayly, *Rulers, Townsmen, and Bazaars*.

[64] Interviews with Shri Radha Raman Prasad.

[65] Census of India 1961, *District Census Handbook Uttar Pradesh*, 53—Varanasi District, Lucknow, 1965.

[66] UPBECR I, p. 124.

[67] Ibid., pp. 118–20.

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during times of low demand. As the artisanal industries of Banaras, especially silk weaving, remained comparatively robust[68] and were perceived accordingly by the colonial rulers,[69] the socio-economic impacts of artisanal indebtedness in the city did not figure prominently in the colonial discourse.

For all its partial sophistication and elaboration, lending to different social segments followed some similar principles of organization. The most important social units within which the functional differentiation was taking place in the late colonial United Provinces were clearly related to community, especially caste and ethnicity. There is no significant indication of the neighbourhood as an important social unit, though government sources may have taken a measure of spatial proximity in debt transactions for granted. At the same time, the *qistbandi* system, the most prominently mentioned system of loans to the urban poor, was clearly delinked from the neighbourhood as an organizational unit.

Ethnicity and caste played a major role in financing trade, especially long-distance trade, but also investment in the *bazaar*. The relative lack of litigation under legislative relief measures like the Usurious Loans Act was largely attributed in the UPBECR to the hold of tradition and community structures over Indian debtors, especially through an 'inflated' notion of family honour, all of which is used as a generic rationale for the operation of debt relations by 'custom' in official government reports.[70] Moneylending to caste-specific target groups seems to have been less prominent as neither the *Recommendations* nor the UPBECR place any emphasis on this, although Bayly reports a significant role of caste in the negotiation of interest rates in moneylending for the late eighteenth century, with specific castes (notably Ahirs) having to pay significantly higher interest rates.[71]

Debt in contemporary Banaras

The period of legislative activism in late colonial India and the gradual expansion of organized banking and co-operative finance,

[68] N. Kumar, *The Artisans of Banaras: Popular Culture and Identity, 1880–1986*, Princeton University Press, Princeton, 1988.

[69] See, for example, 'The industries of Benares', *Journal of the Royal Society of Arts*, 5 March 1915, vol. 63, no. 3250, p. 344; *Periodical Archives Online*.

[70] See, for example, UPBECR I, pp. 38–41.

[71] Bayly, *Rulers, Townsmen, and Bazaars*.

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despite their overall failure to supplant the monetary outside, neatly removed the system of indigenous banking that had formed the most sophisticated element of informal finance before. Similarly, many 'professional' moneylenders must have discontinued their business in the decades after independence, as the majority of informal financial entrepreneurs who are still engaged in lending and other financial dealings are clearly 'amateurs'. This is true even in the heart of the *bazaar*, which otherwise forms an enclave of sophistication within the monetary outside.

As community relations (including caste) have stopped playing a significant role in governing the monetary outside in Banaras according to all lenders I interviewed, the most important social unit in debt relations has shifted to a spatial one: the neighbourhood. While big lenders and the specialists will have networks of information that cross neighbourhood boundaries, most petty lenders rely on less sophisticated sources of information that we can subsume under the term 'gossip'. Gossip, if handled expertly, can constitute a highly precise instrument for acquiring information, especially on reputation, but the risks of misinformation are high and decrease only with familiarity. The neighbourhood therefore forms a boundary that few moneylenders can cross in conducting their business.

Instead of depicting types of lenders, as the UPBECR does, it seems more promising to describe the monetary outside in contemporary Banaras by its various and often quite distinct sub-regimes. Setting aside pawn-brokering, which will not be dealt with in this article, there are five of these and, in addition, the speculative 'game' of *bisi* that can take on functional roles in some of the sub-regimes.

The sub-regime, which still resembles the context of the 1920s the most, is the system of credit to the silk weavers for production purposes that, to a significant extent, is still based on a system of advances paid to the weavers by *sahukars* in the low-demand seasons. These advances do not necessarily involve payments of interest, but will almost invariably involve a 'cut', often by 10 per cent or more. The motive for lending here is to tie the weavers to particular traders and control prices. The seasonal fluctuations in the demand for silk products are linked to the religious calendar and the marriage seasons. The regularity of seasons of low demand means that the lender can fix prices in the off-season, which has a debilitating effect on the bargaining power of the artisans. The system is highly familiar from

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earlier periods and areas[72] and it has been studied in detail by research on the weavers and other artisan groups in Banaras[73] and is depicted in the fictional account of weavers' everyday lives by Abdul Bismillah, *jhini-jhini bini cadariyan*.[74]

The only major changes in this sub-regime appear to be of fairly recent origin: tendencies of social differentiation within the weaver community that are also leading to an increasing spatial displacement of poorer weavers from the original centres of production like Madanpura and Jaitpura to the outskirts of town have also had an impact on the lending regime. Relatively successful 'master craftsmen' have emerged as employers of other weavers in *karkhana*-style small- and medium-scale enterprises operating both hand and power looms. Similarly to the commerce-based *sahukars*, master craftsmen are increasingly emerging as lenders to poorer weavers in their own right, though, in their case, the lending objective emphasizes control of labour and wages rather than prices.

The consumption-based sub-regime targeting the poorer sections of society is the part of the monetary outside in which the vast majority of moneylenders in the narrow sense of the term are active. In comparison with other sub-regimes, it is easily accessible for an ethnographer. In terms of classification, this sub-regime has to be clearly distinguished from any type of lending that emphasizes secured loans (and therefore often tends to have the acquisition of the collateral by the lender as the lending objective). In the former sub-regime, loans are invariably unsecured and for short durations; principals are small; interest rates are simple, but highly exploitative; and recovery of interest and the principal is uncertain. This leads to an operational mode that is effort-intensive for the lender and includes a relatively strong element of intimidation and low-scale violence, both of which play a role in recurring suicides among debtors that are reported by the press. Debtors typically borrow short-term for consumption purposes, especially to sustain their families' livelihoods in times of crisis, when incomes drop through accidents or sickness,

[72] See, amongst others, Haynes, *Small Town Capitalism*; N. P. Sahai, *Politics of Patronage and Protest: The State, Society, and Artisans in Early Modern Rajasthan*, Oxford University Press, New Delhi, 2006; P. Swarnalatha, *The World of the Weaver in Northern Coromandel, c. 1750–c. 1850*, Orient Longman, Hyderabad, 2005; S. Venkatesan, *Craft Matters: Artisans, Development and the Indian Nation*, Orient BlackSwan, Hyderabad, 2009.

[73] Kumar, *Artisans of Banaras*; V. Raman, *The Warp and the Weft: Community and Gender Identity among Banaras Weavers*, Routledge, New Delhi, 2010.

[74] Abdul Bismillah, *Jhini-jhini bini cadariyan*, Rajkamal Prakashan, New Delhi, 1986.

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or for short-term and relatively less expensive spending necessities related to the maintenance of family status: a death in the family rather than dowry for a wedding. Regular debtors often remain with one particular lender for long periods of time, without even attempting to search for better offers by other lenders, as long as the lender is 'respectable'. This is often explained by an assumption that rates under their circumstances would anyway not differ between lenders. What may lead debtors to search for alternatives more than the hope of price incentives is mistreatment by the lender—that is, unwarranted repercussions in the petty everyday forms of resistance against the terms of the debt agreement. Debtors frequently try to evade the lender, thereby delaying payments, or perform supplications for lenience in the face of extraordinary circumstances (that may very well be justified). The lender is certainly not expected by these debtors to react favourably at most times, only occasionally and in partial adjustment, but evading the lender and asking for lenience will often be countered by the lender's attempt to reinforce a 'tough' image that, in turn, may be perceived in some situations as mistreatment by the debtor, though it is difficult to define under what circumstances this is likely. Overall, many debtors appear to have developed a fatalistic acceptance of the systemic rules that can be transgressed only in marginal ways or to minor extents. The same attitude of moneylenders' clients is highly pronounced when asked on the availability of an alternative beyond moneylending, especially bank credit: many debtors assume that bank credit is simply not available to them, as the banks will not accept them as customers, but without ever having made the attempt or even having first-hand information on somebody who has been rejected as a customer by the banking system. It is important to note that it is highly likely that this assumption is in many cases correct, though there are also examples where this fatalistic acceptance of the rules might have formed an obstacle to achieve significantly better terms.

Contrary to the system of secured loans to the poorer sections of society, this sub-regime cannot conclusively be interpreted as an exploitation of the poor by the petty bourgeoisie. Rather, it often constitutes an exploitation of the very poor by the slightly better-off poor. The lenders I would be speaking to frequently were employees of the people I originally assumed to be the lenders: not shopkeepers, but the shopkeepers' assistants. Having relatively few time constraints and the added advantage of a shop that can be used as a base for their operations and a marker of social status constitute significant

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advantages, especially when lending to a relatively immobile clientele where the neighbourhood forms the standard social unit of operation. Moneylenders targeting rickshaw drivers, in turn, tend to have a different mode of operation that focuses on urban spaces regularly used by their clientele. Again, it is rarely the better-off sections of society who act as lenders, partially because of the necessity to share the social spaces frequented by clients. More importantly, given the relatively small number of clients that can be handled by a single moneylender in this effort-intensive business at any given time and the small principals involved, there is an economic rationale for any lender who owns sufficient resources to shift to a higher level of lending, even though relative returns on investment are significantly smaller there.

Shopkeepers' assistants in Banaras typically earn about Rs 5,000–5,500 per month (up from about Rs 3,000 a few years ago), which often enables them to save small sums. Most moneylenders of this kind I spoke to had had a starting capital of between Rs 10,000 and 20,000 when they began to lend small sums. Once they had gathered a circle of clients, their lending activities soon became much more profitable than their original job, as interest rates in recent times at this level of lending are typically 1 per cent per diem.[75] Moneylenders at this level benefit from a public perception of lending as an anti-social activity, magnified by stereotypical images of moneylenders in popular culture such as the character of Sukhilala in the Bollywood film *Mother India*. The lenders themselves sometimes glorify this perception of themselves as sly and 'tough guys', even social misfits. Social ostracism (though often relatively mild) prevents many people from starting to lend and, at the same time, leads to a bonding effect among lenders at the neighbourhood level. In contrast to this public image, moneylenders typically prefer to be relatively lenient. Delays in repayment are common, sometimes even without interest for the additional duration of the loan, though the lender will always try to extract a 'price' for lenience, preferably by the debtor paying a smaller sum up front, but often simply by intimidation and low-level physical violence. Intimidation as performance needs to be calibrated; and a lender who oversteps the unwritten code of how far he[76] can go

[75] According to the lenders I spoke to, interest rates used to be lower, at around 20 per cent, in earlier times, typically referring to the first half of the 1990s, which often forms a threshold of clear recollection even among older lenders.

[76] Lenders at this level are in my experience typically male, though this may be related to ethnographic difficulties in meeting female moneylenders.

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will soon lose clients. Lenders need to strike a fine balance between an intimidating appearance, lenience and reliability. As a number of moneylenders I interviewed put it: the potential debtor needs to know that the moneylender will be lenient if necessary, that lenience always comes at a price, and that the lender can be relied upon not to cross the threshold where petty violence and intimidation become 'disproportionate'. Apart from latent and very often unfounded fears by the lenders about a possible involvement of the police, the lenders rely on gossip among themselves, with their customary clients, and in the larger public to gain information on the reputation of their clients. But the same gossip also provides information to debtors about the reputation of specific lenders, and the lender's reputation, once damaged, cannot easily be improved. A lender of bad reputation, in turn, will have difficulties in maximizing the number of good, 'reputable' clients.[77]

Lending at this level forms one of the most accessible avenues for social upward mobility, though the rise in social status is restricted by the negative public perception of the business. Successful lenders often give up their activities after accumulating enough capital, for instance to start their own small commercial business, or else shift to higher and more respectable levels of lending. Lenders who stay on either enter businesses in close contact with the target clientele, or often remain in their original profession, indulging their acquired 'image', which may go hand in hand with conspicuous consumption that reduces their potential savings. Accordingly, the composition of lenders fluctuates enormously.

In comparison with general consumption-based credit targeting the poor, lenders specializing on secured loans to the same target group form a tiny minority (though a much more affluent one). Rates of interest in this segment of lending are significantly lower—often at 20 per cent—and, in strong contrast to all other segments of lending, at

[77] Among infrequent debtors, I have come across a small number of examples in which the reliance on gossip actually reverses the organizational basis of this sub-regime of lending at the level of the neighbourhood: as gossip carries information on the need to borrow that is often considered shameful, some infrequent debtors have reported having made significant efforts to approach moneylenders in distant neighbourhoods in order to prevent their circumstances from becoming public knowledge. The depiction of the difficulties faced when contacting moneylenders beyond the neighbourhood boundaries, however, reinforces the general accuracy of the organizational principle. Local public knowledge of the shame of borrowing carried through gossip obviously increases the lender's chances of enforcing repayments, though it certainly does not help the lender in acquiring a positive public image.

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times include compound interest. Loans are often relatively long-term and principals significantly higher than those given in the preceding section. Debtors in this segment often seek loans for quasi-investments linked in some ways to upward mobility: dowry, housing maintenance, bribes for getting a job, or access to an educational institution. It is at this level of lending that alcoholism and drug addiction become major factors for debt traps. The relationship between lenders and debtors in this sub-regime is much more hierarchical and acrimonious, with the lenders tending to perform their notions of heightened class difference. Debtors were complaining to me of having to wait humbly for long periods for an appointment with the lender and being treated in a humiliating way throughout the process. In one case (in which a lender was apprehended by the police and later sentenced by the courts over a case of forging property titles used as collateral), local residents related gleefully how the lender was marched through the *basti* by the police while being showered with invectives by the residents and allegedly mistreated by the police while in custody, the whole incident being publicly celebrated by the residents. Public glee and, even more so, open celebrations of a specific moneylender's misfortune, however, are very rare cases of collective action: at all levels of lending in contemporary Banaras, collective action of any form by debtors is visible only through its pervasive absence, reinforcing the sense of almost comprehensively atomized market relations within the monetary outside.[78]

This sub-regime of lending, however, has been losing relevance in Banaras in the last two decades. This is partially due to active development policy—state-run micro-finance schemes combined with development policies in the city's *bastis* that have upgraded housing conditions but prevent the recipients of this assistance to transfer their property as collateral—and partially for economic reasons: rather than in central locations of the city, the real estate market driven by lending activities has shifted to the peri-urban area. There, however, the ownership of comparatively large plots of land and the general appreciation of prices for this land strengthen the bargaining position of debtors. Relationships between lenders and their clients

[78] A number of moneylenders I have met or interviewed had links with political parties, or were engaged in politics themselves, at least outside the segment of high-end informal finance. There is no indication, however, that politics assumes a significant role in moneylending or vice versa. Rather, local politics constitutes an area of engagement for entrepreneurs who are also active as brokers or moneylenders.

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in this segment appeared to me much less acrimonious in the peri-urban area than in the city itself. Debtors related that they were using parts of their land as security for loans to improve their socio-economic conditions while keeping other parts of their land as objects of speculation, counting on an on-going appreciation of land prices.

The second-largest sub-regime in terms of participants, and likely the largest one in terms of the amount of money involved, is the sub-regime of traders' credit. This is centred on the main *bazaar* area—Chowk and the adjoining neighbourhoods—where it reaches the highest level of sophistication, but spreads to all major commercial areas, though typically the neighbourhood remains the principle unit of social organization. Inter-linkages between commercial areas are frequent, but still much less pronounced than within the respective commercial areas.

Many traders choose to borrow from moneylenders rather than the 'organized' credit sector in order to evade taxation, receive credit without purpose restrictions, much faster and less cumbersome, and to avail themselves of the greater degree of lenience in repayment in comparison with the banking system, so that the entire system of transactions remains beyond the reach of the state. While the *bazaar* forms an enclave of sophistication in many ways, most participants in this sub-regime remain 'amateurs': sophistication increases disproportionally wherever transactions are handled by specialists—facilitators and guarantors—who separate the lenders from the debtors and take over the management of the transactions for a share in the profit (typically 1 per cent of the principal per mensem for each of the two types of specialists). Facilitators acquire knowledge through informal information channels on the supply and demand for credit among traders, negotiate the conditions of the transaction, and manage the process of repayment. Their services are reliable for the traders and exceedingly fast. Loans of several *lakhs* can be arranged within a few hours, larger sums by the next day. The delivery of the principals can also be arranged for areas outside the city, so that there is at least a rudimentary system of long-distance financing available. The means to do this, based on delivering numbered codes via telecommunication, is still called *hundi* and, in cases where documentation is required, functions very much like a *darshani hundi*.[79]

[79] The code will often simply be constituted by the unique identification number of small-denomination rupee notes that are cut in half (with both sides remaining

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If a guarantor is involved, the system of traders' credit is supplemented by an informal insurance arrangement. Guarantors take over the risks of the transactions in case of default, but have their own networks of ensuring eventual repayment, although they often are relatively lenient initially without necessarily extracting a (visible) penalty. The presence of specialists does not prevent traders from entering into transactions without their involvement, and even traders who make significant amounts of their income from lending do not necessarily involve specialists at all. For the lenders, however, a transaction involving facilitators and guarantors is both risk-free and effortless.

Traders' credit involves principals starting from about *lakh* Rs 2 and rarely goes beyond sums of about 2 *crore*. Loans are almost invariably short-term, as it is in the segment of short-term loans that the monetary outside has the greatest comparative advantages over the banking sector. Rates of interest depend largely on the principals involved: 10 per cent per mensem for smaller loans, 5 per cent for larger loans (typically above 20 *lakhs*). Interest rates are invariably simple and therefore suitable for the short-term character of lending.

The system of traders' credit reaches its highest level of sophistication where it relates to speculation and insider trading in the gold market. There, interest rates fluctuate strongly according to the precise characteristics of the transaction, including loans with interest on an hourly basis. One per cent per hour was related to me as a typical rate when involving 'speculation', though the term seems to relate to insider trading instead. Similar rates of interest can also be found among lenders targeting semi-organized gambling rackets.

Above the system of traders' credit exists a system of high-end informal finance that is based on hermetically sealed networks. I received some information from lenders who were involved with it on the margins and, in one case, from a former lender who had been able to enter these circles but soon decided to quit the business. Where I do have reliable information is on the role of the speculative game of *bisi* in governing access to these circles. *Bisi* takes on different functional roles in the different sub-regimes of the monetary outside in contemporary Banaras and will be discussed in greater detail later

in possession of the code) in a way highly reminiscent of traditional hundi usages, depicted by, amongst others, Sinha, *Early European Banking*, p. 155.

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in this article. Though it does not form part of the interest-based credit system in itself, and can even be used to circumvent it, it serves as a functional element in the economies of reputation that underlie the different segments of the monetary outside.

Compared to the period of the 1920s, the monetary outside in contemporary Banaras has been acutely simplified. The most obvious example of 'simplification' is the large-scale disappearance of compound interest. Interest in contemporary Banaras is simple wherever loans tend to be of short durations and the objective of lending is tied to accumulation through interest only, not to acquire the pledged collaterals. The disappearance of compound interest also simplifies the system of quoting rates and therefore of reference to the costs of borrowing. Interest rates tend to leap disproportionally, often in relation to the differently classified amounts of principals: from monthly rates of 1 to 1.5, 2 and 2.5 per cent for the highest level of lending; from 5 to 10 per cent in the traders' credit segment; from 20 to 30 (1 per cent per diem); and up to 40 per cent for the poor. These rates form new 'customary' rates of interest that have supplanted the old *derhi* and *sawai* rates as well as the *qistbandi* system of quotation. They may be adjusted to provide for penalties or inducements for borrowers with especially bad or good track records, but rarely are, and they provide a system of information for prospective borrowers on the cost of loans that is fairly transparent.

The gap between the 1920s and the present is characterized by the disappearance of the state as an active regulatory force with regard to the monetary outside. The state disappeared both as the agent for the recovery of outstanding dues and collaborator in exploitation and as an 'instrument of active relief' as it was envisioned by the proponents of moneylending legislation. The monetary outside that was produced in Banaras has morphed into a market where the licit has supplanted the legal as a point of reference for all participants in the way described by van Schendel and Abraham for border areas.[80] In the process, it has shed its preoccupation with liberal contractual law. Instead, trust between lenders and borrowers is governed by notions of reputation, which change according to the level and type of lending involved: reputation is increasingly related to notions of hierarchical superiority and correspondingly perceived capacities for physical violence at the lower end of the regime where lenience is

[80] W. Van Schendel and I. Abraham (eds), *Illicit Flows and Criminal Things: States, Borders, and the Other Side of Globalization*, Indiana University Press, Bloomington, 2005.

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accompanied by an increase in exploitation and a 'price' enacted for default; it becomes increasingly consensual towards the higher end where the code of conduct governing the transaction centres on a reciprocal assistance of both parties to the transaction in avoiding default. In both cases, there are unwritten rules, the observance of which acts as a check on misuse and in this way forms a substitute for law.

While the ensuing situation may appear as a return to the pre-colonial patterns of finance prevalent in eighteenth-century Banaras, its major characteristics of the regime are, in fact, quite different. It has, for instance, shed its connections with community as a feature of collective bargaining. The monetary outside in Banaras has become much more atomized, while the segmentation of the monetary outside is based to a significant extent on differentiations between and within classes (instead of between and within communities). In part, this is related to the disappearance of 'indigenous' banking, which declined from the 1930s onwards. 'Indigenous' bankers in Banaras in the 1920s still worked to some extent as a governing apex of the monetary outside wherever its operation was not dealt with by law and relied on their social embedment through community ties in vertical and horizontal social relations for information and authority.

The monetary outside in contemporary Banaras relies on an economy of reputation as a means of assessing the relative standing of lenders and borrowers but cannot anymore correlate this with the traditionally prevalent forms of social differentiation. In segmented and atomized markets, information on reputation as the prerequisite for generating trust needs to be acquired in different ways than in the 'system of customary enforcement of debt-agreements' depicted as a moral economy by Hardiman. This is reflected in the emergence of the neighbourhood as the principle social unit of the monetary outside, the creation of a new, 'simplified' reference system within quotidian finance, and, finally, changing modes of governing access to the monetary outside and the assessment of standing within it.

Access to the monetary outside is governed pervasively by intricate ways to gain and maintain reputation. As reputation forms the pivot of the system, transactions depend on familiarity. This can be readily available through gossip at the neighbourhood level, or it can be acquired, for instance through reference to 'known' actors—being introduced or being vouched for, possibly even involving a professional guarantor. These examples play an increasing role in generating trust

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for many of the lenders I have observed. Babu,[81] a young low-level professional who has recently taken over the lending business of his father, is exemplifying this tendency.

Babu's initial attempts to recover outstanding loans left by his father were largely unsuccessful, as he did not have any clear idea of how to operate as a lender and was perceived accordingly by his father's clients who tried to default or at least to delay payment. Eventually, he entered into an agreement with a local tea vendor, catering to rickshaw drivers—his father's clients—and subsequently others like him. In return for an interest-free loan of Rs 7,000, the tea vendor started to serve as Babu's agent, collecting information, reinforcing Babu's standing as a moneylender. Once Babu managed to recover his father's loans in this way, he found lending too lucrative to give up, though he professed for more than a year that he would do so in the near future. However, lacking long-term experience in judging the reliability of prospective debtors, he initially gave loans to debtors who 'made problems'. When I first met Babu, he was trying hard to develop the kind of menacing presence he associated with the image of a moneylender. However, he eventually shifted his business model to one exclusively relying on introductions and vouching. He no longer takes on clients who have not been introduced to him (or vouched for in risky cases) by other clients, which, he says, generates a sense of importance and familiarity among the latter and spreads the risk of default or delayed repayment: the clients tend to receive benefits from those they are introducing, and therefore have an interest in enforcing repayments themselves. By now, Babu claims that his father had had significant problems in recovering loans, and that it was this shift that made the business lucrative again.

Being vouched for or introduced forms sub-optimal avenues for gaining reputation in many cases. One of the larger arenas available for the communication of reputation is formed by the ubiquitous speculative 'game' *bisi*, which forms a particularly instructive example for the economy of reputation of the monetary outside.

Bisi forms a variant of what in other parts of India is known as chit funds. Traditionally, these speculative games were known in the area as *bisis*—a term that is acknowledged in law, as in the Prize Chits and Money Circulation Schemes (Banning) Act of 1978. With increasing awareness of the more generic term, *bisi* is being used to

[81] The name has been changed.

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refer to unregistered 'games' that are perceived to be illegal even by its players,[82] while the term 'chit fund' as locally used often refers to registered and larger schemes. In *bisi*, a group of traditionally 20 people are pooling specified amounts of money contributed by all players at regular intervals. Each member eventually gets one slot at which he/she receives the pooled amount of money. The game is widely played in Banaras and can be used to circumvent the need for borrowing. There are many variations of *bisi*. Rules are agreed upon in advance, but can differ significantly.

Typically, there are significant additions to the simple form of the game which increase its speculative characteristics and potential profitability. These include among others reducing the amounts paid to the players in the first few (often seven) rounds and introducing an element of auction in the first rounds of the game. In the auction system, players compete for the slot by offering to take a lower-than-previously-agreed-upon amount, thereby reducing the amount paid out and increasing other players' profits. The reduction typically is possible up to a fixed minimum amount, which gets successively higher with each subsequent round. The system of auctioning is interrupted for the second round in which the head of the *bisi* circle receives the entire pooled amount as he/she carries the greatest risk.

The objective of the game is to receive the pooled amount as early as possible in order to use the money for profitable investment for the rest of the circle's (relatively long) duration. The profitability of the game therefore rests on the ability of the respective player to invest the money rapidly and profitably. As the economy of Banaras has very few opportunities for such investments, one of the greatest of these is moneylending. *Bisi* is extremely attractive to lenders, as they normally possess enough resources to carry the risks of playing, while being able to profit at exorbitant rates if they get the pooled amount soon. As the head of the circle carries the greatest risk but is assured the pooled amount in the second round and—crucially—selects the players for which he/she needs information on the prospective players' reliability, lenders have strong advantages as circle heads.

What makes *bisi* risky (and socially disruptive) is the possibility of default. A player who received the pooled amount early on in the game does not necessarily have an incentive to keep on contributing to it,

[82] Whether or not an unregistered 'Money Circulation Scheme' is legal depends on the amounts involved, and most *bisi* circles are actually legal. The term *bisi* originated from the Hindi word for 20, the traditional number of players in one circle.

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while even bona fide players may misjudge their ability to contribute for the circle's duration. The head of the circle carries the risk of default, and will try to persuade or intimidate the player if possible, or take over the contributions of the defaulting player. The first default in a circle enormously increases the risk of further defaults, setting in motion a chain reaction that destabilizes the circle. Circle heads will try to introduce safeguards in this respect by having at least some especially reliable players as part of the circle, and will even share profits with these to stabilize the circle.

Apart from its general profitability for lenders, what makes a *bisi* circle attractive for entrepreneurs on the monetary outside is directly linked to this risk of default. *Bisi* constitutes one of the greatest opportunities to gain and maintain reputation. First, it forms a social arena in which economic standing and reputation can be communicated. Second, it forms an arena in which a good track record can easily be established, even without incidences of default: a player who accepts a late slot in good grace is communicating reliability as well as relative prosperity, and a player who collaborates with the head can gain a more intimate relationship with a lender. Third, and most importantly, in case of defaults, the behaviour of the players will be closely scrutinized. Continuing to contribute to a circle in danger of collapsing can lead to significant losses but it can gain sufficient reputation to be seen as a profitable investment in the long run despite the initial risks.

The importance of *bisi* is highest at the level of traders' credit and high-end informal finance. While the game is played as much among the lower classes, it is at the higher levels that lending is governed by reciprocal assistance to avoid default. *Bisi* constitutes a door-opener, not only for borrowers, but especially for lenders who want to shift from traders' credit to the higher levels of lending, at least outside the segment of 'old money', access to which still seems to be entirely governed by class prejudice. Even at the lower levels, however, the game enables upward mobility for lenders wanting to cross thresholds between segments of the monetary outside by establishing credentials among a new set of entrepreneurs and debtors.

The historical development of *bisi* is opaque, but it was perceived as a 'traditional' precursor of co-operative finance in the late nineteenth century that might serve to circumvent moneylenders,[83] though there

[83] H. W. Wolff, *Co-operative Banking: Its Principles and Practice (with a Chapter on Co-operative Mortgage-Credit)*, P.S. King and Son, London, 1902. Money-circulation schemes

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are no indications of a functional role of *bisi* for moneylending in government reports from the early twentieth century. Its functionality for the monetary outside in Banaras, therefore, is likely to have developed only after the delineation of the monetary outside.

Conclusion

The monetary outside in Banaras is based on an economy of reputation that comprises various moralities. In an improvised discussion group, two lenders and two debtors (indebted to other lenders) discussed a case I had come across earlier: a lender had raided the shop of a debtor and taken away saris claimed to be of equivalent value to the outstanding amount. The debtor who related this to me accepted the loss of the saris in general but complained about the lender taking too much, instead, and about the rudeness of the lender and his lack of circumspection. The discussion resulted in a detailed statement of the moral code of conduct to be followed in this situation: on having been informed by the debtor of the imminent default, the lender should have offered to delay repayment twice for one month each without charging interest for these two months, after which he could have charged additional interest as penalty or confiscated property up to the precise amount of the outstanding payments in interest, but not the principal. The confiscation did not need to be conducted with circumspection, though, if the matter would have been solved in any other way than by confiscation of property, it should have been done as secretly as possible. Under no circumstances should the lender have been rude, unless the shopkeeper was resisting in any way, though he was entitled to show displeasure.

What the discussion result illustrates is a perceived need to behave according to an unwritten code of norms underlying everyday financial transactions in Banaras, which differs strongly from a reading of available sources on 'indigenous' finance in the period characterized by a system of market governance that still included remnants of liberal contractual law and the moral role models of 'indigenous' bankers. To revert to Birla's argument, while the late colonial state had

were never included in co-operative finance, though, in this way relegating them to the emerging monetary outside. I am highly thankful to Ritu Birla and Lakshmi Subramanian for their suggestions on the links between chit funds and the early co-operative movement.

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abstractly defined the impropriety of the monetary outside, the actual propriety of the remaining practices is being renegotiated through notions of reputation on an everyday basis by those involved in the regime. The state's perception of 'indigenous' finance resulted in a regulatory approach that, in contradiction to its intention, *decreased* the adherence of lenders to a behavioural norm derived from an abstract interpretation of propriety. The monetary outside became increasingly amateurish and based on a reputational instead of a (bourgeois-liberal) contractual economy of debt.

The production of a monetary outside comprised both the larger delineation process (in law and discourse) and local adaptations to this delineation and the expansion of the 'properly' regulated capitalist credit sector that necessitated the substitution of the liberal contractuality Hardiman had emphasized as a key component of capitalist monetary markets. In doing so, this production established a distinctly bounded tier within Indian finance capital that has diverged significantly in its operational modes from the dominant monetary inside. The delineation of the monetary outside (and inside) reflects the arguments by Birla and Appadurai on the procedural basis of capitalist finance and the role of governmentality in its expansion in modern India. This governmentality created a set of procedures that reinforced differences in the operational modes of financial practices and to a significant extent dissected previously inter-linked monetary markets. In doing so, it inserted a new element into the development of 'indigenous' credit markets and necessitated the invention of new procedures on the monetary outside by creditors in order to evade state regulation and cope with the removal of contractual law from its modes of operation. The delineation of 'proper' procedure for capitalist finance resulted in the creation of a countermodel through the differentiation process on the monetary outside—a process of active adaptation by financial entrepreneurs that created a procedurally defined alternative to the 'pristine purity of banking concepts' underlying the state's helping hand to the expansion of capitalist finance in modern India.

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