

The London School of Economics and Political Science

*The Invention of Corruption: India and the License Raj*

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A thesis submitted to the Department of Law of the London School of Economics and Political Science for the degree of Doctor of Philosophy

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We English officers in the Indian Services come out to India straight from the Universities and Public Schools with little or no knowledge of the real world. We bring with us our public-school ideals and public-school standards; and we find, of course, when we get here that they are peculiar to ourselves. We are not surprised at this. We think it is just because we are in India. We have always heard that Indians are all more or less dishonest, untrustworthy, and venal. Hence all the dirty rumps and crookery which we come across, from the meanest town committee to the highest department of Government, we attribute to the inherent depravity of the oriental...But nothing could be further from the truth. Public-school standards exist only in the Public Schools. They don't exist in the real world of practical affairs in England, Europe or America any more than they do in India. In fact less.

—Penderel Moon, *Strangers in India*, 1943

*Abstract*

The word ‘corruption’ appears frequently in literature on India’s former policy of state planning, pejoratively referred to as the “License Raj.” In this literature, writers often consider corruption to be inherent to state planning and allege that corruption is a central reason behind the policy’s failure. I place these allegations in a history that starts with the arrival of the East India Company on the Indian subcontinent. In examining this history, I consider a number of claims that writers associate with corruption in India and the License Raj: for example, that corruption is economically inefficient, that it is a function of premodern loyalties, or that it is an outcome of monopolistic behavior. Through close reading of texts that allege corruption in the License Raj, I argue that these claims serve to discredit the policy of state planning while naturalizing the concept of ‘corruption’ as something technical and ahistorical. Further, I argue that the term ‘corruption’ in India has had contradictory meanings over the course of its trajectory. In other words, corruption in India has been portrayed both as something premodern as well as modern, something endemic to bureaucracy as well as something bureaucracy can reform, something both timeless as well as historically contingent. I conclude that these contradictions have been papered over by critics of state planning, however unwittingly, to argue for market liberalization. In demonstrating the importance of the colonial encounter in shaping how we often conceptualize ‘corruption,’ I suggest that the allegation of corruption in India’s License Raj is instructive as to how ‘corruption’ has been conceptualized more broadly. Namely, corruption is often believed to be a problem of putatively premodern societies with extensive state regulation of the economy. A closer examination of the literature reveals other, sometimes obscured ideas about corruption which challenge this prevalent view.

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## Introduction

### 1. A Termite

His hands outstretched, his voice bellowing, Prime Minister Narendra Modi spoke to an audience in 2015 on the occasion marking 68 years of India's independence from British rule. "Corruption is a much-discussed topic in our country," he said. Corruption, he continued, was eating away at the country like a "termite." To get rid of it, one must start "from the top."<sup>1</sup>

Commentators were apt to read such remarks as a denunciation of the Indian National Congress (Congress Party, for short), the party which had just lost the 2014 national election to Modi's Bharatiya Janata Party (BJP). It has been said that corruption was "the single most important election issue"<sup>2</sup> that year and that it was key to "the making of anti-Congress sentiments."<sup>3</sup> When Modi referred in his speech to his vision of a "*Congress Mukt Bharat*," or a Congress-free India, he described an India free not only of "communalism" and "poverty" but also of "dynasty politics, nepotism, corruption..."<sup>4</sup>

The Prime Minister was not alone in his avowed concerns about corruption in the run-up to the 2014 election nor in his targeting of the Congress Party as the site of corruption. Three years earlier, the country saw anti-corruption protests in the national capital which received extensive media coverage. A leading Indian newspaper described these protests as "a tidal wave that will sweep away the entire venal political class and replace it with those who feel their pain."<sup>5</sup> The target of these protests was the ruling Congress-led United Progressive Alliance (UPA) coalition government wherein allegations of corruption loomed large. Although such allegations instigated the protests, the perception had long since become that corruption in India went beyond the Congress Party and was instead endemic. Corruption, a *Guardian* article described in 2011, "is a fact of life for more or less everybody in India."<sup>6</sup> It is everywhere, and it is nothing new, as the story goes.

And it is a very popular story indeed, one that is heard the world over. Organizations like the World Bank or Transparency International, for example, have produced numerous publications in which India consistently features as a highly corrupt country.<sup>7</sup> Unlike the claims made by political parties

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<sup>1</sup> "PM's address to the Nation on 69th Independence Day," The Prime Minister's Office, Government of India. Accessed December 26, 2022. [https://www.pmindia.gov.in/en/news\\_updates/pms-address-to-the-nation-on-69th-independence-day/](https://www.pmindia.gov.in/en/news_updates/pms-address-to-the-nation-on-69th-independence-day/)

<sup>2</sup> Chintan Chandrachud, "Anticorruption by Fiat: Structural Injunctions and Public Interest Litigation in the Supreme Court of India," *Socio-Legal Review* 14 (2018): 177.

<sup>3</sup> Pradeep Chibber and Rahul Verma, "The BJP's 2014 'Modi Wave': An Ideological Consolidation of The Right," *Economic and Political Weekly* 49(39) (2014): 52.

<sup>4</sup> "PM's address to the Nation on 69th Independence Day."

<sup>5</sup> "Make It Better," *The Indian Express*, April 9, 2011. Accessed December 26, 2022. <http://archive.indianexpress.com/news/make-it-better/773826/>

<sup>6</sup> Jason Burke, "Corruption in India: 'All your life you pay for things that should be free,'" *The Guardian*, August 19, 2011.

<sup>7</sup> See, for example, "CPI 2021 For Asia Pacific: Corruption and Lack of Freedoms Holding Back Progress," *Transparency International*, January 25, 2022. Accessed December 26, 2022.

<https://www.transparency.org/en/news/cpi-2021-for-asia-pacific-grand-corruption-holding-back-progress>. Therein we read that India's corruption perception score "has remained stagnant over the past decade."

in the heat of elections or by protestors in the wake of a movement, these texts have the air of authoritative and credible studies.<sup>8</sup> Corruption perceptions indices,<sup>9</sup> worldwide governance indicators on the “control of corruption,”<sup>10</sup> and the work of international organizations on corruption are widely cited and often held to be apolitical, even scientific.

In such studies, corruption is often described as an economic problem.<sup>11</sup> That is, corruption is seen as a problem because it “undermines” economic development.<sup>12</sup> There are other problems that we read of—like corruption’s impact on “political legitimacy” or “basic fairness”—but its economic consequences are what seem to lend the study of corruption a technical air.<sup>13</sup> According to these views, corruption has “costs.”<sup>14</sup> It is “inefficient”—a word that comes up frequently in the literature.<sup>15</sup> For some, corruption’s costs can be quantified and therefore, it would seem, proven. The Washington, DC-based thinktank Global Financial Integrity, for example, has estimated that in 2010 India lost US\$462 billion in “gross illicit assets” to “tax evasion, crime, and corruption.” Referring to the 2011–12 anti-corruption protest leaders, Indian commentators therefore concluded: “[e]ven global studies agree that they are on the right track in their struggle.”<sup>16</sup>

Between the frisson of political allegations and the seemingly studied composure of economic analysis, corruption in India has solidified in the eyes of observers as a serious, far-reaching, and longstanding phenomenon, something which truly does exist and which is gravely problematic. Talk of corruption, as Modi said, is indeed everywhere. Take, for example, the extensive academic literature on corruption. Political science, anthropology, economics, law—these disciplines all have views on corruption, and debates in these fields on the subject are rife.<sup>17</sup> If corruption entails the subversion of the public interest, how ought one define the public interest? Do increased salaries of customs officials reduce the incidence of bribery? To what degree should bureaucratic discretion be removed to improve transparency? And so on.

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<sup>8</sup> See, for example, the self-characterization of an “evidence paper” commissioned in 2005 by the United Kingdom’s Department for International Development as “an authoritative assessment” in United Kingdom Department for International Development, *Why corruption matters: understanding causes, effects and how to address them*, January 2015. Accessed December 26, 2022.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/406346/corruption-evidence-paper-why-corruption-matters.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/406346/corruption-evidence-paper-why-corruption-matters.pdf).

<sup>9</sup> See, for example, Transparency International, *Corruption Perceptions Index 2021*, January 2022. Accessed December 26, 2022. [https://images.transparencycdn.org/images/CPI2021\\_Report\\_EN-web.pdf](https://images.transparencycdn.org/images/CPI2021_Report_EN-web.pdf)

<sup>10</sup> See, for example, Daniel Kaufmann, Aart Kraay, and Massimo Mastruzzi, “The Worldwide Governance Indicators: Methodology and Analytical Issues,” *World Bank Policy Research Working Paper* No. 5430 (September 2010). Accessed December 26, 2022. Available at SSRN: <https://ssrn.com/abstract=1682130>

<sup>11</sup> The World Bank Group, *Helping Countries Combat Corruption: The Role of the World Bank*, September 1997. Accessed December 26, 2022. <https://documents1.worldbank.org/curated/en/799831538245192753/pdf/Helping-Countries-Combat-Corruption-The-Role-of-the-World-Bank.pdf>

<sup>12</sup> The World Bank Group, *Helping Countries Combat Corruption*, 1.

<sup>13</sup> The World Bank Group, *Helping Countries Combat Corruption*, 15.

<sup>14</sup> The World Bank Group, *Helping Countries Combat Corruption*, 1.

<sup>15</sup> Bo Rothstein and Aiyysha Varraich, *Making Sense of Corruption* (Cambridge: Cambridge University Press, 2017), 51.

<sup>16</sup> “Graft and bribe: India lost \$462 billion post-independence,” *The Economic Times*, June 18, 2011. Accessed November 9, 2021. <https://economictimes.indiatimes.com/news/politics-and-nation/grift-and-bribe-india-lost-462-billion-post-independence/articleshow/8897228.cms+&cd=1&hl=en&ct=clnk&gl=us>

<sup>17</sup> See, for example, Rothstein and Varraich, *Making Sense of Corruption*, 51.

Yet despite this diverse literature, no one seems particularly confused as to what the word ‘corruption’ means. The nearly unchecked consistency across varied disciplines suggests that we all already know what we are talking about when we talk about corruption. There is a rough and ready constellation of associations close at hand which can be quickly shored up. In it, the figure of the public official seems omnipresent. The politician or the bureaucrat is often portrayed as the corrupt figure *par excellence*.<sup>18</sup> As for where corruption is predominantly located, ‘developing countries’ are one crucial site. Thus, for all its apparent diversity, a substantial portion of the literature—academic and otherwise—is united around at least one prominent belief: that corruption often entails the illegal practices of public officials, often in the Global South, which hinder development.<sup>19</sup> Because this prominent strain in the literature also contends that corruption is a problem, writers who describe it are effectively offering a criticism, however implicit, and not merely a definition.

This, at least, is the story of corruption as most of us know it. There is an air of commonsense around such a seemingly simple term. A certain conceptualization has dominated our imagination. How did we get here? Was ‘corruption’ always and everywhere what we believe it to mean today? What are its unexamined assumptions? What does the country called ‘India’ have to do with the word, and why are the two so often associated in the minds of certain observers? What is it about this association that seems self-evident to so many? How might one begin to tell a different story about the word ‘corruption,’ to unsettle this self-evidence? And ultimately, what would that imply for how we imagine India, its culture, its history, its political economy? The present study is one route into these questions. It is not interested in what we *ought* to define as corrupt. It is interested in *what* we define as corrupt (and what we do not) and the consequences of such a definition.

## 2. An Opening

Where India is concerned, the literature in all its vastness accordingly sees corruption in multiple places and multiple moments. The 2011–12 anti-corruption protests and the allegations against the UPA are but a recent part of a larger arc. In this longer view, talk of corruption features in accounts of many demarcated eras of Indian history. Yet here too, a few favorite refrains emerge. In fact, there is one alleged site that stands out. Critics refer to it as the ‘License Raj,’ a pejorative term for the state planning regime in India, the economic policy which the government pursued following independence from British rule in 1947. Jagdish Bhagwati, economist and renowned critic of the License Raj, writes that “Indian planners and bureaucrats sought to regulate both domestic entry and import competition, to eliminate product diversification beyond what was licensed, to penalize unauthorized expansion of capacity, to allocate and prevent the reallocation of imported inputs, and indeed to define and delineate virtually all aspects of investment and production through a maze of Kafkaesque controls.”<sup>20</sup> The regime is said to have been at its peak in the 1970s in terms

<sup>18</sup> See, for example, the foregrounding of “public office” in renowned corruption scholar Susan Rose-Ackerman’s conceptualization of corruption in Susan Rose-Ackerman, “Corruption,” *Readings in Public Choice and Constitutional Political Economy*, eds. Charles K. Rowley and Friedrich G. Schneider (New York: Springer, 2008), 551.

<sup>19</sup> For example, Eliza Katzarova argues that the “tropes of the corrupt politician, corrupt public official, and corrupt country” rose to prominence in the 1990s and how “[i]n the process, the blame for corruption” was located in “the developing countries (and their governments).” Eliza Katzarova, *The Social Construction of Global Corruption: From Utopia to Neoliberalism* (Basingstoke: Palgrave Macmillan, 2019), 2.

<sup>20</sup> Jagdish Bhagwati, *India in Transition: Freeing the Economy* (Oxford: Oxford University Press, 1993), 50.

of complexity of regulation, but the allegations of corruption run throughout its existence. Built up over decades, and now an established motif in the literature, the depiction of corruption in the License Raj provides the impetus for this dissertation. As we shall see, this depiction provides a window into larger debates about corruption in India and even corruption more generally. It is an opening.

The term ‘License Raj’ has come to connote something apparently coherent. It is a shorthand for criticizing state planning in India, but it also conjures up a host of related notions, many of which have come to be tinged by allegations of corruption. At its narrowest, the ‘License Raj’ refers to the licenses which a private firm had to apply for from the government to start and expand an industrial unit or to import certain items. Yet, for many of its critics, the phrase ‘License Raj’ also connotes something beyond industrial or import licensing. These writers often intend to critique something broader: the notion of industrial policy, a so-called ‘mixed economy,’ state planning, and/or socialism writ large. The phrase seems to be a metonym for economic statism, as it often gets associated with other policies the Indian government has pursued: price controls, foreign exchange controls, or the nationalization of certain industries. If there is a common thread among these associations of the term ‘License Raj,’ it is the sense that the state’s involvement in the economy has breached a certain ideal limit.

Corruption is a central reason why critics argue that government should not cross this limit. For them, the License Raj is proof that greater state direction of the economy necessarily entails corruption. This is such an oft-repeated claim that corruption and state planning have come to be seen by many critics in India as going hand-in-hand.<sup>21</sup> These critics paint a similar portrait: that of the License Raj as a “labyrinthine bureaucracy [that] often led to absurd restrictions”<sup>22</sup> or a “control-infested system [where] corruption was inevitably spawned” by public officials.<sup>23</sup> In addition to state planning’s “unnecessary economic costs,” we read that corruption too “cannot be dismissed from the final accounting of what this regime cost India.”<sup>24</sup> The nature of the corruption alleged here is one that other observers may label as bribery, for it is the transfer of an illegal payment from business to bureaucrat, as speed money, coerced or otherwise, which the critic has in mind.

Elsewhere, however, critics affirm but look beyond allegations of bribery, offering us instead a larger, systemic criticism of corruption in the License Raj. In this view, corruption refers to the ‘politicization’ of the state bureaucracy.<sup>25</sup> Meanwhile, other writers see the problem with corruption in the License Raj as the use of government to support one’s own kin, region, or caste at the expense of the larger public.<sup>26</sup> The criticisms here suggest that these so-called crony or

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<sup>21</sup> See, for example, N. Ram, *Why Scams Are Here to Stay: Understanding Political Corruption in India* (New Delhi: Aleph Book Company, 2017), 13, who writes that “the stock explanation for corruption in India was the ‘permit-license-quota raj’—virtually everything could be attributed to it.”

<sup>22</sup> “India: The Economy,” BBC, February 12, 1998, [http://news.bbc.co.uk/2/hi/south\\_asia/55427.stm](http://news.bbc.co.uk/2/hi/south_asia/55427.stm).

<sup>23</sup> Bhagwati, *India in Transition*, 56.

<sup>24</sup> Ibid.

<sup>25</sup> See, for example, Kempe Ronald Hope, “Politics, Bureaucratic Corruption, and Maladministration in the Third World,” *International Review of Administrative Sciences* 51(1) (1985): 1–6.

<sup>26</sup> See, for example, Atul Kohli, *State-Directed Development: Political Power and Industrialization in the Global Periphery* (Cambridge: Cambridge University Press, 2004), 264, who remarks that the “ideological proclivities” for

nepotistic practices limit the fruits of the nation to close family or party colleagues. Finally, writers may also foreground what they believe are the economic costs of corruption, referring to its supposed inefficiency or “economically irrational outcomes,” for example, as the key problem of corruption.<sup>27</sup>

Across these varied conceptualizations, literature on the License Raj indicates how intimately the allegation of corruption has come to be linked with the criticism of state planning. It is difficult to come across a conceptualization of corruption that does not refer to—if not *rely on*—ideas about what an economy should look like. What boundary is it that critics have in mind which corruption transgresses to produce inefficiency? What exactly does corruption have to do with the relationship between the state and the market? And where did this preoccupation come from? Does the critique of corruption in the License Raj have a past?

### 3. Deadweight

When it comes to its temporal associations, for many writers the term “License Raj” points to a certain moment in India’s history. In a 2021 article for *Foreign Affairs*, for example, Arvind Subramanian (former Chief Economic Advisor to the Government of India) and Josh Felman, (consultant and former head of the International Monetary Fund’s India office) describe the License Raj as “an era in which corruption was pervasive.”<sup>28</sup> As for what marks the contours of this era, its beginning and end depend on whom one asks. As for its heyday, however, writers seem to largely agree—especially those for whom the term “License Raj” reflects the gamut of statist measures (like bank nationalization or price controls) which the Indian government has pursued. These writers converge on the late 1960s and 1970s as the most representative era of the License Raj: they paint those years as the height of socialist policies and correspondingly, in their view, of an overly bureaucratic, politicized, and indeed corrupt state apparatus.<sup>29</sup>

In fact, this era is also around the time that scholarly interest in corruption is said to have picked up pace. Whereas in 1965 we read that “systematic investigation of corruption is overdue,”<sup>30</sup> today we come across papers that chart the histories of “corruption studies,” a field of study unto itself.<sup>31</sup> The increased interest in corruption over these decades appears to overlap with the deepening critical attitude towards state planning. The period in question saw the publication of key texts which criticized state planning and made reference to corruption as one of its flaws. Jagdish Bhagwati and Padma Desai’s joint study in 1970—*India: Planning for Industrialization*—is

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state planning “were also consistent with the concrete interests of the Indian political elite, which could channel some of the fruits of development to themselves and their offspring.”

<sup>27</sup> See, for example, the characterization of new political economy in Barbara Harriss-White, “Liberalization and Corruption: Resolving the Paradox (A Discussion Based on South Indian Material),” *IDS Bulletin* 27(2) (1996): 31.

<sup>28</sup> Arvind Subramanian and Josh Felman, “India’s Stalled Rise,” *Foreign Affairs*, December 14, 2021.

<sup>29</sup> See, for example, remarks on corruption and the bureaucracy in the “Indira-Sanjay era” in Vivek Chibber, *Locked in Place: State Building and Late Industrialization in India* (Princeton: Princeton University Press, 2006). See also the claim that “[o]nce fully developed and matured, however, the regulatory system began to manifest a number of life-cycle rigidities in the 1970s, including a lack of speed in decision making, a lack of innovation and a lack of flexibility” in Stanley Kochanek, “Liberalization and Business Lobbying in India,” *The Journal of Commonwealth and Comparative Politics* 34(3) (1996): 156.

<sup>30</sup> Colin Leys, “What is the Problem about Corruption?” *The Journal of Modern African Studies* 3(2) (1965): 215.

<sup>31</sup> Mark Jorgensen Farrales, “What is Corruption? A History of Corruption Studies and the Great Definitions Debate” (June 2005). Accessed December 26, 2022. <https://ssrn.com/abstract=1739962>

exemplary of this view.<sup>32</sup> Anne Krueger's 1974 essay "The Political Economy of Rent-Seeking" is another.<sup>33</sup> Bhagwati has since come to be known as an advocate for free trade, serving as an advisor at both the GATT and WTO. Krueger, meanwhile, became the Chief Economist at the World Bank.

The trajectory of the criticism of state planning suggests that when the License Raj is carved out as a distinct problematic era, it is a period of greater liberalization against which it is contrasted. "The cure is defined by the diagnosis," Bhagwati writes of the "necessity for microeconomic reforms."<sup>34</sup> Such reference to market liberalization plays a vital role in the literature that sees state planning as correlated with corruption. After all, it is liberalization which is sometimes posited as the corrective to state planning and therefore to the corruption seen as endemic therein.<sup>35</sup> Despite India's efforts at economic liberalization in the late 1980s and then more profoundly in 1991, not all critics are content to mark an end to the License Raj. In fact, some believe that remnants of the License Raj linger on in India, and they portray a still-extensive government bureaucracy and an ongoing predilection for greater state involvement in the economy than is necessary.<sup>36</sup> Through such portrayals, writers may contend that stubborn legacies of state planning explain the persistence of corruption in today's India, and they may imply that liberalization remains a means of curbing it. For others, however, liberalization has instead produced new and/or different opportunities for corruption.<sup>37</sup> Either way, though, state planning seems to represent the deadweight of the past and corruption its telltale symptom, according to many critics. But how far back does this past go exactly?

Critics debate not only whether and when the License Raj ended but also its beginnings and where in the regime's trajectory to locate corruption. Many point to 1951 legislation as the origin of state planning in India,<sup>38</sup> and they might insinuate that corruption afflicted the regime from the start, as if an inherent feature of planning.<sup>39</sup> Others who affirm the 1951 Act as state planning's origin in

<sup>32</sup> Jagdish Bhagwati and Padma Desai, *India: Planning for Industrialization: Industrialization and Trade Policies since 1951* (Delhi: Oxford University Press, 1970).

<sup>33</sup> Anne O. Krueger, "The Political Economy of the Rent-Seeking Society," *The American Economic Review* 64(3) (1974): 291–303.

<sup>34</sup> Bhagwati, *India in Transition*, 71 and 78.

<sup>35</sup> See, for example, the claim that "[d]eregulation and the expansion of markets are powerful tools for controlling corruption..." in The World Bank, *Helping Countries Combat Corruption*, 35.

<sup>36</sup> See, for example, the claim that "the rampant bureaucratic proceduralism that has survived the supposed dismantling of the License Raj has provided bureaucrats—and crucially the politicians who oversee them—with ample leverage to manipulate the thicket of state controls in the service of narrow private interests" in Milan Vaishnav, *When Crime Pays* (New Haven: Yale University Press, 2017), 48. See also Yashwant Sinha as qtd. in "Up for Debate: Scientific Planning: India's Experience," in *Commanding Heights: The Battle for the World Economy* (Public Broadcasting System). Accessed at:

[https://www.pbs.org/wgbh/commandingheights/shared/minitext/ufd\\_indiaplanning\\_full.html](https://www.pbs.org/wgbh/commandingheights/shared/minitext/ufd_indiaplanning_full.html)

<sup>37</sup> See, for example, the claim that "liberalization has ushered in corruption in a much greater variety of forms and on an unimaginably greater scale than anything seen under the so-called license raj" in Ram, *Why Scams Are Here to Stay*, 13, or that while "liberalization shrank the points at which bribes could be collected," it is now the case that "the sums that are available for extraction are much higher" in Akhil Gupta, "Changing Forms of Corruption in India," *Modern Asian Studies* 51(6) (2017): 1867.

<sup>38</sup> See, for example, Rakesh Mohan and Vandana Aggarwal, "Commands and Controls: Planning for Indian Industrial Development, 1951–1990," *Journal of Comparative Economics* 14 (1990): 681–712.

<sup>39</sup> See, for example, Durga Shanker Mishra, "Does Liberalization Mitigate Corruption? Challenges for Scholars and Practitioners from the Indian Experience," *Indian Journal of Public Administration* 58(1) (2012): 17.

India nevertheless suggest that the problem of corruption emerged in the regime's later life.<sup>40</sup> Herein, the reign of Prime Minister Jawaharlal Nehru may be contrasted with the subsequent reign of Prime Minister Indira Gandhi: in this formulation, the former represents the hope for state planning while the latter represents its decay. Others, however, might believe the enterprise was doomed to fail from the start—in other words, that the greater the state regulation over the economy, the more likely the prospect for corruption.<sup>41</sup> The allegation of corruption, although located in different ways, is one of the claims that threads together these otherwise distinct arguments for and against state planning.

Some writers look before independence to account for the beginnings of the License Raj.<sup>42</sup> In fact, the question of the origins of state planning tracks that of the origins of corruption in India. There is talk in the literature of legacies, of measures or ideas which prefigure the Indian state's involvement in the economy and the corruption presumably therein. Often this talk is gestural. That is, the implications of proclaimed legacies are not detailed but retain their power from allusion. Of course, the most prevalent gesture is in the term “License Raj” itself, for the implication therein is that after independence from a “British Raj,” India found itself suppressed by a governmental bureaucracy that was no better at developing India. That the License Raj is the successor to the British Raj, that this is a postcolonial misfortune, even a cruel or tragic irony, may be at once the most overstated and underexplored claim of the literature on corruption in India. Exactly what sort of relationship between state planning and corruption is this historical allusion positing? Pursuit of the question is at times shrouded in the fog of self-evidence. Does the pejorative “License Raj” mask more than it reveals about the allegation of corruption in India’s state planning regime? How far back could we trace this allegation’s roots?

#### 4. The Specter

“Corruption in India can be traced back to the country’s colonial past,” reads an article at the Council on Foreign Relations.<sup>43</sup> The sentence opens a section entitled, “The Roots of Corruption.” It begins with claims of political exclusion and administrative secrecy in the “British Raj period,” dating its start at 1858.<sup>44</sup> Moving forward to independence from British rule in 1947, the article proceeds to describe a regime of “heavy economic regulations,” marking the period until 1991 as the “License Raj.”<sup>45</sup> Not only was competition stifled and foreign investment limited, but also “bribery became part and parcel of doing business.”<sup>46</sup> In this brief historical sketch, there are only two scenes: first, the British Raj and then the License Raj.

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<sup>40</sup> See, again, Chibber, *Locked in Place*.

<sup>41</sup> See, for example, the claims that “the regulatory intensity of the state with respect to private business activity not only minimizes the role for market forces, but also facilitates a natural quid pro quo whereby the state provides licenses, permissions, clearances, etc. in exchange for side payments” or that “corruption is most intense in those sectors where the regulatory footprint of the state is the greatest” in Sandip Sukhtankar and Milan Vaishnav, “Corruption in India: Bridging Research Evidence and Policy Options,” *India Policy Forum*, September 2015. Accessed December 26, 2022. <https://www.ncaer.org/wp-content/uploads/2022/09/d4.pdf>.

<sup>42</sup> See, for example, claims about the role British rulers assigned to the Indian economy during World War Two in Mohan and Aggarwal, “Commands and Controls.”

<sup>43</sup> Beina Xu, “Governance in India: Corruption,” Council on Foreign Relations, September 4, 2014. <https://www.cfr.org/backgrounder/governance-india-corruption>.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

Bhagwati is here quoted as saying, “Historically, the roots of India’s corruption came from the proliferation of licenses.”<sup>47</sup> Through a subtle if unintended elision, we are offered the claim that corruption is traceable to the colonial era only then to have the spotlight return to its alleged roots in licensing. This is a frequent move in the literature: the conjuring up of the colonial past followed by the prompt closure of the line of questioning this colonial specter would imply. What is this colonial history which supposedly haunts both state planning and corruption, intertwining the two inseparably in the eyes of certain critics? And where specifically is it to be found?

There is a horizon here which widens or contracts depending on the sightline of the critic. In the first, narrow view, the colonial era is referenced only so far back as World War Two. There, it is suggested the Indian economy was put on a war footing: the colonial state gave itself widespread administrative power to regulate trade in scarce commodities and direct industry towards wartime needs. Here, writers allege an existence of a proto-License Raj—with its attendant corruption apparently already at work.<sup>48</sup> In this view, the extensive governmental apparatus of the wartime economy was concomitant with the bribery used to skirt regulations. As such, writers allege a colonial-era link between corruption and state planning that was forged in this moment and which then persisted past independence.

Elsewhere, in a second, wider view, critics allege that the colonial era saw independence leaders like Nehru too enchanted by socialist rhetoric, inaccurately believing that only state planning could usher in industrial growth. It is this bias, therefore, which critics argue has formed the basis for the License Raj. The passion for state planning, in this view, is ultimately a colonial hangover, an ‘ideological’ rationale rather than a rational rationale. If there were any rationality behind its pursuit, critics contend that it was the unconscious benefit that accrued to elites who could direct planning to put family, party, or caste above nation.<sup>49</sup> Indeed, this alleged abuse of public office or resources for private gain is a key dimension of the critique of corruption in the License Raj and the critique of corruption more generally.<sup>50</sup>

Every so often, a writer on corruption in India ventures much further back in the colonial past. In this third and widest view, writers take us to the era of the East India Company, of the first intimate and sustained contact England had, starting in the seventeenth century, with India.<sup>51</sup> What is one to say of the roots of License Raj corruption in the early Company era, at a time when neither states nor economies resembled what they do today? Not all writers confront this question of incommensurability. Instead, ‘corruption’ is projected onto this era—if not also further back to ancient India—and assumed to take the same form, believed to transgress the same boundaries, imagined to be as grave of a problem for the era’s contemporaries as it is for us today.

Something about the East India Company does seem pivotal to understanding how and why critics see corruption centuries later in the License Raj. After all, writers tell us of Company era practices, in India or even in England, that were in one moment legitimate and in the next deemed ‘corrupt.’<sup>52</sup>

<sup>47</sup> Ibid.

<sup>48</sup> See, for example, Mohan and Aggarwal, “Commands and Controls.”

<sup>49</sup> See, for example, Kohli, *State-Directed Development*.

<sup>50</sup> See, for example, The World Bank, *Helping Countries Combat Corruption*, 7.

<sup>51</sup> N. Ram reflects on whether today’s “view that corruption is pervasive and omnipresent in Indian society” actually “goes back to the days of the East India Company” in Ram, *Why Scams Are Here to Stay*, 4.

<sup>52</sup> See, for example, Leys, “What is the Problem about Corruption?” 215.

What happened such that corruption became visible where it had previously been absent? What other ideas had to emerge or themselves transform such that the word could then be applied? Is there a straight line between the ‘corruption’ of the Company era and the ‘corruption’ of the License Raj era? Or, rather, is it uneven?

The present study is an exploration of the word ‘corruption’ as it has traveled along this trajectory and picked up various associations along the way. The aim of our exploration is to examine the prevalent suggestion, however implicit at times, that corruption is inherent to state planning in India. Is this allegation of corruption in the License Raj as straightforward as some writers suggest? What does turning to history, particularly that of the Company era, do to our understanding of corruption and state planning? What ideas about India does the allegation of corruption in the License Raj rely on, however unwittingly, and what notions of the state and market does it presume? How might the conversation around corruption and state planning in India be crucial to understanding a prominent conceptualization of corruption more generally? These are some of the questions we will examine in this study by undertaking a close reading of the literature and drawing out its unexamined assumptions.

## 5. Materials, Methods, Motifs

Literature on corruption in India is vast and covers a range of disciplines. Because our aim in this study is to scrutinize the posited relationship between corruption and state planning in India, we will largely consider literature on the License Raj which makes reference to corruption. Much of this literature emerges in India in the 1970s. Though the conversation on corruption in the country has since diversified—especially in the wake of economic liberalization in 1991 and protests in 2011–12—claims about the License Raj nevertheless remain prevalent, especially when it comes to debates over economic policy and public administration. Indeed, it is difficult not to escape reference to the erstwhile state planning regime when it comes to discussions on corruption in India. Hence, the literature we will draw upon in this study will shuttle between texts which refer to corruption in the License Raj and texts which discuss corruption in India more generally. Furthermore, we will also consider linkages between how corruption is understood in India versus how it is understood as a generic term. For this, we will draw on some compendiums, volumes, and broad studies on corruption, particularly in Chapter 1, where we will examine literature that considers corruption in the case of India and contrast it with some of the general, conceptual literature on corruption.<sup>53</sup>

To contextualize the centrality of India to how corruption has been understood more generally, we must also look prior to the License Raj era. Since certain critics who allege corruption in the License Raj look to the colonial period, we too will consider literature from and about colonial India, the Company era in particular. At times, therefore, we will toggle between literature on corruption in the License Raj and on corruption in the colonial era. This juxtaposition may tell us

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<sup>53</sup> For example, *Political Corruption: Concepts & Contexts*, Third Edition, ed. Arnold J. Heidenheimer and Michael Johnston (New Brunswick: Transaction Publishers, 2002); *Explaining Corruption*, ed. Robert Williams (Cheltenham: Edward Elgar Publishing Limited, 2000); *Corruption in the Developing World*, ed. Robert Williams and Robin Theobald (Cheltenham: Edward Elgar Publishing Limited, 2000); Bruce Buchan and Lisa Hill, *An Intellectual History of Political Corruption* (Hampshire: Palgrave Macmillan, 2014); Robin Theobald, *Corruption, Development and Underdevelopment* (London: Macmillan Press, 1990); and Ronald Wraith and Edgar Simpkins, *Corruption in Developing Countries* (London: George Allen & Unwin, 1963).

something crucial about how many writers conceptualize corruption today. When we consider how writers link License Raj corruption to the colonial period, we will pay special attention to literature from British writers in the period itself by comparing and contrasting their views alongside those of writers in subsequent eras.

To examine this diverse material, draw out its unexamined assumptions, and forge connections between otherwise seemingly disparate moments and issues, this dissertation will deploy methodologies from the humanities, in particular close reading from literary criticism. Close reading offers us the ability to perform careful examination of the formal and rhetorical structures of a given argument and thereby helps us read a text against its grain—that is, not necessarily with a view to remaining loyal to a writer’s purported intention but rather to draw out other meanings which yield insight, especially into the biases a text may harbor or affirm, even if unwittingly.

Close reading also helps us identify certain metaphors, tropes, and motifs which indicate hitherto unseen patterns across diverse texts. Indeed, one of our main preoccupations across this study is to examine certain motifs that arise in the literature on corruption in the License Raj. The reference to colonial legacies as a supposed cause of License Raj corruption is one such motif we will consider in greater depth. We will also consider references to efficiency, modernity, loyalty, bureaucracy, and monopoly. These motifs might appear as an aside in a text: that is, writers may make a brief and often intriguing reference to it but do not delve deeper. In other cases, such as for efficiency, bureaucracy, and monopoly, the motif in question may be the central concern of the given text. Either way, we will spend ample time with these terms, even on occasion dedicating an entire chapter to one or the other.

Finally, it is worth indicating that our effort at close reading will not always exclusively track the word ‘corruption’ itself. Rather, at times, we will consider ‘corruption’ in a constellation with other related terms. These related terms are varied. ‘Patronage’ is one that recurs, so too is ‘rent-seeking.’ Some are more precise like, say, ‘the Congress system.’ Meanwhile, others have a scholarly or euphemistic air about them such as ‘concentration of economic power’ or ‘briefcase politics’ respectively. Sometimes, these other terms are seen to be related to—but still distinguishable from—‘corruption.’ At other times, they are deemed to have an intimate association with ‘corruption’ which makes them able to stand in for the word in a given argument. It is this very slippage which is of interest to us in this dissertation, and close reading will help us track it.

Indeed, both our methodology of choice and our curated materials will serve to highlight these hitherto underexamined rhetorical dimensions of ‘corruption’. Our effort is not to clarify the meaning of the word, as if there were a single unifying principle, but rather to estrange ourselves from what has become the prevalent understanding around ‘corruption’—especially as it is deployed in portrayals of the License Raj—and from how these portrayals may tell us something broader about the word and its association with India in particular.

## 6. Chapter Outline

Chapter 1 begins by looking at the various dimensions and tensions in the word ‘corruption.’ The literature on the term is equally rich when it is unmoored from considerations of a given time or place as when it is conceptualized as particular to, say, India, or to the twentieth century. Certain

scholars of corruption believe in the coherence of the word ‘corruption,’ though they may also reflect anxieties as to whether the term holds together effectively. These anxieties are especially pronounced when they consider the prospect of corruption’s diversity. Does corruption look the same everywhere? Must it do so for us to still to be able to call it ‘corruption’? Chapter 1 outlines some of these tensions to demonstrate that critics manage to keep them at bay despite never finally resolving them.

Chapter 1 also explores various facets of how corruption in India has been conceptualized. It examines how some writers describe features they believe are unique to Indian corruption without ever straying too far from a framework they believe is necessary to enable cross-country comparison. Scholars’ projection of a framework of corruption across space also proceeds across time. For example, corruption in India is conceptualized across various moments in the country’s history, even as far back as ancient India. Writers often contend that corruption has its own particular shape in each historical era of India but nevertheless believe it to be recognizable always as ‘corruption’ (rather than something else). The chapter examines three historical timelines in India across which corruption is projected and what scholars believe is unique about corruption in each. It concludes by suggesting that the aspect of corruption which is deemed unique to the contemporary timeline are its rhetorical dimensions. The larger study takes up this cue, tracking the associations of ‘corruption’ as a word both within the colonial era (in particular the Company years) and following Indian independence, particularly in the 1960s–70s, the decades believed by many to constitute the peak of corruption in the License Raj.

Indeed, of all the historical moments where corruption is alleged in India, none seems to capture the imagination of critics today like the era of the License Raj. Therefore, Chapter 2 examines the intricacies of those claims which presume corruption to be inherent to state planning. It considers the intimate association between corruption and inefficiency as it plays out in criticisms of the License Raj, and it sketches out the context in which such criticism came to prominence. In doing so, the chapter explores how an economic conceptualization of corruption has displaced other ways of understanding the word. One such alternative is the notion of corruption as patronage. Whereas the dominant economic understanding of corruption rarely frames it as rational, writers who see corruption as patronage at times imagine it to have both negative as well as positive functions for society. Nevertheless, as the chapter contends, the particular conceptualization of corruption that emerged in the criticism of the License Raj is the one that has greater prevalence the world over: corruption as rent-seeking. In this conceptualization, corruption is allied with state planning and opposed to efficiency and liberalization.

Chapter 3 then takes a step back. It looks at three sites in India’s colonial past: the early Company era in India, the later Company era in India, and early to mid-nineteenth-century England. The problem it sketches out is a historiographical one: how did a notion of ‘corruption’ emerge to establish boundaries between ‘the state’ and ‘market,’ and how do we tell this story without assuming the coherence of these terms? The chapter begins by examining various practices in the early Company era, from the Company’s seventeenth-century arrival on the subcontinent to its assumption of governance in Bengal in the eighteenth century. It argues that a certain set of local practices were recoded as illegitimate or corrupt, often based on the economic interest of British traders. These practices concerned entitlements to trade such as gift-giving or exemptions from duty payments. The chapter then shifts to the later Company era in the mid- to late eighteenth

century when the corporation had assumed a governing role on the subcontinent. It describes how the Company proceeded to perform some of the very practices it had earlier decried, only then to be criticized by onlookers in England where ideas about corruption were themselves undergoing a transformation. Public debates about the role of elites starting in late eighteenth-century England were changing the meaning of the word ‘corruption,’ and the Company’s experience in India crucially shaped this conversation. The chapter concludes by describing the transfer of India from the Company to the Crown in the mid-nineteenth century as part of what were called ‘reforms.’ With these reforms deemed successful by British observers, the Company was discredited; the origin of corruption was then retroactively projected onto India. In this narrative, Crown rulership through the Indian Civil Service was believed to have ushered in an era of probity in colonial rule, in stark contrast to the perceived unruliness of the colonial subjects.

Chapter 4 examines ideas about the civil service and bureaucracy with which the previous chapter concludes. It explores the apparent discrepancy between the notion that the colonial-era Indian Civil Service (ICS) was free of corruption and that its successor—the License Raj-era Indian Administrative Service (IAS)—was full of corruption. To examine this contrast, the chapter tracks the various associations of bureaucracy with modernity and loyalty. How is it that at one moment a government bureaucracy represented a modern aspiration only then, in a subsequent moment, to be deemed premodern? What is that terms like ‘modern’ or ‘premodern’ have to do with corruption more generally? What are the various—at times contradictory—relationships between modernization and corruption as they are portrayed in literature on India and the License Raj? Finally, how is loyalty conceptualized vis-à-vis modernity and bureaucracy? The chapter concludes by looking at a particular figure in the literature, that of the conflicted ICS official, allegedly torn between premodern and modern loyalties. It turns to a particular moment in the Indian independence movement, where the notion of conflicted loyalty appears especially stark, and traces its links to the allegation that the License Raj is corrupt.

Rounding out this study’s interest in economic conceptualizations of corruption, Chapter 5 looks at how critics frame the problem of monopoly in the East India Company versus in the License Raj. With regard to the Company era, the chapter considers the views of Adam Smith, Edmund Burke, and others on how they associate monopoly with corruption. The chapter argues that the problem of monopoly helped frame the lines between state and market and that corruption represented a breach of this imagined ideal boundary. Further, the chapter explores how the problem of monopoly may have helped establish certain associations between corruption and inefficiency. Both the imagined ideal relation between state and market as well as the critique of inefficiency suggest that the problem of the Company’s monopoly was pivotal to shaping the eventual characterization of corruption as inherent to the License Raj. The chapter then shifts to the License Raj era. There, it explores how the debate around monopoly and monopolistic practices in the License Raj offered competing views about corruption, each shaped by a given critic’s view on the policy of state planning. Notably, the chapter argues that the problem of monopoly in the state planning regime was sometimes framed vis-à-vis corruption in a way that big business—rather than the public official—was depicted as the corrupt instigator, a sharp break from other literature on corruption in the License Raj. The chapter explores these various criticisms of the License Raj which are sympathetic to state planning and associate corruption with the monopolistic practices of big business. Framing the problem of corrupt monopoly in this manner offers a

window into other ways in which the practices of big business can be demonstrated to be corrupt, considerations that critics of corruption in the License Raj often neglect.

Finally, the dissertation's conclusion takes a look back at the associations tracked along the course of the study. It reconsiders the accumulation over time of a set of themes that sometimes dominate our conceptualization of corruption: as an unlawful, inefficient, premodern problem of public officials in the Global South. The conclusion also presents the alternative, minor voices that have been crowded out as these particular ideas around corruption rose to prominence. What else could 'corruption' have meant had it turned out to be conceptualized otherwise? What systematic biases are revealed in the associations of corruption that came to be prevalent? In what ways are they consequential? Is there a corruption by another name that goes unseen because the word casts our eyes towards one thing rather than another? What unexamined assumptions or practices does it justify when it discredits another? Has the word 'corruption' ultimately misled us?

## Chapter 1: Rhetoric

### 1. Introduction

Many works on corruption begin with a discussion of how difficult it is to do something as seemingly simple as defining precisely what corruption means. Is it a concept? Is it a set of practices? These are some of the preoccupations of writers who are interested in exploring the theoretical aspects of corruption, either as an article-length study or as an opening gesture to a text that focuses on examining corruption in a particular place or moment. In some of the major volumes compiled on the subject of corruption, an individual writer may agonize over how to resolve larger definitional questions, but many ultimately never seem to fret too much. They instead establish a definition so as to move on to their subsequent argument.

This chapter lingers a bit longer on these deceptively basic matters. Surveying a selection of texts that theorize corruption, this chapter seeks to demonstrate the strain with which the literature appears both to desire and finally to deny itself conceptual clarity and normative precision in defining corruption. Writers may turn to the natural sciences, to law, or to elite or public opinion to ground their wish for a definition of corruption, only to point out along the way some deep-seated issues in doing so. Taken together, the conceptual literature on corruption appears afraid of the possibility that defining corruption may involve what they brand as ‘relativism.’ For the belief that animates much thinking on corruption is that ‘relativism’ will make it impossible to define and therefore tackle corruption, whose problematic nature is seen as self-evident by many writers.

In its second half, the chapter then considers one common ‘genre’ of corruption literature: the ‘case study.’ Therein, writers discuss what the paradigmatic example of corruption might be, often locating it in countries of the Global South, for example, India. With its avowed interest in particularity, case study literature on India likes to imagine itself as describing ‘real’ issues as opposed to the ‘abstract’ ones which interest definitional theorists. In a given case study, a text might examine the alleged particularities of a country like India, but they never seem to stray too far from broader, general assumptions about corruption that we find in general texts.

In self-styled case studies, scholars locate corruption not only in various places but also in various times. In this chapter, we consider four particular ‘timelines’ of corruption in India as they appear in the literature: a long arc in which corruption in India is posited as an ancient problem; a colonial arc in which the problem of corruption is situated during Company and British rule of India; a modern arc in which it is a post-Independence problem from state planning to liberalization; and a contemporary one in which it is said that talk of corruption has resurged in recent years. Over the course of the dissertation, it is the colonial and modern arcs which will be our focus; we will consider how the conceptualization of corruption in the License Raj appears to intimately involve both these arcs.

The chapter concludes by claiming that the pursuit of specificity in a case study often points us back to larger definitional questions about corruption, ones made starker by the concept’s rhetorical dimensions. In other words, writers who look to the case study to avoid or resolve the difficult definitional questions about corruption may find that these questions are hard to avoid.

## 2. Empty Shells

Do words sometimes lead us astray? When they refer to something clearly, do they also blind us to something else? Is their obvious meaning ever a red herring?

The word ‘corruption,’ we are told, has a storied history. It is “an age-old issue, perhaps as old as human civilization.”<sup>54</sup> Its journey through time has also been a varied one, with, for example, “divergent understandings and connotations...in Classical, Medieval, and Early Modern European political thought.”<sup>55</sup> Examining so diverse a legacy, we read that “no precise definition can be found which applies to all forms, types and degrees of corruption....”<sup>56</sup>

Yet despite its winding trajectory, the word ‘corruption’ still has the semblance of holding together. “A core meaning readily emerges from an analysis of these very different meanings,” the literature tells us.<sup>57</sup> Lest this core flatten “the rich polysemy of the term,” writers still manage to carve distinctions.<sup>58</sup> There is, for example, a concept of corruption that refers to “institutional decay,” not quite argued to be the core of corruption as much as it is harnessed as a supposed philosophical origin, one in which Thucydides, Plato, and Aristotle, among others, lend prestige and weight.<sup>59</sup> Decay is said to serve as a “general category” within which one can put “all kinds of practices which are believed to be dysfunctional and hence morally corrupt.”<sup>60</sup> Even if “analytically the two concepts are fairly clearly distinguishable,” we read that the “broader ‘institutional decay’ concept of corruption” may therefore accommodate a “more delineated one.”<sup>61</sup>

Establishing historical continuity, this latter “technical sense of corruption” is said to stand as the heir to the allegedly more lofty, abstract sense of decay which long preceded it and whose “associations and partly archaicized usages” may at times be “revive[d].”<sup>62</sup> As such, some draw a line, albeit a squiggly one, between antiquity and ourselves. The word ‘corruption’ appears to travel along this line—inflected through contexts as different as the ecclesiastical courts of the Middle Ages, Machiavelli’s Florence, and early Great Britain’s parliament—but still remarkably is perceived to retain something crucial when it arrives to us today, as if untouched. Older meanings of the word ‘corruption’ are believed capable of being subsumed in contemporary ones, for above and beyond them, there is a core meaning that has stayed constant—or so writers contend.

What precisely constitutes this core meaning of corruption, however, is contested. Is corruption “deviant behavior associated with a particular motivation, namely that of private gain at public

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<sup>54</sup> Rothstein and Varraich, *Making Sense of Corruption*, 31.

<sup>55</sup> Buchan and Hill, *An Intellectual History of Political Corruption*, 7.

<sup>56</sup> Council of Europe as qtd. in Rothstein and Varraich, *Making Sense of Corruption*, 45.

<sup>57</sup> Carl J. Friedrich, “Corruption Concepts in Historical Perspective,” in *Political Corruption*, ed. Heidenheimer and Johnston, 15.

<sup>58</sup> Rothstein and Varraich, *Making Sense of Corruption*, 52.

<sup>59</sup> Arnold J. Heidenheimer and Michael Johnston, “Introduction to Part One,” in *Political Corruption*, ed. Heidenheimer and Johnston, 5.

<sup>60</sup> Friedrich, “Corruption Concepts,” 15.

<sup>61</sup> Heidenheimer and Johnston, “Introduction,” 5.

<sup>62</sup> Rothstein and Varraich, *Making Sense of Corruption*, 52; Heidenheimer and Johnston, 5.

expense”? Is it “a form of coercion, namely economic coercion”?<sup>63</sup> Or does its “basic core” mean, as “its figurative sense has long meant,” “injustice”?<sup>64</sup> Is corruption a theory of the decision, one which could not have made been the same way without “special consideration of kinship, bribery or friendship”?<sup>65</sup> Is it a function of “the market situation” whereby “a civil servant regards his public office as...a maximizing unit”?<sup>66</sup> Or is it “the moral incapacity of citizens to make reasonably disinterested commitments to [that which will] benefit the substantive common welfare”?<sup>67</sup> Historians might see “corruption as social decline,” sociologists as “deviant behavior,” law and economics scholars as a “logic of exchange,” and others as “a system of measurable perceptions” or “shadow politics.”<sup>68</sup>

At first glance then, it may seem easier to bracket the big picture issue altogether and instead focus on classifying corrupt “practices.”<sup>69</sup> We might imagine these to figure in at a lower conceptual rung than the larger meaning of corruption which, despite not being fully settled, is still apparently able to function as a category that can contain particular items. “Bribery,” “nepotism,” “embezzlement,” and “fraud”—these are among the terms whose definitions evoke an air of consensus in the literature, more than that of their parent category at least.<sup>70</sup> When understood “as an umbrella concept,” corruption is also said to subsume not just “practices” but also “forms” and other “concepts.”<sup>71</sup> “Patronage,” “particularism,” “clientelism,” and “patrimonialism,” for example, represent “a family of concepts,” according to such a view.<sup>72</sup> However, for some writers, these forms and concepts only seem to overlap with corruption occasionally; they are not always identical with it, even if they may be problematic in their own right.<sup>73</sup> Sometimes particularism is seen as corrupt; other times, it is just particularism.

Identifying corrupt practices in action and distinguishing them from un-corrupt practices presents further challenges. For example, according to the literature, “it turns out to be difficult to find a clear and precise demarcation line for the ‘input side’ between what is to be considered illegitimate influence through money or other forms of power and what is to be seen as legitimate political mobilization.”<sup>74</sup> Similarly, we read, to “distinguish[] between rules applicable to public officials and those applicable to businessmen operating in the free market” or to “distinguish a ‘black market’ from the free market” also poses some “problems of norms.”<sup>75</sup> “The ease with which we move from clear cut to ambiguous cases” in our attempt to define corruption should nevertheless not discourage us, writers assure us. In fact, this ease supposedly “underlines the importance of

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<sup>63</sup> Friedrich, “Corruption Concepts,” 15.

<sup>64</sup> Rothstein and Varraich, *Making Sense of Corruption*, 52.

<sup>65</sup> James C. Scott, “Handling Historical Comparisons Cross-Nationally,” in *Political Corruption*, ed. Heidenheimer and Johnston, 126.

<sup>66</sup> Van Klaveren as qtd. in Heidenheimer and Johnston, “Introduction,” 8.

<sup>67</sup> J. Patrick Dobel, “The Corruption of a State,” in *Explaining Corruption*, ed. Williams, 138.

<sup>68</sup> Rothstein and Varraich, *Making Sense of Corruption*, 51.

<sup>69</sup> Friedrich, “Corruption Concepts,” 15.

<sup>70</sup> John Gardiner, “Defining Corruption,” in *Political Corruption*, ed. Heidenheimer and Johnston, 28.

<sup>71</sup> Rothstein and Varraich, *Making Sense of Corruption*, 15, 9, 18.

<sup>72</sup> Rothstein and Varraich, *Making Sense of Corruption*, 9, 10.

<sup>73</sup> Rothstein and Varraich, *Making Sense of Corruption*, 10.

<sup>74</sup> Rothstein and Varraich, *Making Sense of Corruption*, 15.

<sup>75</sup> Heidenheimer and Johnston, “Introduction,” 10.

reaching a clear definition of political corruption, even as it suggests the difficulties associated in so doing.”<sup>76</sup>

Some claim the natural sciences may offer some help. “Biologists,” after all, “classify humming birds, hens, eagles and ostriches all as ‘birds’ despite the fact that they are, to say the least, quite different ‘birds.’” Their success in classification, some scholars believe, relies on “some qualitative core or aspect of the phenomenon we want to define.” As such, this turn to the natural sciences to resolve the issues over corruption’s diversity and ambiguity only brings us back to the search for a core meaning, one which can bring together corruption’s various forms under a comprehensive umbrella notion.<sup>77</sup> When such a notion seems difficult to find, the literature recounts, as if with a defeated sigh, how “the search for a universal concept of corruption as the academic Holy Grail...is something that is ultimately unattainable.”<sup>78</sup>

Perhaps then, writers may be relieved to hear the claim that “definitional disputes concerning political corruption have obscured the basic point that the term corruption is not in itself problematic.” Rather, the meaning of corruption “is rooted in the sense of a thing being changed from its naturally sound condition, into something unsound, impure, debased, infected, tainted, adulterated, depraved, perverted. etc.” This definition apparently does not pose any problems. “The problem,” instead, according to such a view, “arises in the application of this [meaning] to politics.” After all, “there is hardly a general consensus on the ‘naturally sound condition of politics.’” The struggle over defining corruption is therefore not over what it means but rather the standard against which the deviation of “corrupt politicians” ought to be measured, we read.<sup>79</sup> What we are really talking about when we talk about the meaning of corruption, as this view goes, is “the nature of the healthy or normal condition of politics.” Even studies with “moderate ambitions” in “defining a class of events...as politically corrupt,” we are told, “will find it difficult to avoid moving from identification of cases of rule infraction to more general questions about what such infractions mean within that political culture—and, thereafter to questions about the character of politics.”<sup>80</sup>

This attempt to resolve the debate over the meaning of corruption appears to make the debate one over the meaning of what is imagined as being corrupted or corruptible, sometimes called a “precondition.”<sup>81</sup> But even this displacement does not necessarily settle the ongoing matter for certain writers. Rather, they tell us: when the precondition remains open-ended, when one specifies neither the public interest nor public office norms, definitions of corruption will remain “empty shells.”<sup>82</sup>

This problem of “[c]onceptual precision” is important for critics, for whom its “obvious need” is not “a purely intellectual or ‘academic’ enterprise.” Without this notion of precision, writers believe that measurement of corruption “becomes impossible,” and without measurement, we cannot do comparisons of corruption over time or between countries. Ultimately, therefore, “we

<sup>76</sup> Mark Philp, “Conceptualizing Political Corruption,” in *Political Corruption*, ed. Heidenheimer and Johnston, 41.

<sup>77</sup> Rothstein and Varraich, *Making Sense of Corruption*, 45.

<sup>78</sup> Rothstein and Varraich, *Making Sense of Corruption*, 51.

<sup>79</sup> Philp, “Conceptualizing Political Corruption,” 51.

<sup>80</sup> Ibid.

<sup>81</sup> Philp, “Conceptualizing Political Corruption,” 46.

<sup>82</sup> Rothstein and Varraich, *Making Sense of Corruption*, 51.

will not be able to find out what may work as remedies for corruption.”<sup>83</sup> Conceptualizing corruption just right, the literature alleges, provides the necessary foundation for efforts to curb or end corruption, efforts which, the same literature suggests, can only logically follow from precise definitions and measurements.

Instead of the natural sciences, some turn instead to law in the search for corruption’s core meaning. Law seems to play a special and at times even central role in certain definitions of corruption (not to mention in efforts to curb or ‘eradicate’ it). There are numerous ways in which the relationship between law and corruption is framed. In the first framing we shall consider, where corruption is considered “an extra-legal institution,” the law is imagined as the standard against which corrupt acts might represent a fall from grace.<sup>84</sup> In such an understanding, corruption is seen as something that comes from without, taking “the form of a perversion of legal rules by misinterpretation.”<sup>85</sup> As such, corruption “challenges the intended generality of the rule,” and following repeated attacks by corruption to the legal order, “when exceptions multiply, they become the rule.”<sup>86</sup> In this prevalent view, the law is conceived of as embodying “moral principles” upon which “the existence of society ultimately depends.” Corruption, therefore, is portrayed as leading to the collapse of society and public order whereby “it becomes impossible for civilized life to continue” since neither rights nor duties are recognized. “Corruption is not merely then a threat to legal rules,” we read, “but to the principles which govern the way men should act in society.”<sup>87</sup>

Corruption here is framed as that which threatens the good which law evidently makes possible. As such, critics seem to suggest that corruption is not a problem for law in the way that other crimes are. Rather, “it is a special form of crime,” “different [for example] from ordinary theft.”<sup>88</sup> These critics portray corruption as threatening the heart of what they argue to be law’s most crucial and desirable features: namely, its drawing of appropriate borders between the public and private and its framework set-up for the public interest. Indeed, in much literature on corruption, the law seems at times synonymous with (or enabling of) the good, the orderly, or the ideal which the state pursues. The law here appears to embody the promise of what the literature imagines the state should provide, a promise which corruption subsequently breaches. In any case, whether it is opposed to the law, outside of the law, or distinct from the law, definitions of corruption seem to rely on some definition of law, as a premise, as a standard, or as its other.

With ideas about law so crucial in corruption literature, those dissatisfied with the lack of precision in defining corruption may therefore find “a more explicitly legalistic view of the problem more attractive.” “But,” we are warned, “this attraction is misleading.” Herein, we find a second framing of law vis-à-vis corruption, one where “the inadequacies of the legal understanding of corruption” are put at the forefront. Scholars encounter the same difficulty here as earlier: they contend that defining corrupt practices, even in a “highly developed legal code,” is difficult to do in a manner

<sup>83</sup> Rothstein and Varraich, *Making Sense of Corruption*, 2.

<sup>84</sup> Nathaniel H. Leff, “Economic Development Through Bureaucratic Corruption,” in *Political Corruption*, ed. Heidenheimer and Johnston, 307.

<sup>85</sup> Friedrich, “Corruption Concepts,” 17.

<sup>86</sup> Ibid.

<sup>87</sup> Robert J. Williams, “The Problem of Corruption: A Conceptual and Comparative Analysis,” in *Explaining Corruption*, ed. Williams, 126.

<sup>88</sup> Rothstein and Varraich, *Making Sense of Corruption*, 53.

that comprehensively covers corruption's assumed variety.<sup>89</sup> Although corruption can be both legally and normatively defined in identical ways, we are told we cannot always assume this to be the case. "A legally corrupt person may arouse no normative reprobation," we read, while "a person judged corrupt by normative standards may be legally clean."<sup>90</sup> Here we find a disjunction between law and the norms which corruption violates: in this view, the two cannot so easily be conflated. Rather, the law still represents the moral ideals of the state, or at least the attempt to embody them, but corruption can be one step ahead. What is corrupt here is apparently normatively clear, but the law has not yet caught up to make it illegal.

Writers raise difficulties not only when they encounter law's slowness in defining corruption but also when they perceive law's own implication within corruption. This is a third framing and one where the inadequacy of law is again at the forefront. It represents a less prevalent view in the literature and one which we will consider in the conclusion of this study. Herein, law's limit is exemplified "in the case of systems where the legal setup is such that extortion is embedded within the system and where this would be considered legal."<sup>91</sup> As in the previous framing, here too we find that if a practice is legal, it still may be corrupt. But the crucial difference is that the corrupt act in question is legal not because the law lags behind but rather because "the law can itself originate in corrupt practices."<sup>92</sup> The distinctiveness of this framing is that the law no longer necessarily represents the moral ideal. Unmoored from an understanding of being identical to all that is desirable for society, law here is seen as multifaceted where its relationship to corruption is concerned. It does seem to bear some kind of relationship to corruption—maybe even a special one—but whether that relationship is for better or for worse, the jury remains undecided. In any case, here the consensus over law's relationship to corruption is far from straightforward. We read that "the legal understanding of corruption" has too many "inadequacies" to render a failsafe meaning for us.<sup>93</sup>

However, that law can be embroiled in corruption—even originating in it—does not necessarily mean that critics of corruption leave it behind. In fact, many do not subscribe to this third framing; for them, law is not inherently deficient in addressing corruption or itself embedded in corruption. Rather, in a fourth, final framing, they attribute the failures of legalistic definitions of corruption to a perceived slippage in the norms underlying them, the same slippage we have seen earlier in definitions that look to the natural sciences. For both legalistic and naturalistic writers, questions linger over the attempt to seal off the definition of corruption from attack.<sup>94</sup> "[W]hich statement of the rules and norms governing public officeholders is to be employed?" "[W]hose evaluation of the public interest is to be operationalized?" Writers are suspicious of both the "criteria established by legislators and judges" and the "judgements of the elite" as means of defining baseline norms of corruption in this particular view. For them, resorting instead to "public opinion" does not resolve these complications.<sup>95</sup> Although they tell us it is "the people" who are "the ultimate authorities in democratic nations," "who by their vigilance and integrity may assist authorities in

<sup>89</sup> Williams, "The Problem of Corruption: A Conceptual and Comparative Analysis," 131.

<sup>90</sup> John Waterbury, "Endemic and Planned Corruption in a Monarchical Regime," in *Explaining Corruption*, ed. Williams, 83.

<sup>91</sup> Rothstein and Varraich, *Making Sense of Corruption*, 25.

<sup>92</sup> Philp, "Conceptualizing Political Corruption," 46.

<sup>93</sup> Williams, "The Problem of Corruption: A Conceptual and Comparative Analysis," 131.

<sup>94</sup> Heidenheimer and Johnston, "Introduction," 10.

<sup>95</sup> Ibid.

monitoring public officials,” these same people are also depicted as those “who by their complacency and their collusion may contribute to corruption taking place.”<sup>96</sup> In fact, according to this framing, we may “damagingly” “need to recognise that opinion may be disjoined from behavior,” that “public opinion is not an independent variable which we can use to identify corruption.” Rather, public opinion can itself be “a symptom of the extent to which the state has become corrupt,” given that one “casualty of corruption is the capacity of the citizenry to recognize a distinct set of public norms or a conception of the public interest.”<sup>97</sup> Such a framing suggests that it is difficult to carve out a position from which identifying the norms underlying a legal definition of corruption can withstand the charge of elitism as well as the fog of public opinion: both apparently run the risk of blinding one to corruption’s proper identification.

Because corruption is conceptualized varyingly in terms of tainting laws, norms, public interest, and public opinion, none of these things seems able to stabilize corruption’s own definition for many writers. Whether we turn to the natural sciences or the legal sciences, no normative ideal, standard or premise appears to finally satisfy writers who seek solid conceptual ground for the word. Instead, they tell us that “the identification of the norms and principles which give a determinate content to the concept of the public interest or which govern the exercise of public office is fraught with difficulty.”<sup>98</sup>

Yet despite the varied ways in which the literature recognizes this difficulty, its desire for an imagined clarity endures. However much it describes corruption’s definitional slippage, the literature nevertheless expresses longing for the normative and conceptual precision which it considers fundamentally crucial. Without this precision, we are warned of the risk that conduct which writers are convinced is corrupt will not be understood as “unethical, inefficient or illegal”—leading others to conclude that “there is, of course, no need to worry about corruption.”<sup>99</sup> This is a problem for writers who staunchly maintain that something they believe to be corrupt is most certainly in fact corrupt. “It may be that, like beauty, we feel unable to define corruption,” we read, “but are nevertheless confident of our ability to recognise it when we see it.”<sup>100</sup>

The danger which supposedly makes insecure the efforts to define a normative concept of corruption has been given a name in the literature. It is often called ‘relativism,’ and there are various ways by which critics perceive this word as a threat to normative precision, especially in comparing societies believed to be fundamentally different. We are told that the diversity among cultures could be the root cause of relativism’s danger since:

different understandings will exist as to...what things count as rewards, what sorts of influence are held to pervert judgment (rather than being things which an office-holder should take into account), what defines what counts as positions of trust, and how far other components of an individual’s life are held to be constrained by the responsibilities associated with that trust.<sup>101</sup>

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<sup>96</sup> Gardiner, “Defining Corruption,” 25.

<sup>97</sup> Philp, “Conceptualizing Political Corruption,” 45–46.

<sup>98</sup> Philp, “Conceptualizing Political Corruption,” 46.

<sup>99</sup> Rothstein and Varraich, *Making Sense of Corruption*, 51.

<sup>100</sup> Williams, “The Problem of Corruption: A Conceptual and Comparative Analysis,” 126.

<sup>101</sup> Philp, “Conceptualizing Political Corruption,” 47.

Writers also perceive the threat of relativism when evaluating comparisons of corruption not just across space but also across time. Whether the comparison is of modern bribery with ancient bribery or of bribery in two different contemporaneous societies, in this view excessive attention to particularity and divergence risks “a fundamental incommensurability between ourselves and the local normative and conceptual vocabulary.”<sup>102</sup> Some “differences are tolerable,” we read, but “it would be another matter entirely if a culture claimed to have the concept of bribery without believing that there was anything wrong with it.” Bribery, therefore, is apparently allowed to take on many different forms, but only to the extent it will ultimately be deemed wrong.

In the literature, unequivocal condemnation indeed appears to be the precondition for acceptance of the diversity of corruption across space and time. If one is to use the word ‘bribery’ for an act, “then there is something wrong with it,” states one writer. “To believe otherwise,” we read, “verges on incoherence.”<sup>103</sup> Indeed, “[t]he relativism that we risk is not simply moral relativism,” we are told. Rather, as the literature often cautions, “the danger of this move is that the damage to one’s analysis spreads beyond moral relativism and extends to a conceptual relativism.”<sup>104</sup> Normative clarity, we are reminded, is the glue that holds corruption as a concept together. Methods that reflect an “unwillingness to take a moral stand about corrupt practices” provide diminishing returns in utility.<sup>105</sup> In other words, “[t]o build such relativism into the definition is to make specific behavior which can be compared between countries hard to identify.”<sup>106</sup> Or so goes this view.

The literature tries to dissuade us from taking relativism—or what it sees as the risks of incommensurability that can come from attending to the particular—too seriously by stressing corruption’s universality. Although “culture, history and language play a role in how the term is understood,” we are advised to remember that “corruption appears to be something all societies shun.”<sup>107</sup> It may even be “a fact of life rooted in flaws of human nature.”<sup>108</sup> “Corruption is not the inevitable result of history and culture,” renowned corruption scholar Susan Rose-Ackerman writes.<sup>109</sup> “Culture and history are explanations, not excuses,” she and Bonnie J. Palifka argue elsewhere.<sup>110</sup> It is “[t]hose with something to gain [who] invoke culture as an excuse when it serves their self-interest.”<sup>111</sup>

There is a counter to this view, and Rose-Ackerman and others are well aware of it. The retort challenges what it sees as the claim to universalism’s surreptitiously “Western” nature whereby corruption is projected primarily onto the developing world.<sup>112</sup> This is a polarizing debate. For some, corruption “is an unacceptable form of deviance from the ethical standards of the modern

<sup>102</sup> Philp, “Conceptualizing Political Corruption,” 48.

<sup>103</sup> Ibid.

<sup>104</sup> Philp, “Conceptualizing Political Corruption,” 47.

<sup>105</sup> Rothstein and Varraich, *Making Sense of Corruption*, 29.

<sup>106</sup> J.S. Nye, “Corruption and Political Development: A Cost-Benefit Analysis,” in *Explaining Corruption*, ed. Robert Williams (Cheltenham: Edward Elgar Publishing Limited, 2000), 47.

<sup>107</sup> Rothstein and Varraich, *Making Sense of Corruption*, 46.

<sup>108</sup> Dobel, “The Corruption of a State,” 145.

<sup>109</sup> Susan Rose-Ackerman, “Corruption: Greed, Culture, and the State,” *Yale Law Journal* 120 (2010), 22.

<sup>110</sup> Susan Rose-Ackerman and Bonnie J. Palifka, *Corruption and Government: Causes, Consequences, Reform* (Cambridge: Cambridge University Press, 2016), 37.

<sup>111</sup> Rose-Ackerman, “Corruption: Greed, Culture, and the State,” 18.

<sup>112</sup> Nye, “Corruption and Political Development,” 47.

British Civil Services,” whereas for others, “it is a mere chimera produced by the misapplication of irrelevant moral and ethical criteria to states which fundamentally differ from our own.”<sup>113</sup> Others contend that the attempt to challenge “ethnocentrism,” however valuable it may be in intent, only leads “to excessive vagueness and abstraction.”<sup>114</sup> Such is the challenge of achieving normative precision with regard to corruption, at least as the literature sometimes frames it: “caught between the equally repugnant options of stipulative definitions following Western norms, or a relativist appeal to local norms or standards.”<sup>115</sup> In this formulation, relativism threatens to undo altogether the desired conceptual unity of the term ‘corruption’—while at the other end of the spectrum, we are confronted with a universalism that is not only false but also potentially insidious.

It appears that when we dive deeply into the literature on corruption, no matter which way we turn, whether to natural science or to law, whether to particularity or to universality, we cannot fully summon the clarity or precision that many writers tell us is so fundamental for defining corruption that it is almost a prerequisite. Almost. For as much as the literature presents us with the varied and ultimately insurmountable odds of defining corruption the way it wants us to, the only way we apparently should, nevertheless there is no shortage of belief that the word ‘corruption’ holds together anyway.

“What is corruption? What form does it take? How can it be distinguished from similar or related concepts?” As one writer puts it, these turn out to be “deceptively simple questions,” unable to be finally laid to rest.<sup>116</sup>

### 3. The Scarlet Thread

Much of what we have just examined—the things which writers have to say about corruption’s thorny sides and strange valences—is a common opening gesture in the literature, one which appears to signal proper scholarly rigor. This is all the more true in works that style themselves as “case studies” where the gesture can be reduced to a mere but necessary formality before the main argument.<sup>117</sup> As a genre in the literature on corruption, case studies aspire to sober our discussion on deep-seated definitional difficulties thus far, decrying such talk as being “more conceptual than empirical.”<sup>118</sup> “Truly robust explanations of political corruption,” we are told, “demand that research into the phenomenon progresses beyond purely abstract (theoretical) analyses.”<sup>119</sup> Something about the case study suggests to many writers on corruption that it brings us ‘closer’ to the problem and, accordingly, to a potential solution. We may discuss corruption’s mechanics, its

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<sup>113</sup> Williams, “The Problem of Corruption: A Conceptual and Comparative Analysis,” 129.

<sup>114</sup> Williams, “The Problem of Corruption: A Conceptual and Comparative Analysis,” 131.

<sup>115</sup> Philp, “Conceptualizing Political Corruption,” 47.

<sup>116</sup> Robert Williams, “Introduction,” in *Explaining Corruption*, ed. Williams, xii.

<sup>117</sup> Gjalt de Graaf, “Causes of Corruption: Towards a Contextual Theory of Corruption,” *Public Administration Quarterly* 31(1/2) (Spring/Summer 2007): 43.

<sup>118</sup> Robert Williams, “Introduction,” in *Corruption in the Developing World*, ed. Robert Williams and Robin Theobald (Cheltenham: Edward Elgar Publishing Limited, 2000), xi.

<sup>119</sup> Thomas D. Lancaster and Gabriella R. Montinola, “Toward a Methodology for the Comparative Study of Political Corruption,” *Crime, Law & Social Change* 27 (1997): 203.

situatedness, and we may therefore figure out how to tackle it: such at least is the perceived lure of specificity in the “call for rich case studies.”<sup>120</sup>

Indeed, there are those who like to think that in a case study we are no longer talking about corruption “in an abstract sense,”<sup>121</sup> but rather something “contextually based.”<sup>122</sup> We are ostensibly talking about ‘real people,’ ‘real laws,’ ‘real damage’<sup>123</sup> (damage which, by the way, we can even quantify as losses to the exchequer<sup>124</sup>). We might be tempted to forget corruption’s heretofore hard-to-pin-down-ness, its almost uncanny quality of being unable to be rendered in a tight grid. Its abstract looseness appears to recede into the background once critics face what they imagine as the particularities of a given case.

Where and how, though, does one situate such a case study? After all, we are told, “[c]orruption in the real world exhibits a remarkable multiplicity of types and forms,” found in “almost all the 195 countries in the world.”<sup>125</sup> If “[c]orruption is conceded to be a universal phenomenon, an affliction of humanity rather than a stigma of nationality,” then what marks out its supposed particularities for the case study?<sup>126</sup> One view suggests that despite its alleged trans-cultural character, some “types and forms” of corruption “appear to be distinctive and special to a country or to a set of countries with a shared geography and history.”<sup>127</sup> Differentiating corruption in “underdeveloped societies” versus “developed societies” is one common means in the literature of classifying one set of countries imagined to be crucially different in this respect from another.<sup>128</sup> In fact, developing countries are sometimes believed to be excellent case studies for corruption. Corruption in a “poor economy,” we read, has a greater impact. While “[a] Watergate scandal increases newspaper circulation in the West,” it is proffered that “milder forms of public misconduct in Asia may shake or topple a government.”<sup>129</sup> In “Africa,” as one text generalizes, “corruption flourishes as luxuriantly as the bush and the weeds which it so much resembles.”<sup>130</sup> For such a viewpoint, “[t]hroughout the fabric of public life in newly independent States runs the scarlet thread of bribery and corruption.”<sup>131</sup>

It is with all of this in mind that a place called ‘India’ may come into focus for the critic of corruption. In case studies on the country, we encounter stories about “ambitions,”<sup>132</sup> “muscle,”<sup>133</sup>

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<sup>120</sup> De Graaf, “Causes of Corruption,” 66.

<sup>121</sup> De Graaf, “Causes of Corruption,” 41.

<sup>122</sup> Gjalt de Graaf and L.W.J.C. Huberts, “Portraying the Nature of Corruption Using an Explorative Case Study Design,” *Public Administration Review* 68(4) (2008): 1.

<sup>123</sup> “Case studies offer the advantage of richer details of *actual* cases and their contextuality” (emphasis mine). De Graaf, “Causes of Corruption,” 63.

<sup>124</sup> Ram, *Why Scams Are Here to Stay*, 12.

<sup>125</sup> Ram, *Why Scams Are Here to Stay*, 15.

<sup>126</sup> J.L. Hager, “Bureaucratic Corruption in India: Legal Control of Maladministration,” *Comparative Political Studies* 6(2) (1973): 197.

<sup>127</sup> Ram, *Why Scams Are Here to Stay*, 15.

<sup>128</sup> Robin Theobald, *Corruption, Development and Underdevelopment* (London: Macmillan Press, 1990), 76 and 46

<sup>129</sup> Hager, “Bureaucratic Corruption in India,” 197.

<sup>130</sup> Wraith and Simpkins, *Corruption in Developing Countries*, 12.

<sup>131</sup> Wraith and Simpkins, *Corruption in Developing Countries*, 11.

<sup>132</sup> Vaishnav, *When Crime Pays*, 67.

<sup>133</sup> K.N. Gupta, *Corruption in India* (New Delhi: Anmol Publications, 2001), 5.

“vigilance,”<sup>134</sup> “murmurs.”<sup>135</sup> Stories of governments “besieged” by “scandals,”<sup>136</sup> of “people who are willing to compromise and sell their souls,”<sup>137</sup> of a “malaise” that “has spread deep into the social fabric of society.”<sup>138</sup> “Corruption by public officials in India,” we read, “is rampant.”<sup>139</sup> “Over half of all Indian citizens said they had paid a bribe” in the course of 2019, a prominent survey informs us.<sup>140</sup> “All roads, from the maternity hospital to the crematorium,” it is declared, “smell of corruption.”<sup>141</sup>

For some writers, the literature on corruption in India presents a question which “surfaces now and again, in subtle as well as crude forms”: namely, “whether Indian society is more hospitable to corruption than most other societies, whether Indians as a people are more predisposed to be corrupt than most other peoples.” One author tells us, with “certainty or near certainty,” that India has “far more corruption” than “Denmark or the United Kingdom or Germany or Singapore.” But as to whether there is “more corruption in India than in China or South Africa or Brazil or Nigeria”—*that*, we are informed, is an unanswerable question.<sup>142</sup> Even if it will be difficult to establish India as more or less corrupt than its assumed peers, some writers suggest that “a thorough examination of the Indian experience can shed light on the dozens of other democracies where criminality and corruption are deeply entrenched, from Pakistan to the Philippines.”<sup>143</sup> In other words, India may not always be seen as a unique case of corruption, but according to certain critics it may at least be one of a kind, well-placed to tell us something about other countries already understood, implicitly or explicitly, to be comparable.

Observing this way that India is fitted into a slot to contribute to a global conversation, it seems that corruption—otherwise proclaimed to be universal—is still nonetheless considered to be adaptable to a particular place, to a local idiom. Through such a move, scholars of corruption can interest themselves in the particularities of the Indian (or other national, regional or local) scene, while at the same time avoiding the risk they perceive of a relativism that would undo the umbrella universal concept altogether. The word ‘corruption’ itself is presumed to be capable of reflecting degree and specificity but also to be translatable so as to retain its original precise meaning. “The Hindi term *bhrashtaachar*,” for example, is argued to “[occupy] much of the same semantic field as corruption.” “It refers simultaneously to activities that may be illegal, violate societal norms

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<sup>134</sup> N. Vittal, *Corruption in India: The Roadblock to National Prosperity* (New Delhi: Academic Foundation, 2003), 145.

<sup>135</sup> Chandrachud, “Anticorruption by Fiat,” 177.

<sup>136</sup> Ram, *Why Scams Are Here to Stay*, 33.

<sup>137</sup> Vittal, *Corruption in India*, 47.

<sup>138</sup> Arvind Verma and Ramesh Sharma, *Combating Corruption in India* (Cambridge: Cambridge University Press, 2018), 6.

<sup>139</sup> Arghya Sengupta, “Anti-Corruption Litigation in the Supreme Court of India,” *Open Society Justice Initiative* (March 2016).

<sup>140</sup> “India Corruption Survey 2019: Bribery in India reduced by 10% over the last 1 year; 51% citizens admit to paying a bribe in the last 12 months,” Transparency International, 2019, <http://transparencyindia.org/wp-content/uploads/2019/11/India-Corruption-Survey-2019.-Press-Release.pdf>.

<sup>141</sup> C. Kohli, “In Cinema,” in *Corruption in India*, ed. S. Kohli (New Delhi: Chetana Publications, 1975), 67–70 as qtd. in Jon S.T. Quah, “Curbing Corruption in India: An Impossible Dream?” *Asian Journal of Political Science* 16(3) (2008): 241.

<sup>142</sup> Ram, *Why Scams Are Here to Stay*, 54–55.

<sup>143</sup> Vaishnav, *When Crime Pays*, x.

(themselves not singular), or met with moral disapproval.”<sup>144</sup> Indeed for some analysts of India, corruption can be “represented in the language of the customary, the regular, and the periodic, even if it is frequently redefined and subject to recalibration (*hafta, mamul, baksheesh*).”<sup>145</sup> Its alleged universality is apparently flexible, able to be interpreted in something thought to be already at work within a culture. For example, corruption may be argued to have grown out of Indian ideas about “family and caste” or religion (“Hinduism”).<sup>146</sup> Or a concept of corruption may be claimed to “fit[] with the general inflation of the cult of the star, the celebrity, the icon, and the saint in contemporary India, an inflation which also sutures the realms of sport, film, politics, and celebrity together, in an upward spiral of narratives of power and personhood in India.”<sup>147</sup> It may be “closely linked to the idea of *puja*, as well as to the idea of *vrata* and *dana*, related forms of gifting from inferiors to superiors.”<sup>148</sup> Or corruption might be “continuous with older Indian traditions of tipping, gifting, worshipping, and related modes of dealing with kings, gods, and other kinds of superiors.”<sup>149</sup>

At times in the literature, concepts described as native to the scene are elaborated as part of the key vocabulary of corruption in the Indian case study. “Scam” is one such word, the word of choice for highly publicized moments of corruption, “characterized by large volumes of money and important functionaries of the government being involved.”<sup>150</sup> “Black money” is another, an apparently “peculiarly Indian name for something that appears to have an obviously universal existence, and that is money produced by *tax evasion* [sic].”<sup>151</sup> “Scams,” we find out, “are intricately intertwined with the creation of black money.” To speak in these terms is as if to speak in an Indian dialect of a larger universal language of corruption, or so is the suggestion offered to us.<sup>152</sup>

Despite all these claims of the country’s uniqueness, however, the notion of corruption in the Indian case study still often maneuvers the same way as it does when not tethered to claims to particularity. As such, writers seem to assure themselves that they are still talking about the same overall thing when they refer to corruption in one context as opposed to another. Indeed, much of what we encounter in supposedly particular case studies like that of India is the reworking or application of ideas that we examined earlier in the literature on corruption as a general concept.

As one example, corruption is again associated with other concepts in a way that makes it difficult to keep discrete. For example, corruption in India is “inextricably intertwined with the black economy”—although “it would be a conceptual mistake to treat them as being synonymous,” we read.<sup>153</sup> The same goes for “patrimonialism” or “the patronage character of the bureaucracy” in

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<sup>144</sup> Akhil Gupta, *Red Tape: Bureaucracy, Structural Violence, and Poverty in India* (Durham, NC: Duke University Press, 2012), 80.

<sup>145</sup> Arjun Appadurai, “Corruption, Scale and Governance in India,” in *Local Politics, Global Impacts: Steps to a Multi-disciplinary Analysis of Scales*, eds. Olivier Charnoz, Virginie Diaz Pedregal (London: Routledge, 2016), 68.

<sup>146</sup> Vittal, *Corruption in India*, 18 and 19.

<sup>147</sup> Appadurai, “Corruption, Scale and Governance,” 75.

<sup>148</sup> Appadurai, “Corruption, Scale and Governance,” 68.

<sup>149</sup> Ibid.

<sup>150</sup> Appadurai, “Corruption, Scale and Governance,” 71.

<sup>151</sup> Appadurai, “Corruption, Scale and Governance,” 68.

<sup>152</sup> Appadurai, “Corruption, Scale and Governance,” 71.

<sup>153</sup> Ram, *Why Scams Are Here to Stay*, 16.

certain moments in India's history, which are not always conflated with corruption but nevertheless are held to overlap with it.<sup>154</sup> Corruption, as it is framed in the literature, may well have something to do with these ostensibly related ideas, but not enough to prevent them from having conceptual lives of their own, ones where they are not entirely subsumed by or made identical with a prevailing definition of corruption. Such at least is the belief of writers trying to make sense of a perceived overlap, while wanting to hold onto precision.

As another example, similar themes pop up at this more situated level of analysis to those which we encounter in general discussions of corruption. Decay, or "institutional stagnation," is one such recurring theme in the literature on corruption in India, mentioned sometimes in reference to a "pathology of the state."<sup>155</sup> Law too makes frequent appearances, expressing yet again both the wish to curb corruption and the persistent failure to do so. That failure is sometimes presented as precisely that which opens up the gap where corruption thrives: "[i]n places where the rule of law is weak and social divisions are rife, politicians can use their criminality as a signal of their ability to do whatever it takes to protect the interests of their community," we read.<sup>156</sup> For other writers, law's ineffectiveness has to do with how "deep" "the roots of the practices" of corruption in India go. For this reason, proposals for new institutional arrangements such as the ombudsman *Lokpal* (for example) are sometimes said to merely and unnecessarily "add another layer to the existing enforcement agencies and institutions engaged in anti-corruption functions."<sup>157</sup> In fact, anti-corruption laws are themselves sometimes described as "a causative factor in the scaling up and spread of corruption in India."<sup>158</sup> Rather than discovering and curbing corruption, commissions set up by the Indian government are argued to have "undermine[d] the credibility of formal anti-corruption mechanisms" by "making them seem like instruments of political vendetta."<sup>159</sup> Ultimately, the portrayal of law in the Indian case study of corruption remains mixed, as it also does in the studies of the corruption styled as general-theoretical.

That these themes from the general literature pop up also in Indian case studies is telling. It suggests that for those writers who make specific references to corruption in India, the trans-cultural language of corruption is not one which is ultimately assumed to be unrecognizably foreign. This distinctiveness, however, apparently remains delimited. It stays in a certain box that never threatens the global category of corruption which oversees and accommodates it. Such a global category appears fluid but not boundless, utilizable in a wide variety of contexts, responsive to what is imagined to be irreducible idiosyncrasies but nonetheless managing to hold together so as to be understood as the same thing everywhere. Corruption in India may well be very different from or greater than corruption in Nigeria or in the United Kingdom, but the literature would have us believe that it would not be inappropriate to use the same word to describe all three cases. As such, it seems difficult to imagine a case study of corruption that is fundamentally irreconcilable with its general conceptualization. For India to be a 'proper' case study, according to this logic, it should only flesh out the broader matter of corruption, breathe life into it through supporting detail,

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<sup>154</sup> S.K. Das, *Public Office, Private Interest* (Delhi: Oxford University Press, 2001), 60.

<sup>155</sup> Vaishnav, *When Crime Pays*, 40–41.

<sup>156</sup> Vaishnav, *When Crime Pays*, xi.

<sup>157</sup> Verma and Sharma, *Combating Corruption in India*, 2.

<sup>158</sup> Ram, *Why Scams Are Here to Stay*, 31.

<sup>159</sup> Ram, *Why Scams Are Here to Stay*, 124.

never letting its particularities detract from what are envisaged as corruption's central, if ecumenical tenets.

If we dive into the particularities of the Indian case, we can nevertheless pose interesting questions, questions which provoke tensions in the way the word 'corruption' is deployed more generally. One entry into such a conversation—at least for this study—is through history. Whether or not as part of avowedly historical enquiry, in the literature there are at least four timelines from which the notion of corruption in India is traced: the ancient; the colonial; the post-Independence (or the modern); and finally the present day (or the contemporary). The colonial and the modern will be of special importance to this study, but for the moment we will consider all four. Within these timelines, corruption is said to have assumed different forms, but it somehow never fails to be recognized as such. Indeed, as much as writers might mine history for unique insights on corruption in India, we often encounter in their work the same bounded plasticity we noted earlier. That is, corruption is referred to both as historically contingent<sup>160</sup> and as timeless.<sup>161</sup> Writers making historical claims about corruption in India may attend to its temporal specificity, but often they are also comfortable to subsume it under a larger and familiar category, one which they believe can stretch back even to the most remote times.

In the first and longest timeline, the idea of corruption is extended as far back as the fourth century BCE from which the *Arthashastra*, a treatise on political economy by Kautilya, is cited as if to represent a kind of fountainhead or Ur-moment for the analysis of corruption in India.<sup>162</sup> Those seeking to argue just how timeless and ancient a problem corruption is might refer to the *Arthashastra*, or claim it "detail[s] how an inspection [of civil servants] should be conducted," outlines a "comprehensive inventory of penalties" for different types of "embezzlement," and proposes "transfers of government servants" and "a well-developed system of secret agents" "to prevent misappropriation of government funds."<sup>163</sup> The text has assumed a canonical status in the literature on corruption in India, to the point where one writer remarks: "A common device in writing about contemporary government or business corruption in India, is to cite the *Arthashastra* of Kautilya, the multiple and categorised forms of 'corruption' therein."<sup>164</sup>

Curiously, the word 'corruption' (or rather, in a Sanskrit 'translation,' *bhraṣṭa*) does not actually feature in the *Arthashastra*. But that is no matter for those keen to establish the concept's ancient Indian roots. They instead go on to narrate what for some might look like a generic history of rulership—or a sequence of various administrations attempting revenue collection—as evidence of corruption's conceptual history on the subcontinent, even if a discontinuous one. In one moment of S.K. Das' history of Indian corruption, for example, we come across the claim that the "distinction between public interest and private interest" led to "corruption" during the Mauryan era.<sup>165</sup> In another moment, "patrimonialism" is the name given to the failure of "those occupying

<sup>160</sup> De Graaf, "Causes of Corruption," 43.

<sup>161</sup> See, for example, Jeevan Singh Rajak, "Corruption in India: Nature, Causes, Consequences and Cure," *IOSR Journal of Humanities and Social Science* 18(5) (2013).

<sup>162</sup> Das, *Public Office, Private Interest*, 40–41, 43.

<sup>163</sup> Das, *Public Office, Private Interest*, 40–41.

<sup>164</sup> William Gould, *Bureaucracy, Community and Influence in India: Society and the State, 1930s–1960s* (London: Routledge, 2010), 9.

<sup>165</sup> Das, *Public Office, Private Interest*, 43–44.

public offices” to uphold this boundary when they use “power and authority of office...as a form of currency.”<sup>166</sup>

The plot, however, seems to thicken once the British arrive. At that moment, for Das, “the problem of colonial politics” makes it “[c]onceptually” “difficult to situate the rule of the East India Company in the framework of patrimonialism” (although “the basic premises of patrimonialism” “were more than fulfilled”).<sup>167</sup> We might describe the colonial era in India as a second timeline of corruption that often appears in the literature. This era offers up many questions that can unsettle how corruption is discussed more broadly. For example, what is it exactly about “the problem of colonial politics” that renders “the distinction between public interest and private interest”—otherwise seen by some writers to be a stable binary for analyzing corruption in previous administrations on the Indian subcontinent—no longer firm for other writers? Does the term ‘corruption’ as understood in India today, and as so many with relative comfort retroactively apply across centuries, have some special relationship with the colonial encounter? What would it mean if, as one argument proposes, today’s “view that corruption is pervasive and omnipresent in Indian society” actually “goes back to the days of the East India Company”?<sup>168</sup> After all, in those days, there was no shortage of remarks on the subject by Company servants (or the Imperial/Indian Civil Service which followed them). For them, Indian courts were “vitiated by a spirit of corruption,” a “great majority [of Indian officers] were corrupt and untrustworthy,” and the overall “atmosphere” was one where natives “have long regarded it as natural that a man in authority should accept presents or a bribe.”<sup>169</sup> If this suggestion of continuity between colonial-era views on corruption and those today is to be considered, what is the nature of this continuity? What might it mean for the colonial moment to represent a rupture that changed understandings of ‘public interest’ versus ‘private interest’, both during and after India’s independence from British rule? The focus of our discussion in subsequent chapters, these questions remain largely untheorized in narratives that place corruption on a long historical arc in India, even those with the colonial era in mind.

There are also shorter timelines of corruption many of which sidestep the colonial moment altogether or refer to it only in passing. These timelines instead focus on the aftermath of Indian independence from British rule, where, already in the first of the Five-Year Plans of 1952, we read of the need to wage “a continuous war against every species of corruption within the administration as well as in public life generally.”<sup>170</sup> These Five-Year Plans made up the strategy for India’s so-called ‘state planning,’ the economic regime at the center of many allegations of corruption. Popular notions of that regime remind us that “up to 80 agencies had to be satisfied before a firm could be granted a licence to produce and the state would decide what was produced, how much, at what price and what sources of capital were used.”<sup>171</sup>

With such details in mind, critics describe state planning in India as an archaic, overly complex, and needlessly bureaucratic regime, giving it the pejorative moniker ‘License Raj,’ presumably as a play on the term ‘British Raj’ of the colonial era. As we will see in the following chapters, these

<sup>166</sup> Das, *Public Office, Private Interest*, 60.

<sup>167</sup> Ibid.

<sup>168</sup> Ram, *Why Scams Are Here to Stay*, 4.

<sup>169</sup> L.S.S. O’Malley, *Indian Civil Service, 1601–1930* (Abingdon-on-Thames: Routledge, 1965), 38, 105.

<sup>170</sup> Planning Commission, *The First Five Year Plan* (New Delhi: Government of India, 1952) as qtd. in Hager, “Bureaucratic Corruption in India,” 203.

<sup>171</sup> “India: The Economy,” BBC, 12 February 1998, [http://news.bbc.co.uk/2/hi/south\\_asia/55427.stm](http://news.bbc.co.uk/2/hi/south_asia/55427.stm).

writers often associate corruption with inefficiency and bureaucracy. “Historically, the roots of India’s corruption came from the proliferation of licenses,” argues prominent economist and one of the state planning regime’s famous critics Jagdish Bhagwati.<sup>172</sup> In fact, state planning features so extensively as a target in discussions of corruption in India that some are led to speak of “a time when the stock explanation for corruption in India was the ‘permit-license-quota raj’—virtually everything could be attributed to it.”<sup>173</sup>

As a corollary of this view, economic liberalization is often presented as the antidote to corruption where India is concerned.<sup>174</sup> Measures of “deregulation and liberalization,” we regularly hear, “lead to the prevention, containment and eventual elimination of corruption”: such is the “prediction” we are given.<sup>175</sup> Sometimes, however, we read that “[i]nstead of checking corruption, India’s economic liberalization policy has corresponded with the dramatic increase of this disease.”<sup>176</sup> Either way, ideas about liberalization are crucial references in a third, modern timeline of corruption in India, in which writers conceptualize corruption in relation to the erstwhile state planning regime. The notion of the modern is key to this timeline for several reasons: state planning has been portrayed both as ushering in modernity as well as a site of modernization’s failure. Corruption is an important device in these portrayals, and writers describe various ways in which it is associated with modernity. Finally, this timeline represents an especially important arc given the argument of many critics that corruption exists to this day because of state planning’s legacies and in spite of the liberalizing reforms of 1991.

This is not to say that the history of corruption in India is seen to offer no substantive change following the License Raj. Rather, some writers contend that, although corruption in India is not new, its “nature” has recently changed.<sup>177</sup> Sometimes, this change is described in terms of “[p]etty” or low-level administrative corruption” versus “grand corruption.” The former, some believe, “has long been endemic in India.” However, the “scope” of the latter has supposedly increased, now involving “high-level elected officials” and “systemic effects on economic and political outcomes.”<sup>178</sup> Cited as evidence for this claim, the Bofors inquiry in 1986 and the second United Progressive Alliance government from 2009 to 2014 are two mythologized moments in a contemporary arc of Indian corruption, the last of our four timelines. For critics invested in the petty/grand opposition, both timestamps might fall into “grand corruption,” standing out and symbolizing for them the moment when corruption’s “increase first became visible.”<sup>179</sup> The India Against Corruption movement is another figurative marker whose fabled importance to the contemporary timeline of corruption has also been extensively documented, and it is portrayed as marking not necessarily the increase in corruption itself, but rather rising discontent with it.<sup>180</sup> The chronology in which these moments are assumed as key developments often culminates in 2014,

<sup>172</sup> Economist Jagdish Bhagwati as qtd. in Beina Xu, “Governance in India: Corruption,” Council on Foreign Relations, 4 September 2014. <https://www.cfr.org/backgrounder/governance-india-corruption>.

<sup>173</sup> Ram, *Why Scams Are Here to Stay*, 13.

<sup>174</sup> “Deregulation and the expansion of markets are powerful tools for controlling corruption...” The World Bank, *Helping Countries Combat Corruption: The Role of the World Bank*, The World Bank Group, September 1997: 35.

<sup>175</sup> Ram, *Why Scams Are Here to Stay*, 13.

<sup>176</sup> Christophe Jaffrelot, “Indian Democracy: The Rule of Law on Trial,” *India Review* 1(1) (2002), 82.

<sup>177</sup> Vaishnav, *When Crime Pays*, 53.

<sup>178</sup> Ibid.

<sup>179</sup> Akhil Gupta, “Changing Forms of Corruption,” 1865–66.

<sup>180</sup> Chandrachud, “Anticorruption by Fiat,” 188.

by which point it is believed that corruption had come to be “the single most important election issue in the general elections.” In that year, the Bharatiya Janata Party (BJP) won a very sizable majority in the Parliament, the first party to do so in over two decades.<sup>181</sup>

But there is something else that is alleged to have changed in this latest stage of corruption’s journey through Indian history: “there is now a much greater awareness of the private actions of public servants and elected officials,” some claim.<sup>182</sup> “Now, more than ever before,” as journalist and former editor of *The Hindu* N. Ram tells us, “there is greater reporting on corruption.”<sup>183</sup> “In a land where myths and fantastical notions abound,” Ram continues, “it is not surprising that in the public mind this beast, which is constantly in the news, can assume fantastic forms and proportions.”<sup>184</sup> Others, like scholar Arjun Appadurai, agree. Appadurai remarks—relevantly to our discussion on particularity and case studies—that “it is the nature of the debate, the terms of the news coverage and the politics of accusation and counter-accusation that are what is most strikingly Indian about corruption in India.”<sup>185</sup> Lest we dismiss all this coverage as mere chatter, we are instead advised to take the “folklore of corruption” seriously. This folklore, Ram writes, “is itself socially and politically significant, almost on a par with the reality of the beast.”<sup>186</sup> In describing the central players in this story, some cast “the educated, urban middle class” in the part of the protagonist, for it is claimed that the “tendency to focus on corruption as a major problem of the Indian polity is largely a product of the aspiring middle classes.”<sup>187</sup> Other characters include the “high-profile figures who are the leaders of the anti-corruption movement”—whom Appadurai describes as “deeply implicated in politics” but nonetheless “place themselves in a prophetic and charismatic mode, in which other politicians, bureaucrats, and businessmen are seen as the villains of corruption-as-routine in Indian life.”<sup>188</sup> Even the Supreme Court in their hearings of corruption cases has been said to play the part of “anti-corruption crusader” in a “narrative that the court [itself] develops,” and that is sustained by the “way in which these cases were reported, and thereby, consumed by the public.”<sup>189</sup>

The distinction between the ‘folklore,’ ‘perception’ or ‘narrative’ of corruption on the one hand, and the ‘reality’ which they all ostensibly represent on the other, appears to become muddled for some critics. For example, some note that if there is a “perception that corruption is ‘increasing,’” then that “might indicate either that more corrupt acts are taking place or that perceptions of corruption are changing, or a mix of both.”<sup>190</sup> Similarly, we read that “it is not clear whether the protests against corruption are registering an increase in corruption or whether they reflect a growing intolerance of corruption in public life.”<sup>191</sup> Therefore, in this contemporary timeline of corruption in India, where the perception of corruption does not neatly correspond to a purported reality, we might suggest that it is the rhetorical nature of corruption which shines more brightly:

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<sup>181</sup> Ibid.

<sup>182</sup> Vaishnav, *When Crime Pays*, 51.

<sup>183</sup> Vaishnav, *When Crime Pays*, 51–52.

<sup>184</sup> Ram, *Why Scams Are Here to Stay*, 3–4.

<sup>185</sup> Appadurai, “Corruption, Scale and Governance,” 74.

<sup>186</sup> Ram, *Why Scams Are Here to Stay*, 4.

<sup>187</sup> Appadurai, “Corruption, Scale and Governance,” 76 and Akhil Gupta, “Changing Forms of Corruption,” 1866.

<sup>188</sup> Appadurai, “Corruption, Scale and Governance,” 74.

<sup>189</sup> Chandrachud, “Anticorruption by Fiat,” 184.

<sup>190</sup> Akhil Gupta, “Changing Forms of Corruption,” 1866.

<sup>191</sup> Ibid.

corruption as something one can talk about, rather than corruption as it might ‘actually’ be. This emphasis on the *representation* of corruption is the crucial lever we will deploy in our study. With it, we will suggest that what is interesting about the word ‘corruption’ may be less that it points to something which is ‘really out there in the world’ than that it draws attention to itself *as a word*.

The more contemporary writers consider corruption first and foremost as a word, as something which represents and could therefore represent differently, the less they seem able to attest to corruption’s self-evident existence. After all, if the distinctive aspect of India as a case study for corruption lies in the *perception* of pervasive corruption in the country, then departing the terrain of general theory to embark on a case study does not necessarily bring us closer to ‘reality,’ as we had first hoped. Consequently, one may have to return to the ‘conceptual,’ to debates over what ‘corruption’ is to begin with. Despite all the attempts to leave behind definitional debates in the search for precision—first through natural science, then through law, and finally through the case study—our trajectory brings us back to where we started. We are left yet again with a word, ‘corruption,’ and the lack of consensus over its core meaning—a word which the literature cannot quite pin down to its satisfaction, but whose circulation has not been stopped by that apparent lack. For all the deep-seated anxiety many writers express over the word, its semblance of coherence is still palpable in many quarters.

Do words sometimes lead us astray? When they refer to something clearly, do they also blind us to something else? Is their obvious meaning ever a red herring? To track the word ‘corruption,’ to see the multiple and at times contradictory ways it can be deployed, to discover its referent to be potentially shaky, potentially nebulous—could all this chip away our longstanding confidence in what ‘corruption’ is? Have we been misled by the concept? These are some of the questions with which we opened the present chapter, and they are the critical questions about corruption which will guide us forward.

## Chapter 2: Efficiency

### 1. Introduction

There are various sites, figures, and concepts which get tagged as ‘corrupt’ in India. Oftentimes, particular individuals or groups of people are the target of allegations. Frequently, politicians, civil servants, police, judges—that is, representatives of the state more generally—are those to whom the word ‘corrupt’ is applied. ‘Corruption’ is also a term sometimes used for allegations against a variety of public institutions, policies, or measures in India: political parties, welfare schemes, the state bureaucracy at large. In the case of India, its former industrial ‘controls,’ ‘protectionist’ regulation, and its overall policy of state planning have all been interrelatedly deemed corrupt. In fact, contemporary critics not only identify the country’s erstwhile policy of state planning as the source of corruption at the height of the regime, but they also claim that the policy’s legacy and remnants are the cause of corruption today.<sup>192</sup> It is common for these criticisms to focus on import and industrial licensing, which are typically considered to be the most important ‘controls’ for the external sector and capital market respectively.<sup>193</sup> It is these two policy instruments which most often seem to be associated with corruption, lending the broader regime of Indian state planning the pejorative label of ‘License Raj.’

The 1951 Industries (Development and Regulation) Act legislated the requirement for entrepreneurs to obtain industrial licenses before starting or expanding an industrial unit, while the earlier Imports and Exports (Control) Act of 1947 required licenses for the import of many capital and intermediate goods.<sup>194</sup> Many accounts of India’s License Raj mark its beginning with the passage of the 1951 Act, drawn up by the government to regulate the pace and pattern of industrialization across India with target rates, locations, and sectors of industrial growth.<sup>195</sup> Since the private sector was still expected to play a role in industrialization despite certain industrial undertakings being operated by the state, the license regime was intended to enable the government to ensure that the activities of private firms fit into the aims of the Five-Year Plans which set government targets for industrial development. Hence, licensing and other controls are understood as part of a larger ‘mixed economy’ and of the activity of ‘state planning.’

The pejorative term ‘License Raj’ (or ‘license-permit-quota raj’) is said to have been coined in the late 1950s by Chakravarti Rajagopalachari, the founder of the Swatantra Party which stood for a ‘market-based economy’ (as opposed to the ‘socialism’ of the era’s ruling Indian National Congress).<sup>196</sup> The cluster of policies and legislation which the pejorative conjures up therefore also includes actions undertaken by the Congress-ruled central government in the late 1960s and 1970s, such as the Banking Companies (Acquisition and Transfer of Undertakings) Ordinance of 1969,

<sup>192</sup> See, for example, Yashwant Sinha as qtd. in “Up for Debate: Scientific Planning: India’s Experience,” in *Commanding Heights: The Battle for the World Economy* (Public Broadcasting System). Accessed at: [https://www.pbs.org/wgbh/commandingheights/shared/minitext/ufd\\_indiplanning\\_full.html](https://www.pbs.org/wgbh/commandingheights/shared/minitext/ufd_indiplanning_full.html)

<sup>193</sup> Sharif Mohammad and John Whalley, “Rent Seeking in India: Its Costs and Policy Significance,” Department of Economics, University of Western Ontario, Centre for the Study of International Economic Relations Working Papers 8304C: 7 and 10.

<sup>194</sup> Gautam Chikermane, *70 Policies That Shaped India: 1947 to 2017, Independence to \$2.5 Trillion*, Observer Research Foundation (2018). Accessed December 26, 2022. [https://www.orfonline.org/wp-content/uploads/2018/07/70\\_Policies.pdf](https://www.orfonline.org/wp-content/uploads/2018/07/70_Policies.pdf)

<sup>195</sup> Ibid.

<sup>196</sup> Rajmohan Gandhi, *Rajaji: A Life* (Delhi: Penguin Books, 1997), ix.

Monopolies and Restrictive Trade Practices Act (1969), and the Foreign Exchange Regulations Act (1973).<sup>197</sup> The fact that these statutes have increased the government's power to control the activities of private enterprises is one reason why they are all associated with the 'License Raj'. Critics of the state planning regime argue against what they believe is the excessive and ultimately unsuccessful role of the government in economic development. Ultimately, what is referred to as the 'License Raj' may be more suitably characterized in terms of the 'mixed economy,' 'state planning,' 'Nehruvian socialism,' or 'import substitution industrialization,' depending on the particular context to which one is referring. Yet critics nonetheless refer to this constellation of related concepts in a looser way by evoking the phrase 'License Raj.' As a result, the perceived failure of the License Raj is intimately wrapped up with the perceived larger failure of these policies. When it comes to diagnosing the failure's root causes, corruption and inefficiency are often held responsible. As J. Bradford DeLong writes, "[t]he conventional narrative" about India's post-independence economic trajectory is that of "a disastrous wrong turn by India's first prime minister, Jawaharlal Nehru, toward Fabian socialism, central planning, and an unbelievable quantity of bureaucratic red tape." "This 'license raj,'" DeLong continues in his summary of the prevalent talking point on state planning, "strangled the private sector and led to rampant corruption and massive inefficiency."<sup>198</sup>

For critics who express the failure of the state planning in these terms, it is difficult to separate their account from how they depict the subsequent period of liberalization, which they contrast as successful and desirable.<sup>199</sup> While some see attempts at liberalization to have begun in India in the 1980s, the year 1991—when Prime Minister Narasimha Rao's government dismantled many of the pre-existing industrial and import controls—is often depicted as a more definitive and distinct start.<sup>200</sup> This periodization of economic policy, marking out planning on the one hand from liberalization on the other, is a prominent historiographical convention, what one writer calls a "narrative of a uniform Nehru-Mahalanobis era of centralized planning followed by India's 1991 'redemption.'"<sup>201</sup> In this binary, corruption and inefficiency are associated with state planning, whereas liberalization appears as a cure for these ailments. More generally, proponents of liberalization have claimed that by doing away with various statist policies, there will be fewer opportunities for corruption.<sup>202</sup> Corruption—or rather a particular representation of it that we will consider at length in this chapter—therefore joins licensing, protectionism, and planning in a larger group of related notions that are understood to be not only distinct from but also opposed to liberalization and the market economy.

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<sup>197</sup> Krishna Chaitanya Vadlamannati, "Quantifying Economic Reforms in India: Where Have We Been and What Lies Ahead, 1960–2006," MPRA Paper No. 15901, *Munich Personal RePEc Archive*. Accessed December 26, 2022. [https://mpra.ub.uni-muenchen.de/15901/1/MPRA\\_paper\\_15901.pdf](https://mpra.ub.uni-muenchen.de/15901/1/MPRA_paper_15901.pdf)

<sup>198</sup> J. Bradford DeLong, "India Since Independence: An Analytic Growth Narrative," in *In Search of Prosperity: Analytic Narratives on Economic Growth*, ed. Dani Rodrik (Princeton: Princeton University Press, 2004), 184.

<sup>199</sup> See, for example, Arvind Panagariya, "India in the 1980s and 1990s: A Triumph of Reforms," International Monetary Fund WP/04/43.

<sup>200</sup> See, for example, Panagariya and Gurcharan Das, *India Unbound: A Personal Account of a Social and Economic Revolution* (New York: Knopf, 2000).

<sup>201</sup> Nicole Sackley, "The Road from Serfdom: Economic Storytelling and Narratives of India in the Rise of Neoliberalism," *History and Technology* 31(4) (2015): 398.

<sup>202</sup> See, for example, World Bank Group, *World Development Report 1997: The State in a Changing World* (New York: Oxford University Press, 1997), 8.

The criticism of state planning in India, therefore, is historically situated. It appears to have solidified in the 1960s and 1970s: decades which saw speeches from Rajagopalachari (for example, in 1961 denouncing “the corruptions of the permit-license raj”) or texts from economists like Jagdish Bhagwati, Padma Desai, and Anne Krueger.<sup>203</sup> The view that the License Raj was corrupt, inefficient, and a failure is one which is still widely held in policy circles in India today, so much so that, for certain writers, corruption seems to be inherent, even inevitable, in a mixed or planned economy. As Bhagwati and Desai write, for example, “corruption...inevitably arose from the large premia on imports under the control system.”<sup>204</sup> “The extent of such corruption,” they continue, “increased significantly with the proliferation of controls...”<sup>205</sup>

This chapter, then, is a story about how a notion of ‘corruption’ got tied up with a particular economic critique of state planning and how, in doing so, it contributed to the discrediting of the License Raj which one sees in India today. The particular critique in question couples ‘corruption’ with ‘inefficiency’ as part of a larger notion termed ‘rent-seeking.’ In this chapter, we will spend time exploring a key text which elaborated this concept in a highly technical form specific to the field of neoclassical economics. We will attend to the text’s assumptions, and we will step back to examine broader questions which the corruption-inefficiency association poses for bureaucratic discretion and law. We will then consider accounts of the License Raj by critics for whom rent-seeking appears to have been highly influential in their economically inflected critiques of the regime. These critics seem less apt to explicate the concept theoretically than to take it for granted as self-evident when they link the state planning with inefficiency and corruption. On that basis, they can proceed with their own arguments, fashioning the critique of rent-seeking to their own particular criticism of the License Raj. By combining—even if often only in passing reference—the apparent technical rigor of the original rent-seeking critique with details specific to the Indian scene, these critics have recast the historical rationale for the License Raj and advanced in India the discrediting of state planning which the critique of rent-seeking inaugurated more generally. We will conclude the chapter by contrasting corruption’s association with rent-seeking with its association with patronage. In doing so, we will aim to demonstrate that the term ‘patronage’—which is not always understood as unequivocally negative—opens up the possibility to see the term ‘corruption’ as sometimes functional rather than only inefficient.

## 2. Corruption and Rent-Seeking

Unlike those writers we considered in the previous chapter, some critics of the License Raj are not expressly interested in theorizing the nature of corruption. In their criticisms, corruption is but one problem among others, though a crucial and very resonant one. The use of the word seems intended to signal something already apparent, already obvious to the reader and therefore not requiring further conceptual explication. What these critics seem to have in mind when they use the word ‘corruption’ is an idea about what can be called an illegal transfer of payments to a government, for which ‘bribe’ is often the operative term. Sometimes, the use of the word ‘corruption’ instead of ‘bribery’ seems intended to signal the systematic and opaque occurrence of bribery throughout an administrative apparatus. But often the terms are used loosely and interchangeably, with

<sup>203</sup> See, for example, Gandhi, *Rajaji: A Life*; Bhagwati and Desai, *India*; and Krueger, “The Political Economy of the Rent-Seeking Society.”

<sup>204</sup> See Bhagwati and Desai, *India*.

<sup>205</sup> *Ibid.*

‘corruption’ preferred, even though what is stake in a given argument may be something local rather than systemic.

Furthermore, in the literature on the License Raj in India from its inception to today, there has been ample criticism of the regime that does not primarily concern corruption as such. These criticisms include excessive paperwork, the “multiplication of bureaucratic formalities,”<sup>206</sup> at times understaffing,<sup>207</sup> at times overstaffing,<sup>208</sup> a strained administrative capacity,<sup>209</sup> “wasteful delays,”<sup>210</sup> etc. Sometimes, when these problems are enumerated, ‘corruption’ does not join them as one of a related series of weaknesses attributed to the planning regime. It represents instead a separate terrain for the critic. Yet there are other times when the allegation of corruption in state planning covers precisely these issues, and, in doing so, associates ‘corruption’ very closely with matters of ‘inefficiency.’

Corruption and inefficiency might appear to be rather separate concepts—the former sometimes having a moral charge and the latter a technical aura—but in a prominent critique of state planning, they are closely linked. This particular critique bears an intellectual debt to certain arguments within the field of economics. Therein, a highly specialized ‘rent-seeking’ analytic from neoclassical economics came to prominence in the 1970s and to this day remains for Indian critics one of the most influential means of linking corruption with inefficiency. Corruption (in the form of a bribe), as this analytic suggests, can be considered a type of ‘rent.’ A rent can refer both to a payment made in excess of the cost required to produce a good or service and to the capture of existing wealth, as opposed to the creation of new wealth. As we will see below, rents by definition are said to lead to ‘market inefficiency,’ defined in contrast to an ideal ‘Pareto efficient’ scenario where resources are allocated such that no one can be made better off without someone else’s being made worse off. A license regime produces rent-seeking which leads to market inefficiency, or so goes this argument exemplified by the 1974 essay “The Political Economy of the Rent-Seeking Society” by economist Anne O. Krueger.

Although the field of economics has since moved beyond the particular intellectual moment that this text reflects, rent-seeking remains an influential concept that continues to feature in texts about corruption and state planning in India, with intergovernmental organizations such as the World Bank (where Krueger was Chief Economist from 1982–86) among the most prominent to conceptualize corruption as rent-seeking.<sup>211</sup> As such, paying close attention to the argument originally elaborated in the essay will prove useful. Only then can we fully understand the assumptions within its (sometimes implicit) conception of bureaucracy, law, politics, and morality.

Before tackling these issues, however, what was Krueger’s basic argument about rent-seeking? Rent-seeking in her text primarily concerns import licenses, and its inefficiency refers not only to

<sup>206</sup> A.H. Hanson, *The Process of Planning: A Study of India’s Five-Year Plans 1950–1964* (London: Oxford University Press, 1966), 490.

<sup>207</sup> Hanson, *The Process of Planning*, 495.

<sup>208</sup> P.N. Dhar, *Evolution of Economic Policy in India: Selected Essays* (London: Oxford University Press, 2003), 86.

<sup>209</sup> World Bank as qtd. in Hanson, *The Process of Planning*, 485.

<sup>210</sup> H.K. Paranjape, “Indian ‘Liberalisation’: Perestroika or Salami Tactics?” *Economic and Political Weekly* 23(45/47) (1988): 2345.

<sup>211</sup> See, for example, Gabriel Zaoura, “Rent-Seeking Activities, Misallocation, and Innovation in Argentina,” Policy Research Working Paper No. 9293, World Bank (Washington, DC, 2020).

<https://openknowledge.worldbank.org/handle/10986/33988> License: CC BY 3.0 IGO.

costs “associated with licensing” such as “paperwork, the time spent by entrepreneurs in obtaining their licenses, the cost of the administrative apparatus necessary to issue licenses, and so on” but something in addition.<sup>212</sup> Krueger believes that a license regime creates a competition among firms for licenses. This additional cost she has in mind, therefore, refers specifically to the way firms devote resources to this competition. Krueger outlines three different scenarios of license regime rules and examines how firms would respond: in the first, a license regime can allocate import licenses for intermediate goods “in proportion to firms’ capacities”; in a second case, for consumer goods, licenses may be “allocated pro rata in proportion to the applications for those licenses from importers-wholesalers”; and finally, in a third case that includes both types of goods, licenses may be allocated according to the decisions of government officials.<sup>213</sup> In all three cases, Krueger seeks to demonstrate that entrepreneurs are “rational” to compete for licenses because they individually profit, but the gains which accrue to the firms are not reflective of increased industrial output, but rather the result of devoting additional resources to competition.<sup>214</sup> The ‘rent’ here refers both to the additional payment which the firms make to compete for the licenses and the capture of existing wealth, rather than the creation of new wealth for the firm which wins the license.

Among the three cases, it is the third one, where government officials decide on license allocation (rather than their allocation proceeding according to a fixed criterion, for example, “in proportion to firms’ capacities”), that is most relevant for critics of corruption.<sup>215</sup> Here, the resources which firms devote to compete for licenses is meant to refer to activities geared to influence the officials on the allocation or size of allocation of the license. “Some means of influencing the expected allocation—trips to the capital city, locating the firm in the capital, and so on—are straightforward,” the essay states. “Others, including bribery, hiring relatives of officials or employing the officials themselves upon retirement, are less so.” In this case, “government officials themselves receive part of the rents,” for example, in the form of bribes.<sup>216</sup>

These inefficient, rent-seeking activities are those which many scholars may deem illegal and ‘corrupt.’ Krueger herself, however, is not necessarily interested in such labels, and her reference to corruption in the essay is not meant to suggest something about fairness or equity. It may be for this reason that the word ‘corruption’ is in one moment in the essay put in quotation marks, while bribes are referred to obliquely as a not-so-“straightforward” means of influencing license allocation. In other words, Krueger’s treatment of corruption in the rent-seeking analytic seems to be one that seeks to present the issue primarily as a problem of inefficiency and therefore to avoid

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<sup>212</sup> Krueger, “The Political Economy of the Rent-Seeking Society,” 291.

<sup>213</sup> Krueger, “The Political Economy of the Rent-Seeking Society,” 292.

<sup>214</sup> In the first case, for example, with quantitative restrictions upon imports of intermediate goods, additional installed capacity does not produce additional output but is pursued by the “rational entrepreneur” who can still expect gains from the licenses “divided by the cost of the [additional] investment” to “equal the returns on investment in other activities.” Even with a fixed total number of licenses, growth in domestic income may increase the domestic value of imports (whose quantity is otherwise held constant), encouraging the increase of installed capacity while output would nonetheless remain constant. For the second case, Krueger describes free entry into importing-wholesaling and a U-shaped cost curve as the starting condition following which a “larger-than-optimal number of firms” enter into competition with “smaller-than-optimally sized firms,” “operating on the downward sloping portion of their cost curves yet earning a ‘normal’ rate of return,” with “resources [being] used in that the same volume of imports could be efficiently distributed with fewer inputs if firms were of optimal size.” Krueger, “The Political Economy of the Rent-Seeking Society,” 292.

<sup>215</sup> Krueger, “The Political Economy of the Rent-Seeking Society,” 291–92.

<sup>216</sup> Krueger, “The Political Economy of the Rent-Seeking Society,” 292.

any moral or political connotations which may come with the word ‘corruption.’ In fact, corruption as such is not the problem in her essay. Rather, corruption is part of a larger category of rents, and it is *rents* which are the key problem (for efficiency). Furthermore, in the essay, corruption’s illegality is not what is necessarily or primarily problematic. It is true that “bribery, corruption, smuggling, and black markets” are described as examples of “illegal” rent-seeking, but legal rent-seeking is presented to be as much of a concern for Pareto efficiency. “Fair trade laws,” “[m]inimum wage legislation,” and “[c]eilings on interest rate” also produce rents (and therefore inefficiency) according to Krueger. On this basis, we see that in the context of rent-seeking, corruption is associated with “government restrictions upon economic activity” more broadly.<sup>217</sup>

Whether corruption is legal or illegal is therefore not what is most at stake in its conceptualization as rent-seeking. In this view, corruption is a type of (illegal) rent-seeking, but not all rent-seeking is necessarily illegal or tagged as ‘corrupt.’ Yet, following Krueger, corruption and rent-seeking have come to be so closely associated in the literature on state planning that a loose parallel emerges between the two in many texts on the License Raj. If a rent can be seen as a private gain at the expense of the efficiency of the market as a whole, does it mirror one of the most prevalent definitions of corruption as the co-optation of the public interest by the private? Would Pareto efficiency have to stand in for the public interest in such a view? The rent/corruption parallel poses a whole set of questions relevant to our larger study. For example, if legal regulations of the economy may produce inefficient rents, what would it mean to label such regulations as themselves ‘corrupt’? Is there a view of legal corruption in which economic efficiency itself would be the problem? In other words, we know that, in the rent-seeking analytic, corruption can be illegal and inefficient, but can it ever be legal and efficient? It is these questions which the rent-seeking analytic can open up—if, that is, unlike Krueger, we are keen on using the word ‘corruption.’ We will return to these questions in the conclusion of this thesis. For the moment, however, we will examine some of the other assumptions and implications of this economic-oriented view of corruption.

### 3. Law, Discretion, Corruption

It is not surprising that assumptions about law and legality figure into the critique of licensing or planning as an inefficient regime. The “government restrictions upon economic activity” which Krueger mentions are, after all, legal restrictions.<sup>218</sup> Formally tasked with the execution of these “restrictions,” the “administrative apparatus necessary to issue licenses” which she mentions is also a legal regime in which various governmental bodies, among others, are involved (e.g. a planning commission, certain ministries).<sup>219</sup> To describe this apparatus itself as an inefficient “cost,” as Krueger has done, is to imply that the machinery is somehow burdensome in size and/or procedurally. Indeed, part of the association of licensing with rents and inefficiency (and with it, corruption) involves a vision of the very *institution* of licensing: all that the government is said to have to set-up and run to administer the apparatus. And criticisms of state planning in India (and more generally) that are sympathetic to Krueger have much to say about the administration of the regime—even if only implicitly. These are not legal remarks in the sense that critics are examining the intricacies of, say, the 1951 Act for doctrinal deficiencies. Rather, their concerns over waste

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<sup>217</sup> Krueger, “The Political Economy of the Rent-Seeking Society,” 291.

<sup>218</sup> Ibid.

<sup>219</sup> Ibid.

and delay generally figure at the level of the administrative regulations of the various authorities involved in licensing.<sup>220</sup> “Vague guidelines,” a lack of “sharpness and precision” in objectives, for example, have been said to produce conflicts between levels of bureaucratic hierarchy and to slow down the process of license approval. So too have “well entrenched, lengthy and cumbersome administrative procedures” and poor “synchronization between project formulation and expenditure sanction.”<sup>221</sup> In other words, writers who bring up corruption and inefficiency often criticize the involvement of multiple authorities in the operation of industrial controls and the long, complex approval procedures of the regime.

These criticisms tend to segue to the allegation of corruption in at least three ways. First, delays are said to incentivize enterprises to offer bribes as ‘speed money.’ Bhagwati and Desai, for example, describe delays “sociologically, [as] the ‘conspicuous’ substitute for exercise of priorities by the bureaucracy” where files “often fail to move until suitable graft is paid...”<sup>222</sup> Second, as a corollary, administrators are sometimes depicted as empowered to extort bribes on the premise that the slow, complicated bureaucracy gives them leverage to do so.<sup>223</sup> Finally, the involvement of the government in managing the economy—especially when it goes all the way up to the ministerial level—is said to inevitably ‘politicize’ the issuance of licenses which otherwise ought to follow strict and transparent technical criteria.<sup>224</sup> Where the administrators are concerned (in the second and third claims), the crucial problem for critics—one which has been theorized in general literature on law and corruption (claims from which we shall now consider)—is the bureaucrat’s capacity for discretion.<sup>225</sup>

These critics suggest that discretion can be a potential site for corruption at each and every level of a “multiple-step decision-making” process of a governmental body liaising with private enterprise.<sup>226</sup> They allege that when procedural complexity becomes opaque, it can further empower the bureaucrat (who is formally tasked with interpreting and maneuvering these procedures) to demand bribes. If procedural matters are so obscure, then in the absence of hard evidence of bribery, writers also claim it will be difficult to say which way an administrative outcome should have been decided. Opacity, in this view, therefore, prevents outsiders seeking non-corrupt engagement from being confused by what ought to have been the legally correct procedure to begin with. Critics believe this not only strengthens the hand of the bureaucrat through the power of mystification, but also lends their corrupt actions a kind of impunity through “minimal accountability.”<sup>227</sup>

One practice proposed to curb the discretion of the bureaucrat, and thereby curb corruption, might be best summed up in the call for ‘simplification.’ In the case of import licensing, for example, one view endorses the conversion of “non-automatic licensing procedures” into “automatic” ones,

<sup>220</sup> See, for example, Hanson, *The Process of Planning*, 489–90.

<sup>221</sup> R.K. Sinha, *Economic Planning in India* (New Delhi: Deep & Deep Publications, 1986), 44.

<sup>222</sup> Bhagwati and Desai, *India*, 313.

<sup>223</sup> Christian Ahlin and Pinaki Bose, “Bribery, Inefficiency, and Bureaucratic Delay,” *Journal of Development Economics* 84(1) (2007): 465–86.

<sup>224</sup> Sinha, *Economic Planning in India*, 200.

<sup>225</sup> Paranjape, “Indian ‘Liberalisation’,” 2345; see also The World Bank Group, *Helping Countries Combat Corruption*, 12, for a more general remark on bureaucratic discretion and corruption.

<sup>226</sup> So says Krista Schefer, “Corruption and the WTO Legal System,” *Journal of World Trade* 737 (2009): 742–43, for an analysis on corruption in government procurement more generally.

<sup>227</sup> Schefer, “Corruption and the WTO Legal System,” 743.

i.e. the doing away with discretion altogether.<sup>228</sup> In the case of other ‘protectionist’ instruments such as tariffs, simplification of procedures is said to involve increased uniformity of tariff rates and/or “only a few basic rates,” which are said to “reduce the scope for misclassification and therefore for corruption.”<sup>229</sup> According to these types of claims, if the administrative criteria were clearer and indeed simpler, it could be easier for the outsider to predict outcomes and to determine whether a bribe may have led the bureaucrat to make a corrupt decision.

Simplification is not the only strategy for administrative reform which critics of bureaucratic discretion assume can reduce corruption. Sometimes, the inverse, that is “more elaborate codification of civil service rules,” is argued as a possible measure to curb discretion, and therefore (it is assumed) corruption, in public administration.<sup>230</sup> But others counter that these rules can be too “complex and demanding from a technical, administrative, and judicial outlook,” making them unpopular and/or difficult for authorities to implement.<sup>231</sup> “Too many rules rather than discretion may have the perverse effect of providing opportunities for corruption simply to circumvent mindless inflexibilities,” one writer suggests.<sup>232</sup> Robust oversight mechanisms and established whistle-blowing procedures are also described as a potential asset in curbing discretion<sup>233</sup> but again, for others these tools only further contribute to a problem of over-bureaucratization (which, it is claimed, leads back to corruption).<sup>234</sup>

Another suggested reform measure is that of “competing jurisdictions,” which would reduce corruption since “clients” can go to a different official if “not well-served” by one, and since bribers would have to persuade multiple parties, which “raises the costs and uncertainty for the corrupt project.”<sup>235</sup> But others retort that this sort of “competitive pressure” can cause “laziness” and encourage “relaxation of minimum quality standards.” Either way, whether establishing a ‘simplified’ and narrow jurisdiction or establishing competing ones, the aim seems to be “to reduce the monopoly power of the bureaucrat.”<sup>236</sup> Discretion seems to be a pivotal, if not exemplary part of this “monopoly power” in certain criticisms of the License Raj.

What is it exactly about bureaucratic discretion that makes increasing its scope suspect? The assumption as to *why* more discretion necessarily equals a greater probability of corruption goes mostly unexamined in the aforementioned claims. In legal thought, discretion can refer to a terrain of human judgment which has been considered crucial for the application of legal rules.<sup>237</sup> In this view, laws are not there ‘merely’ to be applied, but require interpretation, so empowering the bureaucrat with discretion can increase the likelihood that the law would be applied as it was intended: a more mechanical (i.e. discretion-less) application would miss out on something crucial

<sup>228</sup> Schefer, “Corruption and the WTO Legal System,” 746.

<sup>229</sup> Dhar, *Evolution of Economic Policy in India*, 31–32.

<sup>230</sup> Pranab Bardhan, “The Economics of Corruption in Less Developed Countries: A Review of Issues,” Center for International and Development Economics Research Working Paper No. C96-064 31, University of California, February 1996, 31.

<sup>231</sup> Schefer, “Corruption and the WTO Legal System,” 739–40.

<sup>232</sup> Bardhan, “The Economics of Corruption,” 30.

<sup>233</sup> Bardhan, “The Economics of Corruption,” 28 and 30.

<sup>234</sup> Hanson, *The Process of Planning*, 289.

<sup>235</sup> Bardhan, “The Economics of Corruption,” 28.

<sup>236</sup> *Ibid.*

<sup>237</sup> See, for example, David W. Kennedy, “Laws and Development,” in *Law and Development: Facing Complexity in the 21st Century*, eds. Amanda Perry-Kessaris and John Hatchard (London: Cavendish Publishing, 2003).

to the spirit of the rule. The terrain of human judgment explicitly conceptualized as the seat of discretion in this view is, for critics of discretion, where the roots of human error or vice are, as seen in their references to “temptation”<sup>238</sup> or “greed.”<sup>239</sup> The critique of discretion indeed seems to open the way to paint a particular portrait of the bureaucrat—one which we shall consider in a subsequent chapter’s analysis of loyalty; as such, it shores up both legal and moral-psychological claims to argue against discretion. Along the way, insights from legal theory that stress discretion’s value for administering a legal regime are further obscured.

#### 4. Law and Efficiency

Bureaucratic discretion is not the only problem that critics of corruption and inefficiency have expressed about licensing in which ideas about law are at stake. To the extent that a ‘rent’ represents an exclusive entitlement, the whole rent-seeking analytic is undergirded by notions about law. The entitlement in question (e.g. the license), after all, is secured through law. But something goes neglected in these claims: namely, it is not only access to (inefficient) rents which law determines but also access to (efficient) profits. We have seen in Krueger’s essay that law—or rather, “government restrictions upon economic activity” (in shorthand, ‘regulation’)—is a problem when it produces market inefficiency. This is a view which has been highly influential for economically oriented critiques of the License Raj. But what about those laws that are constitutive of an *efficient* market?

Critics of “government restrictions upon economic activity” in Krueger’s time, as well as since then, do recognize that property rights and contract law play a foundational role in the construction of an efficient market. They may also consider other governmental actions as crucial to implementing their notion of an efficient market. For example, A. H. Hanson in *The Process of Planning: A Study of India’s Five-Year Plans 1950–1964* writes of “maintaining order, enforcing a commercial code, preserving the soundness of the currency, providing (or paying others to provide) a system of communications, supplying electric power (either directly or by concessions), making available (or supplementing) facilities for general and technical education, and—perhaps—offering the farmer the benefits of an agricultural extension service...[sic].”<sup>240</sup> Ultimately, there is a vision of an idealized legal order, and actions governments *ought* to take, assumed if not always stated in the model of the efficient market.

How is one, however, to distinguish laws that produce corruption and inefficiency from the ones that encourage efficiency and curb corruption? Like Hanson, one might think that “it is difficult to make a clear distinction, either theoretically or practically, between stimulatory activity of this sort and the more positive forms of intervention which the anti-planners so vigorously condemn.”<sup>241</sup> Yet critics of state planning have developed theories for precisely this: to distinguish legal actions which they claim ‘distort’ the market from those which result in efficiency. With the concept of ‘market’ distortion in hand, critics can demonstrate that rents represent a distortion of what would

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<sup>238</sup> Schefer, “Corruption and the WTO Legal System,” 742–43.

<sup>239</sup> Mushtaq Husain Khan, “Governance and Anti-Corruption Reforms in Developing Countries: Policies, Evidence and Ways Forward,” Research papers for the Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development UNCTAD/GDS/MDPB/G24/2006/4, United Nations, 2006, 12.

<sup>240</sup> Hanson, *The Process of Planning*, 7.

<sup>241</sup> Ibid.

otherwise have been an efficient allocation in the absence of regulation like licensing.<sup>242</sup> On the one hand, therefore, we have rents associated with market distortion and corruption and, on the other, legitimate profits with efficient market allocation.

How is it from a *legal* point of view that critics can claim licensing falls firmly in the former camp, while property rights and contract law fall in the latter camp? The answer is not always explicit. Rather, in many criticisms of licensing and state planning, the status of the property and contract rules which make up an efficient market are assumed as a given. In other words, property and contract are thought of as having a necessary, ready-at-hand form for the efficient market. Moreover, property and contract law are seen as neutral with regards to distribution: they are believed to make up a fair playing field in which market competition supplies demand in the most (Pareto) efficient way possible—that is, if “government restrictions upon economic activity” do not get in the way. These latter restrictions—laws which make up the mixed economy for example—are seen as distinct in that they are made precisely with distribution in mind, in other words, with ‘political’ rather than strictly ‘economic’ considerations. When corruption is described as politicized interference in technical economics, this mirrors how ‘policy’ and ‘regulation’ are said to interfere with an efficient market assumed to exist outside of ‘political’ questions of distribution.

There is a longstanding critical tradition in legal thought which challenges such views. It instead aims to show how the background legal rules of property and contract that make up an efficient market do in fact distribute in ways that its market proponents relegate exclusively to ‘regulation.’<sup>243</sup> Property and contract, the critical legal tradition argues, can be arranged in vastly different ways (which lead to vastly different consequences for distribution) and still, in all the diverse scenarios, meet the test of Pareto efficiency that Krueger and others promote.<sup>244</sup> The efficient market, in other words, does not have a particular necessary legal form; it does not refer to a fixed or even coherent legal regime. Legal regimes with highly differing and internally contradictory arrangements of property and contract rules may nonetheless meet be Pareto efficient.

What does this suggest for the association of corruption with inefficiency in terms of law? If the efficient market comes in many different legal forms, are the practices that get tagged as ‘corruption’ necessarily inefficient in all of them? When corruption is conceived as bribes which private firms give to government administrators, there are indeed some scholars for whom it is “mainly a problem of law enforcement.”<sup>245</sup> The bribes may very well be illegal, but their relationship to efficiency is seen as variable. That is, though “the preferred solution would be a drastic cutback in the state, bribery can seem a second-best technique that allows free markets to function in a rough and ready fashion.”<sup>246</sup> For those who value market efficiency, a bribe might

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<sup>242</sup> See David Kennedy, “Some Caution about Property Rights as a Recipe for Economic Development,” *Accounting, Economics, and Law* 1 (1) (2011): 21.

<sup>243</sup> For one example by a prominent contributor to this strand of thought, see Duncan Kennedy, “Law and Economics from the Perspective of Critical Legal Studies,” in *The New Palgrave Dictionary of Economics and the Law*, ed. Peter Newman (New York: Macmillan Reference Limited, 1998).

<sup>244</sup> See, for example, David Kennedy, “Some Caution About Property Rights.”

<sup>245</sup> Rose-Ackerman, “Corruption: Greed, Culture, and the State,” 125.

<sup>246</sup> Rose-Ackerman, “Corruption: Greed, Culture, and the State,” 126.

function as a transfer payment or might allow firms to outmaneuver inefficient regulations.<sup>247</sup> Corruption in this view, therefore, is a problem for law but not for efficiency; it may be illegal but not necessarily inefficient. Following this line of thought in more recent literature, we encounter both calls to decriminalize certain types of bribes and other proposals that challenge the rent-seeking view of corruption, while nevertheless being committed to market efficiency.<sup>248</sup> That being said, when it comes to how corruption is framed vis-à-vis efficiency, the trend in economic literature on corruption, including on corruption in the License Raj, nevertheless points in the same direction as that of Krueger: that of corruption as ultimately economically inefficient.<sup>249</sup>

## 5. The Trajectory of the Rent-Seeking Critique

Although the association of corruption with inefficient rents in the License Raj is a view which was emerging in the 1970s, following efforts at liberalization in the subsequent decades, it reached the status of a kind of orthodoxy—at least among policy circles in India where the view is prevalent to this day. The consolidation of rent-seeking as a preeminent way of conceptualizing corruption in general literature is evidenced in part by the passage of the critique into disciplines beyond economics. We can recognize the legacy of the rent-seeking analytic at work when we come across references to corruption as a problem of inefficiency endemic to state planning, and for at least two decades, such references have been frequent in the literature from political science and development studies, not to mention from a variety of intergovernmental organizations, national governments, and NGOs.

Even if the conceptual intertwining of corruption and inefficiency has remained roughly continuous since the arrival of the rent-seeking critique, there remain some subtle differences in its contemporary iteration, at least where the License Raj is concerned. One such difference concerns the hindsight that the demise of the regime appears to offer today's critics. Able to look backwards to narrate a story about the low economic growth during the License Raj, these critics imagine corruption to be a feature that ultimately discredited state planning and heralded its retreat in such a way as to prove that this fatal flaw was inherent to the regime. Whereas earlier appraisals of the License Raj could be general in nature—with corruption in licensing listed as a passing reference among other problems attributed to state planning—in many of today's claims, corruption and its corollary inefficiency are foregrounded as central, constitutive properties of India's erstwhile planning regime. Meanwhile, other potential issues remain in the background. That is, it seems that the more forcefully today's writers critique state planning as somehow inherently doomed, the less they might consider exogenous forces in the postwar period as having played a role in the regime's apparent shortcomings.<sup>250</sup> Global depressions, domestic droughts, or hikes in the price of oil remain largely irrelevant in these more recent criticisms of the License Raj. Critics have come to see these factors as exogenous and that too in a two-fold sense. On the one hand, such factors are seen as an exterior 'shock' to the economy (as the term 'exogenous' describes in the field of economics). On the other hand, they are also seen as exterior to what critics

<sup>247</sup> World Bank, 14; Bardhan, "The Economics of Corruption," 4–6.

<sup>248</sup> Martin Dufwenberg and Giancarlo Spagnolo, "Legalizing Bribe-Giving," *Economic Inquiry*.  
<https://onlinelibrary.wiley.com/doi/abs/10.1111/ecin.12162>

<sup>249</sup> World Bank, 14–15.

<sup>250</sup> David Kennedy, "The 'Rule of Law,' Political Choices and Development Common Sense," in *The New Law and Economic Development*, eds. David M. Trubek and Alvaro Santos (Cambridge: Cambridge University Press, 2006), 108.

perceive as the License Raj's failure. Corruption, in contrast, remains oft depicted as an intrinsic feature of Indian state planning, one that is endogenous to the regime—at least in the economically oriented critiques that dominate the literature nowadays.

What accounts for this dominance? One factor is the conversion of the notion of corruption from largely a moral critique into a technical-economic critique, spurred at least in part by the increasing influence more generally of the vocabulary of economics in development policy and its associated disciplines. Barbara Harriss-White has characterized the field of “New Political Economy,” for example, as having “applied to political ‘markets’ or to political action in economic markets the profit and utility maximizing assumptions which underlie neoclassical economics...”<sup>251</sup> The view of corruption as rent-seeking is one significant example of this ‘application,’ one which has lent to claims about corruption a kind of renewed credibility that appears to stay clear of moral or political judgment and offer a seemingly merely technical criticism. Indeed, in many heated allegations, as well in sober studies, ‘corruption’ still appears to retain a moral charge, but it is its purported negative *economic* consequences which are often foregrounded as a central problem, as if not to preach to a country believed to be corrupt, but instead appeal to its interests in economic growth.

The residue of the moral charge of corruption, however, continues to linger on in other ways. For example, while the economic dimension remains in the foreground of many critiques, new non-economic concerns have entered the picture, while at the same time not diminishing inefficiency as the main problem of corruption. We might consider this the second difference between the Krueger-inspired critique of corruption in the 1970s and its contemporary counterparts. Whereas in Krueger’s text, the analysis of corruption (or rather ‘rents’) remained in the strict confines of a Pareto efficiency which was ostensibly agnostic with regard to ‘equity’ or ‘fairness’ (or rather, concerns beyond the Pareto-optimal framework), subsequently the economic inefficiency of corruption has been said to be a problem for much more than just the market. Indeed, we read of the costs of corruption “in terms of political legitimacy[] and basic fairness” in World Bank publications which are otherwise still committed to the view of corruption as a problem of inefficiency and economic development.<sup>252</sup>

To be fair, Krueger had herself alluded to the “political implications” of inefficient rents, referring briefly in the conclusion of her 1974 essay to the “suspicion of the market mechanism so frequently voiced in some developing countries” as a result of rent-seeking’s consistently rewarding the wrong people.<sup>253</sup> In fact, we might say that the non-economic always loomed in the shadows of Pareto efficiency. Although its proponents believe the framework to be wholly distinct from questions of distribution, insights from the critical legal tradition we considered earlier would suggest otherwise. One such insight we already considered indicates that legal rules of property and contract have no particular or necessary form from which an efficient market can be derived as if prepackaged. Rather, as this critical legal tradition goes on to say, these legal rules must be decided with reference precisely to policy ideas about distribution, i.e. a development strategy, who should get what and why.<sup>254</sup> When neoclassical economists believe that property and contract are merely building blocks for a market, writers in the critical tradition argue that these rules

<sup>251</sup> Harriss-White, “Liberalization and Corruption,” 31.

<sup>252</sup> The World Bank Group, *Helping Countries Combat Corruption*, 15.

<sup>253</sup> Krueger, “The Political Economy of the Rent-Seeking Society,” 301.

<sup>254</sup> See David Kennedy, “The ‘Rule of Law,’ Political Choices and Development Common Sense,” 95–173.

represent choices about who should get what already built into them, a choice that is inescapable. This is to say, there is something about the economy which has ‘always already’ been decided before neoclassical economists enter the scene to model Pareto efficiency. As much as they would like to leave questions of “political legitimacy” and “basic fairness” outside the scope of their models, these questions remain not only implied but also to some extent already answered within the efficiency framework.

There is another way in which non-economic questions are assumed in the Pareto model which is depicted by its proponents as separate from such questions. For this, we have to turn to the classical tradition in economics.<sup>255</sup> Therein, the individual pursuit of self-interest is morally justified because in aggregate it is said to lead to the collective good. Expressed in such terms, the market is fundamentally a moral, that is, (also) non-economic, good. Adam Smith is one figure associated with this argument, and he has himself been referred to both as a moral philosopher and a theorist of political economy. But this moral rationalization of self-interest in *homo economicus* sits rather curiously alongside the apparently selfless integrity expected of the model public servant. Why is it that individuals are moral to pursue their self-interest in the market, but corrupt to pursue it in government? We will consider this apparent contradiction in Chapter 5, and we will ask whether public sector integrity is a prerequisite for the pursuit of self-interest in the market, and what it means if self-interest is a ‘corrupt’ vice when pursued by the bureaucrat, but an ‘efficient’ virtue when pursued by the entrepreneur. Corruption and efficiency may have a different relationship than what we have so far outlined, and in this other relationship, questions of morality and politics may be fundamentally at the fore.

## 6. An Irrational Rationale

Having briefly accounted for the limits of the rent-seeking view of corruption and its trajectory into dominance, we might also consider what has been lost along the way. The steady ascent in prominence of economic-oriented critiques of corruption which associate it with state planning appears to have displaced in its wake, among other things, the original rationale behind the policy. Indeed, given the prominence of economic arguments deployed to critique the corruption and inefficiency of the License Raj, it is possible to forget that there was ever an economic logic associated with the policy of state planning: namely, that what today has come to be decried as the corrupt, inefficient protectionism of the License Raj was in an earlier time understood by some as a part of a persuasive theory and strategy of import substitution industrialization. In fact, ideas about the state’s use of ‘controls’ to manage an economy were globally in vogue during the so-called ‘postwar period.’ As such, around the time of the passage of the 1951 Industries (Development and Regulation) Act, India was hardly the lone country implementing a license regime, let alone a mixed or planned economy. Just as market liberalization has come to represent a distinct era of development expertise with a host of arguments to support it, so too was state planning and import substitution at one time a desirable strategic aim with a literature that confidently claimed it promoted economic development.<sup>256</sup>

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<sup>255</sup> See, for example, Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, ed. Sálvio M. Soares (MetaLibri, 2007).

<sup>256</sup> Kohli, *State-Directed Development*, 264; and R.K. Hazari, *Essays in Industrial Policy* (New Delhi: Concept Publishing Company, 1986), xvi.

The contemporary re-casting of this rationale may be as much part of the larger argument against state planning as is, say, the reference to corruption and inefficiency through which critics attribute endemic weaknesses to the regime. This is not to say that the use of data on inefficient economic growth is not also a rhetorical strategy. Rather, it is to focus on those aspects of the critique of planning which may not always be consciously understood by the critic as part of their ‘evidence.’ For example, the use of variants of the word ‘ideology’ is one feature of arguments that point towards the discrediting of any rational reason behind state planning, and sometimes it is even framed as an allegation of corruption. Ideology, in such formulations, is often associated with a delusion that masks the self-interest of elites and prevents them from seeing that liberalization was always the best strategy for economic growth. Again, it is often contemporary critics, who may believe they have the clarity of hindsight, who put forward such arguments. Political economist Atul Kohli, for example, remarks on the “admiration of the Soviet Union’s developmental ‘successes’” (‘successes’ is suggestively set off in quotation marks) by postwar Indian elites as the basis for their attachment to state planning. Kohli then goes on to say “[t]hese ideological proclivities were also consistent with the concrete interests of the Indian political elite, which could channel some of the fruits of development to themselves and their offspring.”<sup>257</sup> Elite self-interest, rather than commitment to the public interest, formed the national commitment to what became the License Raj, in Kohli’s depiction here.

It is this private or particular interest put above the public which elsewhere gets coded as corrupt; we shall see partisan interest tarred with the same brush in Chapter 4. For the moment, however, we might note how ideology is portrayed as justifying corruption when Kohli’s elites put their misguided “admiration” of Soviet state planning (and their “affinity” to British socialism) above a certain type of economic rationality which is implied here as its putatively superior other.<sup>258</sup> The suggestion here is that the belief in state planning is an ideological rationale—that is, a delusion and/or corrupt self-interest—whereas belief in a liberalized economy is a rational rationale. If support for state planning is presented in the vocabulary of economics, some critics then contend the “ideological predilections” of “the socialist faith” are being rationalized through the imposition of technical language.<sup>259</sup> As we have seen, however, technical language is not unique to arguments which support state planning: it also is deployed by those arguments which criticize state planning and conceptualize corruption as part of their criticism.

State planning itself is simply not inherently rational, we read in many claims, and the notion that state planning systematically neglects the most rational economic choices is a recurring refrain in the literature critical of the License Raj. Critics like Bhagwati have written, for example, that the state planning regime’s “all-encompassing bureaucratic intrusiveness and omnipotence has no rationale in economic or social logic.”<sup>260</sup> This perceived neglect for economic criteria is also associated with inefficiency, even before corruption enters the picture through rent-seeking. For example, we come across numerous claims that the license regime did not give “sufficient attention...to the economics of optimum location and scale of production,” “that it has taken upon itself too many decisions which should normally be taken by the entrepreneurs themselves such as on location and size.”<sup>261</sup> Such critiques of the irrationality of state planning are part of a larger

<sup>257</sup> Kohli, *State-Directed Development*, 264.

<sup>258</sup> Ibid.

<sup>259</sup> Hanson, *The Process of Planning*, 446–47.

<sup>260</sup> Bhagwati, *India in Transition*, 50.

<sup>261</sup> Hazari, *Essays in Industrial Policy*, 79 and Dhar, *Evolution of Economic Policy in India*, 86.

tradition which refers to a concept of rationality particular to the discipline of economics. Therein, Friedrich Hayek may be one of the most well-known economists to argue against state planning as a means of constructing a “rational economic order.”<sup>262</sup>

In his 1945 essay, “The Use of Knowledge for Society,” Hayek argued that the “unorganized knowledge” crucial to determining accurate market price is dispersed among people. Therefore, the “constant deliberate adjustments” necessary to sustain a constant “flow of goods and services” cannot be foreseen and therefore planned in advance by a central authority.<sup>263</sup> Part of what is rational about a decentralized order, Hayek claims, is that the local knowledge of buyers and sellers comes to be accurately communicated through the price signal of the market thereby allocating goods and services to their most efficient (hence rational) use. To our earlier association of corruption with inefficiency and rent-seeking, we might also therefore add irrationality and ideology. It is the consolidation and subsequent trajectory of this clustered view to which the claims of non-economists like Kohli belong. In her characterization of ‘New Political Economy,’ Barbara Harriss-White succinctly summarizes such a view as the belief that “conditions of rent seeking under which individually rational behavior on the part of bureaucrats impedes the collective economic good, leads to economically irrational outcomes and overwhelms ‘good policy advice.’”<sup>264</sup>

When corruption enters the scene, for critics, it may be the only thing that appears logical in elites’ otherwise deluded “admiration” of and “affinity” for state planning, although it is a logic that is both morally wrong and economically inefficient—a rationale that is economically irrational. In other words, the benefits of inefficient rent-seeking accrued only to elites who therefore had a vested interest in fooling themselves and/or the public into maintaining the commitment to state planning when the facts obviously suggested otherwise. Or so the allegation goes.

As a counterpoint, we may do well to heed Hanson’s remark that “the possession of ideological prejudices is not necessarily incompatible with economic rationality.”<sup>265</sup> For if, as we have seen critical legal scholarship tell us, the fundamental legal rules of a market are inescapably distributional in nature, then there are already choices made well before Hayek’s “local knowledge” enters the picture and communicates to produce a rational, efficient outcome. The allegation of ideology or irrationality, therefore, might be better understood instead as a rhetorical strategy, even if an unintentional one; so too might the claim of corruption which sometimes figures into this allegation. In the case of the License Raj, this allegation is not unusual, and its prominence has obscured in its wake—and perhaps as part of its strategy, however unintended—the historical rationale behind planning, which may indeed have been rational, albeit by a different metric.

Therefore, what we will consider instead in the following section is to what an extent another framework of corruption can serve as a retort to economic rationality, lending corruption in state planning a functional quality, one altogether distinct from the Pareto efficiency which License Raj critics believe corruption necessarily hinders.

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<sup>262</sup> Friedrich Hayek, “The Use of Knowledge in Society,” *American Economic Review* 35(4) (1945): 519.

<sup>263</sup> Hayek, “The Use of Knowledge in Society,” 524.

<sup>264</sup> Harriss-White, “Liberalization and Corruption,” 31.

<sup>265</sup> Ibid.

## 7. Patronage

The predominance of references to rent-seeking and the general turn to economics in the literature on corruption and the License Raj have obscured more than just the rationale behind state planning in India. They also have crowded out other ways in which the allegation of corruption in the regime has been conceptualized. The conceptualization that might come closest to rent-seeking's popularity is that of corruption as patronage. If patronage had a disciplinary home, it would be anthropology and political science. Its trajectory has been relatively circumscribed in comparison with rent-seeking which has found its way not only to other social sciences, but even in so-called practitioner literature such as the World Bank publications referenced earlier. Part of what makes patronage worthwhile to consider vis-à-vis corruption is how it presents a counterpoint to rent-seeking and all that the latter entails regarding efficiency, economic rationality, and ideology. 'Patronage' is far more multifaceted than 'rent-seeking' in the attributes writers project onto it, and it is this multifacetedness which points towards an opposing way of conceptualizing 'corruption.'

One aspect of the multiple attributes that 'patronage' is said to reflect is apparent at the level of terminology. As we have seen with the word 'corruption' in the previous chapter, the literature on patronage sometimes has a difficult time separating the term from other terms assumed to be related to it. 'Patronage' can be considered part of a cluster with these other words to which similar significations have been ascribed, and all of which have been used at some point or other to represent corruption in the License Raj. These include, for example, clientelism,<sup>266</sup> 'briefcase politics,'<sup>267</sup> patron-client relationships,<sup>268</sup> patrimonialism,<sup>269</sup> particularism,<sup>270</sup> and 'machine' politics.<sup>271</sup> Any of these other terms may as well have been the one we consider here in this chapter, but 'patronage' appears to be the one used most frequently. At any rate, it seems to be understood as the most general, and therefore potentially open-ended, term. It is this open-endedness which is the crucial feature to set against a view of corruption associated with rent-seeking.

Indeed, though sometimes 'patronage' is seen as problematic in the ways that 'corruption' is perceived to be, other times (as we shall see below) it is considered as something ambiguous or neutral. In other words, 'patronage' and 'corruption' can be pinned together in multiple ways. One prevalent scenario is where the word 'patronage' does the work which critics consider 'corruption' to do. Here, patronage does not have a robust positive connotation, even if it may well be legal. At best, it may be that patronage is half-heartedly accepted as legal and assumed (if at times implicitly) to be a somewhat second-best or derivative version of some ideal—exactly which ideal depends on the critic in question, and sometimes it may only be intimated or not stated at all. At worst, of course, patronage is synonymous with illegal corruption.

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<sup>266</sup> Hugo Gorringe, "The New Caste Headmen? Dalit Movement Leadership in Tamil Nadu," in *Power and Influence in India: Bosses, Lords and Captains*, eds. Pamela Price and Arild Engelsen Ruud (Abingdon: Routledge, 2002), 120.

<sup>267</sup> Stanley Kochanek as qtd. in Jaffrelot, "Indian Democracy," 81.

<sup>268</sup> Kohli, *State-Directed Development*, 266.

<sup>269</sup> Harriss-White, "Liberalization and Corruption," 35.

<sup>270</sup> Hanson, *The Process of Planning*, 253.

<sup>271</sup> Gorringe, "The New Caste Headmen?" 120 and Theobald, *Corruption, Development, and Underdevelopment*, 108.

In a second scenario, ‘patronage’ is held to be multifaceted in a way which salvages it—how much depends on the writer—from becoming completely pejorative; meanwhile, ‘corruption’ has projected onto it only negative attributes. Another way to put it is that, in this scenario, ‘patronage’ is conceptually situated somewhere between two poles: one pole where it is synonymous with of an unequivocally wrong ‘corruption’ versus another where it plays a positive function. Here, one senses in writers a persistent, if unconscious ambivalence to ascertaining its precise location. Yet despite not being slotted into a discrete point on this spectrum, ‘patronage’ might retain most of the baggage of illegal ‘corruption,’ but none of the assumed positive attributes of legality.

In a third and final scenario, we find writers who believe in the open-ended nature of ‘patronage’ and avoid labeling all the practices that they believe fall under it as necessarily ‘corrupt.’ Instead, they see in these practices certain positive attributes, and they also *crucially* contend that ‘corruption’ too may share some of these helpful attributes. In this last scenario, ‘patronage’ may indeed sometimes be ‘corrupt,’ but ‘corruption’ is not always a bad thing because as ‘patronage,’ it may do some good. We may try to hold these two terms distinct for the purposes of our analysis, but oftentimes in the literature, there is a slippage between when a writer opts for ‘patronage’ and when they opt for ‘corruption.’ Sometimes, even in the same text, one term is doing the conceptual work associated with the other.

Before we consider these various scenarios, however, it might do us well to explicate the view of corruption as patronage. Unlike the portrayal of corruption in the rent-seeking literature—which has a tendency to be unmoored from extra-economic considerations—much of the literature on corruption-as-patronage in India in political science and anthropology is situated in a particular, often historical and political context. The periodization which receives the most attention is one which is shared across many disciplines that deploy historical narratives about contemporary India. It concerns changes in the structure of the Congress Party—the political party which ruled India for most of its post-Independence history, including during the era of the License Raj—as a metonym for India’s political and economic trajectory. That is, changes in how the Congress Party operated come to represent something larger about the status of India, given the party’s historical predominance in rulership of the central and state governments and the impact which the party is perceived to have had on India’s development.

One key claim of this periodization is that the Congress Party went from a position of dominance rooted in regional support at the state level to “de-institutionalization” of its high command from these states.<sup>272</sup> Where corruption is concerned in this periodization, we read of the acceleration of ‘patronage’ to make up for these losses at the state level. The centrality of the Congress Party—in particular the largely continuous reign of Indira Gandhi as Prime Minister from 1966 to 1984—to the corruption-as-patronage narratives of the License Raj might account for why the cluster of terms associated with ‘patronage’ also entails ‘Congress system’<sup>273</sup> and ‘Congress culture.’<sup>274</sup> The thrust of these narratives involves both the general claim that politicians overall use economic policy to cultivate patronage which helps them survive politically, and the specific claim that Prime Minister Indira Gandhi in particular “was forced to generate new sources of economic patronage”

<sup>272</sup> Charles Robert Hankla, “Party Linkages and Economic Policy: An Examination of Indira Gandhi’s India,” *Business and Politics* 8(3) (2006): 3.

<sup>273</sup> Hankla, “Party Linkages and Economic Policy,” 6.

<sup>274</sup> Stanley Kochanek as qtd. in Jaffrelot, “Indian Democracy,” 81.

to compensate for losses in electoral support.<sup>275</sup> Therein, the License Raj is alleged as the interface through which patronage and corruption occurred. Specifically, with the use of the word ‘patronage,’ what writers seem to generically have in mind is the raising of funds (legally or illegally) by political parties in exchange for the issuance of licenses. As such, the activity here that gets deemed corrupt is identical to what the rent-seeking critique identifies as corrupt: money—that is, ‘bribes’ and/or ‘patronage’—for licenses. (However, in the context of the License Raj, ‘patronage’ as corruption may also refer to the issuance of licenses in exchange for *non-financial* electoral support.)

Another overlap between the views that link corruption with patronage and those which link corruption with rent-seeking is how they both characterize the realm of ‘the political’ versus ‘the economic.’ Describing them as two distinct terrains, writers are often preoccupied with putting each in its proper place. ‘Corruption,’ for them, enters the picture when there is instead muddling between the two. Both the rent-seeking and patronage conceptualizations often analogize corruption as “the persistent problem of the intrusion of political factors which quite often dominate decisions on projects thereby upsetting all economic considerations.”<sup>276</sup> Therein, the crucial premise which critics of patronage are sharing with—or perhaps borrowing from—their rent-seeking counterparts is that the ‘economic’ represents the terrain of the rational. Corruption, meanwhile, is seen as allied to the ‘political’ in this view.

With these two realms in mind, critics use the notion of patronage to identify an additional set of activities (beyond just bribery), as corrupt. No longer is the problem limited to the acceptance of, or demand for, bribes in the license regime (though it may be linked with such practices and is indeed often described as such). Now, it is the notion of undue interference by politicians in the affairs of bureaucrats managing the license regime that is the additional, purported site of corruption. In other words, corruption-as-patronage is not just the local matter of bribery but also the larger systemic politicization of the regime.

It is also worth mentioning that the purpose behind corrupt patronage is sometimes said to be distinguishable from the matters of ‘ideology’ we considered in the previous section. That is, it is neither the deluded attachment to planning, nor the self-interest of the elite which is seen to be at stake in corrupt patronage. Instead, patronage is said to concern the survival of a political party or ruling dispensation as the primary goal above and beyond a given policy’s *content* (the alleged terrain of the ‘ideological’). State planning may not be what those supposedly politicizing the license regime are devoted to, but rather simply what they deem as the most practical means at hand to retain or exercise governmental power by using the License Raj as a patronage interface. That being said, it is often only those economic policies which are believed to provide state officials with greater discretion to affect the conduct of private enterprises that are claimed as evidence for corruption-as-patronage. The spotlight of critics is indeed mostly on “the massive sources of patronage generated by India’s strategy of import substitution industrialization.”<sup>277</sup> In other words, it is assumed that patronage as a problem of corruption is something endemic to planning.

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<sup>275</sup> Hankla, “Party Linkages and Economic Policy,” 1 and 3.

<sup>276</sup> Sinha, *Economic Planning in India*, 53.

<sup>277</sup> Hankla, “Party Linkages and Economic Policy,” 11.

But here too there is not a neat consensus. Hanson is again the one to offer a counterpoint. “The demand that licensing should be governed by ‘purely economic’ criteria,” he writes in his study of state planning, is “unrealistic.” “What is needed,” he argues instead, “is a clear realization [of] *when* and *why* the economically optimum is being disregarded, and for *what* precise purposes [sic].”<sup>278</sup> “‘Politics’ could then be built into the plan itself, rather than being left to impinge upon it,” we read.<sup>279</sup> Most of the literature on patronage and corruption has not appeared to heed his call, and it is indeed hard to avoid coming across this political/economic binary in some form or other. Yet there are still some writers like Hanson who take the value of the ‘political’ seriously rather than characterizing it as an exclusively irrational terrain in which corruption takes place. It is these writers who offer us the most striking difference between the patronage literature on corruption and its rent-seeking and economic counterparts. After all, as we said earlier, patronage is understood by some to be a far more multivalent frame to describe corruption and its relationship to state planning. These writers acknowledge the functionality of patronage or the purpose of politicization, even if they may be wary of its implications, and in doing so, they even come to admit (albeit implicitly sometimes) that something people might call ‘corruption’ also has its uses. Even if they accept that practices labeled ‘corrupt’ may produce economic inefficiency, such writers still contend that they may be serving some other function, perhaps even a valuable one. This is precisely the kind of insight which the rent-seeking tradition systematically neglects.

One example that gets at the multivalency of the patronage frame is Harriss-White’s taxonomy of how “gains from political corruption” are distributed in India. She begins with the idea that such distribution is crucial “to party politics and to state forms.” For Harriss-White, the flows of money that “solidify social relations of tribute and clientelage which run closely parallel to those of state revenue and development” may serve several functions depending on the type of “regime.” The use of the words ‘funds’ rather than ‘bribes’ or ‘black money,’ suggests a mode of analysis more interested in demonstrating instrumentality than criticizing the practice in question. Indeed, the tone of her text suggests she has suspended—in certain moments at least—any moral judgment of the means used to secure such ends. But sometimes the ends are morally judged, as in the case of the “predatory state” where funds may be “privately appropriated and used for conspicuous consumption.” (After all, it is not clear that a state which Harriss-White calls “predatory” is something she endorses, even if predation can serve a function.) This may be the form of corruption that critics most often conjure up and which is treated the most unfavorably for its apparent neglect of a public interest. “Under a populist regime,” however, the sourced funds “may flow upwards, be centralized and subsequently redistributed to the mass of potential voters in the form of money as pre-election sweeteners.” This may be the form of corruption most associated with patronage to the extent that patronage is seen as an instrument that political parties use to win elections, but it is also, however, a form for which some refer to ‘patronage’ pejoratively. As one writer suggests, for example, democratic politics in India should not be reduced to “a mere politics of patronage and corruption.”<sup>280</sup> Finally, in a “patrimonial political regime,” funds may be “re-allocated into semi-legitimate forms of politicized bureaucratic provision or commercial investment.”<sup>281</sup> Here ‘patronage,’ and with it, an implicit notion of what elsewhere gets labeled as ‘corruption,’ appear

<sup>278</sup> Hanson, *The Process of Planning*, 491–92.

<sup>279</sup> Hanson, *The Process of Planning*, 262.

<sup>280</sup> Paul R. Brass, “Leadership and the Power of Honour in a Corrupt System,” in *Power and Influence in India*, eds. Price and Engelsen Ruud, 174.

<sup>281</sup> Harriss-White, “Liberalization and Corruption,” 35.

to be functional in a way that is furthest away from judgment and closest to being deemed as valuable—even if this deeming stops well short of an endorsement.

With these three taxonomized categories, we can see how context-specific the meaning of corruption can be within the framework of patronage. And we can also see how the ends to which corruption and patronage are deployed can shape a writer's attitude towards them at the outset. After all, in the literature, some of the ends served by practices labeled as 'corruption' and 'patronage' are activities which can be viewed as the unlawful inverse of actions which governments and politicians regularly—or rather, legally—undertake. For this reason, 'patronage' is sometimes seen as having nothing to do with 'corruption': that is, patronage can be deemed both legal and legitimate, only occasionally becoming 'corruption.' In such a view, the word 'corruption' stresses only the dark consequences of 'patronage,' while the latter can stress multiple valences.

The uniqueness of 'patronage' as a term, at least when compared to 'corruption' seems to rest precisely in this ambivalence. Only occasionally do writers who associate 'corruption' with 'patronage' concede that 'corruption' too—not just 'patronage'—can represent a second-best alternative to a putative ideal. These writers often share an assumption, if implicit, that the political situation in which India found itself after independence from British rule was so challenging that 'corruption' and 'patronage' were practical tools at hand for leaders to govern. We read of how both corruption and patronage—and the two blur into one another—have helped accommodate and "reconcile"<sup>282</sup> competing demands in India or more generally in "heterogenous"<sup>283</sup> polities. Corruption and patronage may be deemed valuable, however regrettably, even in the face of economic inefficiency, given this political function they can serve.

This is a belief that certain texts on patronage in India reflect even explicitly at times. For example, one writer tells us of the use of "state patronage" by "lower castes" in the 1980s "for claiming a larger share of office, power, and resources." In this view, "corruption then becomes an issue of equal rights to corruption, or, said in a more neutral way, equal access to the resources of the state."<sup>284</sup> Therefore, "while corruption may have undermined India's potential to become a more equal and just society," this writer contends, nevertheless, "it facilitated the expansion of India's bourgeois democracy."<sup>285</sup>

Certain anthropological literature on patronage and corruption goes even further. Working through ethnography, this literature has a strikingly different color from the political science literature we have thus far drawn from, especially compared to the economic-oriented critiques of corruption. After all, when the anthropologist conceptualizes 'corruption' as something narrated to them and situated in a particular moment and place, it represents a stark contrast from the zoomed-out technical calculations of corruption as inefficient rent-seeking. What is most distinct about this literature is the way in which its conception of patronage and corruption stands the furthest away

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<sup>282</sup> Hanson, *The Process of Planning*, 17.

<sup>283</sup> Theobald, *Corruption, Development and Underdevelopment*, 89.

<sup>284</sup> Maya Chadda, "India: Between Majesty and Modernity," in *The Struggle Against Corruption: A Comparative Study*, ed. R. Johnson (London: Palgrave Macmillan, 2004), 124.

<sup>285</sup> Chadda, "India: Between Majesty and Modernity," 112.

from the irrationality and stigma otherwise associated with these terms. In one argument, for example, we read that:

Understood locally, acts of patronage are highly moral, and insofar as they express the values of selflessness and generosity, they are antithetical to haggling and self-interested gain. While blaming one another for selfishness and for greed, both voters and politicians do not see what they themselves do as cynical and they judge one another by the moral standards that they themselves profess.<sup>286</sup>

This excerpt illustrates how the self-conception of an individual towards their “acts of patronage” is narrated by the anthropologist to ascribe an attribute to ‘patronage,’ and with it, ‘corruption,’ that is the opposite of what is elsewhere described: “selflessness,” for example, rather than “self-interested gain.” Such an excerpt also demonstrates how anthropology’s method of ethnography constructs a notion of corruption—here incarnated as patronage—that contradicts that of the neoclassical critique where it is incarnated as rent-seeking.

## 8. Conclusion

Disciplinary formations and methodologies appear fundamental in the way in which corruption is conceptualized. They produce their vocabularies (say, ‘rent-seeking’ or ‘patronage’) which bring to bear a framework in which corruption can be rendered intelligible. In the case of rent-seeking and patronage, these conceptualizations at times oppose one another, formed as they are in different contexts with different measures and implications.

In the rent-seeking analytic, corruption is conceived as a problem because it gives rise to inefficiency, which itself is seen as a problem because the full potential for economic growth is not realized. Relatedly, it may also be a problem more specifically for those entrepreneurs who encounter obstacles in earning the maximum profit possible; meanwhile, corruption may not be as much of a problem for those entrepreneurs who manage to crowd out competitors through bribery in a license regime. Because Pareto efficiency is understood to allocate resources to their best use, corruption as inefficient rent-seeking is also a problem for society whose demands for goods and services are not being met in the most adequate way possible.

In one strain of the patronage view of corruption, however, we encounter a conceptualization that is opposed to that of corruption as rent-seeking. Here, corruption can be an asset for democracy because it helps accommodate the demands of diverse constituencies and therefore widens the pool of people which can be accommodated by the state. In this view, if something called ‘corruption’ is a problem, it is a problem for those who believe that it hinders their access to the state or gives state access to those who should not have it. In other words, corruption is a problem of the perception of relative difference in access to the state. But if this difference is a result of moving towards more “equal access to the resources of the state,” as we saw earlier, then what gets labeled as corrupt patronage is not always a problem for a democratic polity.

For critics of the License Raj who are concerned about how corruption, either as patronage or rent-seeking, disregards rational economic criteria, the view above offers a rejoinder. It gestures

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<sup>286</sup> *Patronage as Politics in South Asia*, ed. Anastasia Piliavsky (Cambridge: Cambridge University Press, 2014), 172.

towards a different sort of rationality which may be at stake in implementing economic policy. Because economic policy is executed in an institutional context, ensuring the effectiveness of the institution to deliver its stated aims can involve ‘political’ considerations that are outside the scope of the ‘economic’ terrain. Patronage, in other words, can be viewed as that which makes economic policy effective, especially in the face of what some writers call “the rising cost of political competition.”<sup>287</sup> Economic rationality, therefore, may not be the only rationality worth considering when evaluating the efficacy of the License Raj and the alleged corruption therein.

In any case, our purpose in this chapter has not been to side with a particular conceptualization of corruption. Rather, it has been to explicate the conceptualization which has become dominant in critiques of the License Raj: the view of corruption as rent-seeking. We accounted for its dominance and explored what it has displaced in its rise. The postwar economic justification for state planning and the multifaceted claims about patronage are but two of those views. The former historicizes the License Raj criticism that contends state planning lacks an economic rationale. Meanwhile, the latter shows how disciplines shape what counts as corruption, and in some cases, that what elsewhere gets labeled as ‘corruption’ or ‘rent-seeking’ instead may be positively appreciated as ‘patronage.’

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<sup>287</sup> Jaffrelot, “Indian Democracy,” 85.

## Chapter 3: Colonialism

### 1. Introduction

Writers on corruption in India, including those who associate it with the License Raj, are occasionally keen to take a longer historical view of the subject. As we have briefly seen in Chapter 1, some writers project something they call ‘corruption’ to have existed as far back as the Mauryan era (322–185 BCE). They may take Kautilya’s fourth-century text the *Arthashastra*—with its “comprehensive inventory of penalties” for different types of “embezzlement,” among other examples—as evidence of corruption’s apparent timelessness on the subcontinent.<sup>288</sup>

Others look closer in time when trying to establish antecedents for corruption in India. One prominent arc that gets narrated in the literature is that of corruption in the colonial era. As we saw in Chapter 1, some claim that the belief in corruption as “pervasive and omnipresent” in India has its source in “the days of the East India Company.”<sup>289</sup> Moreover, the very practices that get labeled as ‘corruption’ in the License Raj are also sometimes traced to the colonial encounter. The name itself arguably alludes to a continuity: that the License Raj replaced the British Raj, but the implications therein are never quite fully teased out. For example, we read that “[t]he system of administration that had evolved in India since the times of Warren Hastings and Lord Cornwallis during Imperial rule until Independence” has left a “legacy.” Because this system was originally intended for “political and social control” rather than “development,” the aims of the government’s Five-Year Plans for managing the economy have not adequately materialized, “since the instruments inherited and subsequently expanded have been inappropriate for the tasks at hand.”<sup>290</sup> In other words, some writers believe that there is something about the institutions which has remained continuous from the colonial era into independent India and that encourages practices which are seen to be corrupt. But what largely remains unsaid is that *how* we imagine the very concept of corruption in independent India may itself result from an earlier, lingering definition of the term, one which may have emerged precisely in the colonial encounter.

Indeed, there is no shortage of literature discussing what writers perceive as corruption in the colonial era—both those writing during the period itself and those writing subsequently. The outer boundaries of this era can be roughly marked from the early seventeenth century to India’s independence from British rule in 1947. The year 1608 is when the ship *Hector* landed in Surat, the first English voyage undertaken by the East India Company (henceforth the Company) to have arrived in India.<sup>291</sup> In the decades following, Mughal rulers are said to have granted imperial orders to Company representatives that conferred trading privileges on the English, most notably in 1717.<sup>292</sup> This moment is often marked as the beginning of a formal trading relationship between the Company and the Mughals, and it is the first moment we shall consider in this chapter. Subsequently, during the seventeenth and eighteenth centuries, through a variety of means, the

<sup>288</sup> Das, *Public Office, Private Interest*, 40–41; see also “A common device in writing about contemporary government or business corruption in India, is to cite the Arthashastra of Kautilya, the multiple and categorised forms of ‘corruption’ therein,” Gould, *Bureaucracy, Community and Influence*, 9.

<sup>289</sup> Ram, *Why Scams Are Here to Stay*, 4.

<sup>290</sup> Mohan and Aggarwal, “Commands and Controls,” 685.

<sup>291</sup> Judith Farrington, “The First Twelve Voyages of the English East India Company, 1601–13: A Guide to Sources,” *Indonesia and the Malay World* 29 (85) (2001).

<sup>292</sup> N.K. Mishra, “Trade of Surat and the Imperial Firman,” *Proceedings of the Indian History Congress* 28 (1966).

Company would go on to secure territory and commercial advantage over both rival European powers on the subcontinent, rival English traders, and local merchants in India. Some of these means were violent, some were (and are still) deemed corrupt, and some were (and are still) deemed legitimate, but the lines between the three can be blurry, as we shall see.

As a background, it is helpful to know the Company assumed a governing role (the ‘Company Raj’) after annexing Mughal Bengal following a crucial military victory at Plassey in 1757, and it secured the right to collect revenue in Bengal through the Treaty of Allahabad following the Battle of Buxar in 1764. The following decades saw increased annexation by the Company of most of the subcontinent and, following a native uprising in 1857, the transfer of rulership of India from the Company to the British Crown. The subsequent ‘British Raj’ saw the development of the Government of (British) India whose institutions included, among others, the Indian Civil Service (the predecessor to today’s Indian Administrative Service) which UK Prime Minister Lloyd George would go on to call in 1922 ‘the steel frame’ on which colonial rule in India rested.

Before we can even begin to consider some of the major claims regarding corruption which this literature on the colonial era offers, we are presented with a series of definitional dilemmas. For example, ‘India’ as a discrete, unified territory did not exist then in the way it can be said to exist now. Likewise, India’s encounter with the British East India Company was not with a sovereign nation, but nor was it exactly with the kind of multinational corporation we are familiar with today. The demarcations between government and commerce which we assume as fixed in discussions of corruption today were not always self-evident. How then are we to speak of ‘corruption’ in such a moment? What does it mean to refer to something as ‘corrupt’ when today’s various lines implicit in the concept, between state and market or public and private, were not yet drawn? Much of the difficulty in settling these matters may have to do with how today’s vocabulary of political economy cannot so easily be retrofitted onto this moment once we open it up for examination. It is in this gap—in what modern vocabulary fails to fully capture in the colonial era—that we find something of value for our contemporary understanding of the term ‘corruption.’

In fact, this chapter will suggest that rather than seeing these boundaries between the legitimate and illegitimate as having existed *a priori*, the construction of ‘corruption’ in the colonial encounter may itself have been pivotal to drawing them. Indeed, as we will consider, the colonial encounter is an important site where some of the most taken-for-granted premises in our contemporary usage of the word ‘corruption’ in the License Raj—and more generally—were being developed. Not only might this word have acquired then the meaning that has since come to appear to us as timeless, but also a particular colonial-era trajectory might make us give the word’s use today a second glance. This chapter will follow this trajectory, tracking the ascent of Company rule in India and focusing on a few moments from the early seventeenth century.

In this period, there can be said to be two major ‘types’ of corruption which were perceived—then by contemporaries and/or now by critics—in the colonial-era encounter. Both types were and are closely associated with one another, and we will examine them in this chapter. The first type concerns a variety of ways in which wealth was extracted from India by East India Company officials that was eventually deemed (by those in the period itself) to be excessive. The second concerns the means by which the Company maintained its exclusive right to monopoly over trade in India, in particular the linkages with domestic practices in England that have come to be grouped as ‘Old Corruption.’ As these two types of corruption underwent what are called ‘reforms’—from

Company rule of India to Crown rule, from monopoly to free trade—Old Corruption in England was also seen to have given way to modern forms of government in which attitudes towards public office were transformed. The reform of Company rule in India appears to be a crucial part of this transformation—at least as a parable Britain told itself about the dangers of corruption and its ostensible origin in India. But just as reform helped the colonial project in India to endure, so too might it have transformed and disguised what it would have otherwise decried as corrupt.

In this chapter we will focus on three sites in India over two distinct moments—the early and later Company eras—which contemporaries alleged as corrupt: the *firman*, the gift, and the *dastak*. The chapter then turns to domestic practices in eighteenth-century England that were deemed corrupt as part of a narrative of ‘reform’ in which the East India Company plays a crucial role.

## 2. The *firman*

Many historical narratives of Company rule begin by highlighting the year 1600 when Queen Elizabeth I granted a royal charter to the English East India Company<sup>293</sup> (henceforth the Company) for “monopoly of trade to lands east of the Cape of Good Hope and west of Cape Horn.”<sup>294</sup> The literature then discusses a series of what are called *firmans* that were given to the Company across the seventeenth century by the rulers who governed large swathes of northern India at the time, the Mughals. The status of these *firmans* bring us to the first of a set of historiographical difficulties involved in understanding the line between the legitimate and illegitimate in the political economy of the era. These *firmans* are crucial because they ostensibly concern who can trade in the territory over which the Mughals ruled. Much of what contemporaries in the colonial period (and scholars later) disapprove of as ‘corrupt’ in the Company era appears to hinge on the meaning of such terms, meanings which can be “hotly contested.”<sup>295</sup>

For example, we often read that Mughal authorities “granted” these *firmans* to the Company; however, on other occasions, writers tell us that Company officials “themselves spoke of such *firmans* (or as they put it, *phirmaund*) as ‘purchased.’”<sup>296</sup> In a passage from a 1958 text about a *firman* which the ruler Aurangzeb issued in 1680, we read that the Company spent 50,000 rupees in “bribes” for it.<sup>297</sup> Contemporary notions of corruption—those concerning bribery, fraud, and extortion, for example—are the ones brought to bear when scholars writing in post-independence India try to decipher what was or was not corrupt about Mughal era legal orders. It is not only around the alleged ‘purchases’ of *firmans* that these contemporary notions play out in the literature, but also around the portrayal of legitimacy in the payment of customs, duties, taxes, and the like—payments which the *firman* in principle could sanction or exempt. It is this portrayal which we will be concerned with in this section.

<sup>293</sup> Formally named Governor and Company of Merchants of London Trading into the East Indies from 1600 to 1708 and then the United Company of Merchants of England Trading to the East Indies from 1708–1873.

<sup>294</sup> Emily Erikson, *Between Monopoly and Free Trade: The English East India Company, 1600–1757* (Princeton: Princeton University Press, 2014), 18.

<sup>295</sup> Guido Van Meersbergen, “The Diplomatic Repertoires of the East India Companies in Mughal South Asia, 1608–1717,” *The Historical Journal* 62(4) (2019): 876.

<sup>296</sup> Ramkrishna Mukherjee, *The Rise and Fall of the East India Company: A Sociological Appraisal* (Leipzig: VEB Deutscher Verlag der Wissenschaften, 1958), 228.

<sup>297</sup> Ibid.

Haggling over what a given *firman* actually conferred—so as to determine the legitimacy of payments it should or should not have sanctioned—is where one encounters historiographical difficulty. Although writers offer answers, it is hard for them to define what a *firman* entailed without already bringing to bear some kind of position on fairness in the commerce of the period. Even an attempt to portray what exactly both parties sought from *firmans* can end up mired in questions over legitimacy. The Company is often portrayed as seeking “to enjoy free access to cotton, silk, indigo, and other commodities; obtain exemption from or reductions in customs duties and road tolls; and retain the right to try their own people and freely practice their religion.”<sup>298</sup> Meanwhile, Mughal rulers are seen to have desired the “substantial tax income” and “precious metals” which trade with the Company would generate.<sup>299</sup> But to say anything more than this seems to bring us into contested territory—at least if we are to understand the *firman* as a practice that conferred legitimacy in today’s terms.

One illustration of this dilemma is the matter of the reach or the consistency of application of the *firman* (and related orders) across Mughal territory. Take, for example, one instance concerning a 1656 Mughal order that “the English Company be no more troubled with the demands of customs.”<sup>300</sup> We read in historian Ramkrishna Mukherjee’s twentieth-century account that “successors of Sultan Shuja in Bengal did not consider the order to be binding on them.”<sup>301</sup> This was hardly the only occasion on which the Company faced such a problem, according to the literature. Mukherjee himself states that “[i]n spite of these firmans,” “the Company’s agents in all places—Bombay, Madras and Bengal—could not escape from the demands of the local customs officers and their goods were occasionally seized.”<sup>302</sup> Elsewhere too we read that when exemptions to customs were granted at a higher level, lower authorities who could be negatively impacted by it “usually managed to ignore the imperial orders.”<sup>303</sup> We are told “the authorised scale of customs duties” did not matter as much as the “payments” that secured “the favour of the officers on the spot.”<sup>304</sup>

Was this apparent inconsistency in the *firman*’s reach a source of the Company’s justified confusion and frustration or a weakness on the part of Mughal administration that the Company later exploited? Or was it rather something customary, that is, something understood by locals and therefore a matter that the Company could have gleaned and ought to have respected? It is precisely this feature of the *firman* on which the framing of ‘corruption’ hinges: is the looseness of *firmans* as a governing device the originary problem of corruption, or is corruption instead the Company’s subsequent abuse of this putative looseness? Put another way, who exactly was extorting or bribing whom (that is, if ‘extortion’ and ‘bribery’ are the terms we want to use)? How we define exactly what the *firman* entailed shapes our answer to this question.

For those who may see the Company’s frustration over perceived legal inconsistency as understandable because the *firman*’s terms were obvious, it may make sense to attribute

<sup>298</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 883.

<sup>299</sup> Ibid.

<sup>300</sup> Mukherjee, *The Rise and Fall of the East India Company*, 227.

<sup>301</sup> Mukherjee, *The Rise and Fall of the East India Company*, 228.

<sup>302</sup> Ibid.

<sup>303</sup> Om Prakash, “The Mughal Empire and the Dutch East Indies Company in the Seventeenth Century,” in *Hof en Handel* (Leiden: Brill, 2004), 125.

<sup>304</sup> W.H. Moreland, *India at the Death of Akbar: An Economic Study* (London: Macmillan and Co., 1920), 47.

‘corruption’ to swindling locals and their questionable practices. Indeed, this is what Company officials and British writers in the later colonial period would remark. For those who may see coherence in the *firman*’s terms in spite of the inconsistency of its reach—or even deem such inconsistency functional or something besides inconsistency—‘corruption’ instead might refer to the Company’s abuse of local practices and a deliberate, fraudulent misreading of Mughal orders. This is largely the position of contemporary scholars for whom the clarity of conventions of the Company era are evident. For example, in Mukherjee’s account, we come across the translation of *firman* as a “royal command” as able to be distinguished from an inferior *nishan* or “letter of authority.”<sup>305</sup> So when Sultan Shuja’s successors appear to disobey a 1656 order, Mukherjee tells us it was “probably because it was merely a *nishan*,” rather than a *firman*.<sup>306</sup> In fact, elsewhere we read that this very *nishan* produced by Shah Shuja in 1651 was itself based on the Company’s “misrepresentation of facts” concerning Shah Jahan’s prior 1650 *firman*.<sup>307</sup> The intelligibility of the era’s customs and their subsequent deliberate abuse by the Company are two features, among others, which distinguish contemporary literature from colonial literature on the matter of legitimacy—and, as a corollary, on corruption—in Indian commerce of the period.

Indeed, some of the claims made by scholars today run completely opposed to the beliefs held in an earlier era. Farhat Hasan’s contemporary account, for example, says the *firman* granted by Shah Jahan in 1650—referenced in Mughal orders in Bengal and Orissa as exempting the Company from customs—never actually existed. To the extent that the Company enjoyed such a privilege in Bengal, this was not due to any legal basis, Hasan argues, but rather to “surreptitious arrangements and collusion with Mughal officials.”<sup>308</sup> Writing of a 1717 *firman*, another contemporary historian Nicholas Dirks writes that “by Mughal standards,” it was never meant to constitute a “concession” or “the basis for the kinds of uniform claims made by the Company or its servants.” Rather, the document conferred “specific privileges” for a fixed duration that required regular approval.<sup>309</sup> All these claims are proffered to bolster the notion that illegitimate commercial activity was not due to weak legal orders in Mughal India; rather, it is the Company which is to blame for the ascendant illegitimacy—a notion we will explore in a subsequent section.

For now, however, what accounts for the varied interpretations across time of the era’s legal orders? The larger legal context ascribed to seventeenth-century Mughal India illustrates why the *firman* can mean such different things to begin with. After all, when we read about the period in question, scholars paint a portrait of the toleration of some ambiguity, diversity, and contradiction as the norm of Indian commerce, at least in contrast to today’s apparent desire for clarity and standardization. British historian W.H. Moreland in 1920 remarked of the era that borders were often “obscure” and “indeterminate,” with claims over a given territory frequently made by more than one party and exercised varyingly.<sup>310</sup> Although there was a senior Mughal ruler, we read that subordinates could occupy “what constitutional lawyers would regard as an anomalous position, sometimes paying the stipulated revenue, sometimes in open rebellion, and sometimes enjoying

<sup>305</sup> Mukherjee, *The Rise and Fall of the East India Company*, 227.

<sup>306</sup> Ibid.

<sup>307</sup> Prakash, “The Mughal Empire,” 134.

<sup>308</sup> Farhat Hasan, “The Mughal Fiscal System in Surat and the English East India Company,” *Modern Asian Studies* 27(4) (1993): 713.

<sup>309</sup> Nicholas B. Dirks, *The Scandal of Empire: India and the Creation of Imperial Britain* (Cambridge, MA: Harvard University Press, 2006), 46.

<sup>310</sup> Moreland, *India at the Death of Akbar*, 5.

practical independence because the Mogul authorities found it inconvenient to undertake active measures of coercion.”<sup>311</sup> An Indian scholar writing roughly at the same time seems to concur: the extent that the *firman* could exact obedience from subjects, he writes, had to do with the degree to which the senior authority “could make its will effective upon the provincial governors.”<sup>312</sup>

Recognizing these matters, scholars today do not necessarily see them chiefly as administrative weaknesses or the root of illegitimate commercial practices. For example, Hasan suggests not only that “the imperial court” was aware that “cesses” (taxes or levies) were being exacted which had not been “sanctioned,” but also that the court was simply “not quite concerned with ensuring their prohibition.”<sup>313</sup> He cites as evidence the inclusion of the cesses in “jagir-orders (parwana-i-jagir) by which the salary-claims (talab) of the jagirdars were met.”<sup>314</sup> Even in the case of those “imperial cesses” which were explicitly sanctioned by the court, we read that “local officials enjoyed considerable discretion and freedom of action.”<sup>315</sup> Variation in what subordinate authorities exacted from merchants such as the Company, in other words, was not always an accident; sometimes, it was even intentional and served a purpose, and therefore it might simply be considered a feature of what Hasan terms the “Mughal fiscal system.”<sup>316</sup> At the same time, none of this is to suggest that Mughal rulers had no appreciation or concept for what we today might call ‘standardization.’ A 1602 proclamation that refers to Akbar’s abolishing “all arbitrary taxation, disapproving that these oppressions should become established by custom” is but one example.<sup>317</sup> Ultimately, perhaps the more a writer is prone to see apparent inconsistencies in the reach of legal orders as grave weaknesses of the Mughal administration, the more they may refute the orders’ legibility and functionality. After all, going on the remarks of seventeenth-century European travelers to India: if Indian merchants of the period were of “the highest class,” and if the Mughal nobility is “nothing but voluptuousness and wealth confusedly intermingled,” then legal and commercial norms were not only readable but also worked well enough to generate prosperity.<sup>318</sup>

This at least is the consensus of today’s literature on the era. But even so, however much contemporary writers may rightfully be committed to the intelligibility of Mughal-era legal and commercial practices, they still have to reckon with the historiographical difficulty of ascribing a word like ‘corruption’ to a period where the lines of legitimacy assumed in such a word may have been drawn differently. On the matter of intelligibility more generally, there seems to be no shortage of respect for the period’s diversity. For example, we know of the various ways a word like *firman* has been orthographically rendered in English (*firman*, *farman*, *phirmaund*). We know not only of *firmans* and *nishans* but also of *hasb-ul-hukms*, *parwanas*, and more: a whole semiotics of regulation as it were. On certain other matters, however, scholars express a studied reservation, not necessarily wanting to name something forthright. We read, for example, of “the non-observance of previous decrees,” rather than, say, the outright rejection or failure of agreements.<sup>319</sup>

<sup>311</sup> Moreland, *India at the Death of Akbar*, 4.

<sup>312</sup> N.J. Shah, *History of Indian Tariffs* (London: W. Thacker & Co, 1924), 6.

<sup>313</sup> Hasan, “The Mughal Fiscal System,” 711.

<sup>314</sup> Ibid.

<sup>315</sup> Ibid.

<sup>316</sup> Ibid.

<sup>317</sup> Jerret’s *Ain-i-Akbari* Volume II, p. 58 as qtd. in Shah, *History of Indian Tariffs*, 4.

<sup>318</sup> Roe as qtd. in Moreland, *India at the Death of Akbar*, 261.

<sup>319</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 883.

Or we see words like ‘concession’ or ‘illegal’ in scare quotes, indicating the author’s cognizance that a contemporary word is retroactively being applied but may not be entirely suitable or native to the era. Rendering the period’s customs as fluid seems to stop short of ascribing value, especially contemporary values, to them. These values, it is assumed, would project one’s own thinking—rather than realistically render the past—or, further, they may be ethically inappropriate in evaluating the past.

This respect for historical otherness can make it harder for scholars looking back at the era to choose ‘corruption’ rather than another term for certain aspects of government orders like the *firman*. Not only has the term as we know it materialized precisely during the era in question, as we shall see later in this chapter, but also ‘corruption’ simply may not be what a particular scholar thinks was ‘actually’ happening. It is true that certain scholars writing much later may use the word ‘bribes.’ But others may use the term ‘gifts,’ either as a term of anthropological respect or—often in the words of Company officials—as a complaint about the presents they felt were required in excess for Mughal authorities. Instead of ‘corruption,’ we might also come across a word we considered in the previous chapter, ‘patronage.’ For example, we read that the work of the Company vis-à-vis the Mughals entailed “cultivating relationships of political patronage.”<sup>320</sup> Or relatedly, we might see described a “process of rapprochement,” one which involved “personal visits, gift-giving, and polite correspondence.”<sup>321</sup> Another scholar describes what the Company offered the Mughals as “fealty” in exchange for commercial privilege.<sup>322</sup> Others remark on “redistributive enterprise” as “the term usually used for the Company’s aggressive pursuit of exemptions from duties.”<sup>323</sup> As we explored in Chapter 1, here too sometimes ‘corruption’ bleeds into other words, say, ‘fealty,’ while other times, a given practice is just ‘corruption.’ Only the term ‘law’ seems to stand apart from the rest of these words in never being associated with corruption, for law would represent legitimacy, and only its breaches could be a matter of potential corruption. But, as we have seen with the *firman*, ‘law’ in this period constitutes a different notion than the one which contemporary critics of corruption have in mind. For this reason, when one beholder might deem a Mughal commercial practice ‘corrupt’ or indeed ‘illegal,’ another may refer instead to “legal pluralism”<sup>324</sup> or “various modes of diplomacy.”<sup>325</sup> Whatever word is used offers a slightly different—or very different—take on the legitimacy of the practice under consideration, and in seventeenth-century Mughal India, it is hard, perhaps even harder than it is today, to decide which word is best.

Rather than only considering retroactive appraisals of the era, we might also look to what contemporaries had to say at the time. Where the Company is concerned, we sometimes read that they “complained” that the *firman* had to be “purchased.”<sup>326</sup> This is notable in accounts about Thomas Roe, the first official representative of the Crown sent to India to secure trade privileges

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<sup>320</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 886.

<sup>321</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 889.

<sup>322</sup> William Pettigrew as qtd. in Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 881.

<sup>323</sup> Neilesh Bose and Victor V. Ramraj, “Lex Mercatoria, Legal Pluralism, and the Modern State through the Lens of the East India Company, 1600–1757,” *Comparative Studies of South Asia, Africa, and the Middle East* 40(2) (2020): 283.

<sup>324</sup> Bose and Ramraj, “Lex Mercatoria, Legal Pluralism,” 285.

<sup>325</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 883.

<sup>326</sup> Mukherjee, *The Rise and Fall of the East India Company*, 228.

for the Company.<sup>327</sup> Elsewhere, Roe protests against the “affronts and slauish Customes” involved in securing a *firman*. He appears to be referring to the “ceremonial performance” entailed therein: writers today inform us of the “honorific address,” “self-deprecation,” “forms of ritual obeisance,” “ceremonial gifts,” or the donning of “robes of honour” expected of those dealing with Mughal rulers.<sup>328</sup> But scholars also look to the larger context of Roe’s complaints and those of other Company officials. For if Roe’s original mission was to broker “Articles of treaty on equall tearmes,”<sup>329</sup> we read that it was “far from successful.”<sup>330</sup> Rather than “mutually-binding treaties,” the orders which the Mughals issued to the Company have been described as “unilateral directives from emperors to their subordinates.”<sup>331</sup> Ultimately, writers claim that the Company may have been frustrated because, in seeking trade advantages, they “had little choice” but to be incorporated within “the existing configuration of power.”<sup>332</sup> Even when they sought “redress” for decrees not observed, the Company still had to operate in a relationship of perceived subservience.<sup>333</sup>

Regarding Roe, we see him portrayed as “aware” of the “different diplomatic conventions” operative in the Mughal court regarding commerce.<sup>334</sup> But at the same time, he is depicted as nevertheless committed to his own cultural conventions—so much so that he believed them to be universal, to be the “law of Nations.”<sup>335</sup> “[T]he honnor and qualety of an ambassador,” we read him as saying, “is not ruled by the customes of England, but the consent of all the world [sic].”<sup>336</sup> Expecting “bilateral treaties,” which he believed to be universal, Roe is described as instead having to contend with “unilateral commands,” which he believed were unfair.<sup>337</sup>

The complaints on the part of the Company appear to have continued even after Roe’s encounter with the Mughals. One historian describes the Company’s use of local intermediaries “to prevent extortions” from the rulers.<sup>338</sup> Hindu agents, Muslim agents, and Banians were all deployed at various points—for obtaining redress for commercial issues or getting new *firmans* that reduced customs duties, and more—but how much to entrust such work to locals “remained a matter of debate” in Van Meersbergen’s account.<sup>339</sup> Whatever it was that Company officials believed frustrated their efforts to seek commercial advantage—to which the term “corruption” has subsequently been attributed—seems related to disappointments in using the help of locals. The Company’s confusion, their lack of trust of the other, or their sheer annoyance at not getting what they wanted—all three factors appear to motivate their corruption allegations in this period.

But the literature today would advise us against taking such complaints at face value. For while the Company may have been on uneven terms with the Mughal rulers, we read that they were at

<sup>327</sup> Mehreen M-Chida-Rizvi, “The Perception of Reception: The Importance of Sir Thomas Roe at the Mughal Court of Jahangir,” *Journal of World History* 25(2/3) (2014).

<sup>328</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 890–91.

<sup>329</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 876.

<sup>330</sup> *Ibid.*

<sup>331</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 883.

<sup>332</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 882.

<sup>333</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 883.

<sup>334</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 884.

<sup>335</sup> *Ibid.*

<sup>336</sup> Roe as qtd. in Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 885.

<sup>337</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 884.

<sup>338</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 892.

<sup>339</sup> *Ibid.*

least in parity with all fellow competing merchants, both foreign and local. We read that “Indian subjects” too used the same “channels and procedures”<sup>340</sup> as the Company to seek advantage or redress from the Mughal administration, and locals too were in the role of “humble supplicants,” like the Company, vis-à-vis the rulers.<sup>341</sup> We go on to read that the Company had the freedom to travel, to use any infrastructure offered, to trade where most profitable, and to trade “on terms strictly determined by the market.”<sup>342</sup>

Even historians like W.H. Moreland, a British officer in the Indian Civil Service writing in 1920, who appears more sympathetic to the Company than today’s scholars are, offers a nuanced portrayal of the matter. On the one hand, he seems to portray the possibility for the Company’s genuine confusion. For example, he tells us that foreign merchants were “surprised” at locals when they refrained from taking advantage of something where the foreign merchant would have deemed it legitimate to do so.<sup>343</sup> He also self-assuredly chronicles a series of perceived malpractices, pinning the blame squarely on local customs. “Bribery,” he states, for example, “was almost universal in India at this time.”<sup>344</sup> Moreland goes on to describe the experience of one of the first European travelers Jean de Thévenot from France, who in his 1666–67 travels was struck by “the insolence of the tax-collectors acting in the name of the lords,” by a king who conferred land “to the highest bidder, or to his favourites,” and by the “extraordinary exactions” which nobles made on their grants.<sup>345</sup>

But on the other hand, even as Moreland claims these “conditions” may seem “nearly intolerable” to his 1920 readers, they probably never affected domestic or international trade throughout the sixteenth century, he nevertheless says.<sup>346</sup> “Bribes, presents, taxes, and even thefts in transit can all be brought into account,” he writes, though remarking, “in the long run, these charges had to be borne by the consumer.”<sup>347</sup> He goes on to observe that:

Indian conventional morality in matters of commerce was not, and is not, perfect; its merit lay in the fact that it provided a system under which commerce could be effectively carried on, and like other such systems it was substantially fair to every one who knew “the rules of the game,” though strangers who tried to take a hand had commonly to pay somewhat dearly for their experience...<sup>348</sup>

If, in the eyes of contemporary literature, and even late colonial work like Moreland’s, the “rules of the game” were not only legible but “fair,” then how much does the British or European representation of corruption in seventeenth-century Indian commerce reflect their sense of being the weaker party vis-à-vis the Mughals, their sense of perceived discrimination? It is true that on occasion we read of discrimination in the technical sense against foreigners in terms of “customs duties.”<sup>349</sup> But to what extent this discrimination should be named ‘corruption’ can be considered

<sup>340</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 888.

<sup>341</sup> Ibid.

<sup>342</sup> Prakash, “The Mughal Empire,” 125.

<sup>343</sup> Moreland, *India at the Death of Akbar*, 249.

<sup>344</sup> Moreland, *India at the Death of Akbar*, 35.

<sup>345</sup> Moreland, *India at the Death of Akbar*, 33.

<sup>346</sup> Moreland, *India at the Death of Akbar*, 48.

<sup>347</sup> Moreland, *India at the Death of Akbar*, 50.

<sup>348</sup> Moreland, *India at the Death of Akbar*, 249–50.

<sup>349</sup> See, for example, Shah, *History of Indian Tariffs*, 3.

a distinct matter that nevertheless occasionally gets conflated in the Company's complaints. After all, sometimes it is the natives against whom 'discrimination' is deployed, as, for example, when we hear of instances of differentiation of "customs duty" for Hindus versus Muslims.<sup>350</sup> And at other times it is the foreigners whom we read receive "such favourable commercial treatment in comparison to native merchants."<sup>351</sup>

To what extent, then, does discrimination in commercial rules get coded as 'corruption' when it is the party perceiving itself as being at the receiving end of discrimination who is doing the coding? Are the allegations of corruption by the Company in this period an index of their frustration as the weaker party? And how might their frustration entail a misreading of local custom, even a deliberate one, on the Company's part?

### 3. The gift

The *firman* is not the only site where corruption in seventeenth-century Mughal India was alleged. What it purportedly took for the Company to secure a *firman* (and what the Company is said to have done when payments were nevertheless exacted from them) represents another site. Writers here often refer to bribery. Those sympathetic to the Company (including its own officials) are more likely to describe bribery as something exacted by local rulers, an unfair cost of 'purchasing' *firmans*. Meanwhile, those critical of the Company are more likely to describe bribery as the devious means whereby the Company circumvented legitimate norms and rules. No matter what comes to mind when they imagine bribery in this period, both sympathizers and critics may nevertheless agree that it is difficult to distinguish bribes from gifts in this period. However, supporters of the Company may find gifts illegitimate, while the Company's critics may find gifts to be simply a cultural custom. Moreover, for the Company's supporters, the perception of the gift changes between the early Company era and later moments in the eighteenth century when the Company was ascendant and soon ruling Bengal.

How was the gift described in the early Company era, that is, from their arrival in 1608 to the mid-eighteenth century? Like the Company's complaints around the *firman*, gift-giving too at first reflected their perception of inferior status vis-à-vis Mughal authorities. Indeed, contemporary accounts portray Roe as "ill-equipped" to contend with "a court whose standards of royal largesse made his modest gifts look painfully scant."<sup>352</sup> For example, Roe is depicted as grumbling in 1616 that "the Governor of Surat required better presents than were at first offered before he would permit trade to be opened..."<sup>353</sup> Almost a century later in 1717, it is in Surat again where the Company is said to have paid Rs. 10,000 to the Mughal regional government of Gujarat: this payment is referred to in a 1966 text by an Indian historian as "*peshkash*" and translated as "gift."<sup>354</sup> (In Hasan's text, the word is translated as "offering.")<sup>355</sup> It may be the sense that a gift could also be a flat-out payment which accounts for why the Company sometimes referred to *firmans* or concessions as "purchased." This is but one way in which the line between gift and bribe becomes blurry. The Company's reference to payments—which in principle could go to

<sup>350</sup> See, for example, Shah, *History of Indian Tariffs*, 3.

<sup>351</sup> Shah, *History of Indian Tariffs*, 10.

<sup>352</sup> Van Meersbergen, "The Diplomatic Repertoires of the East India Companies," 9.

<sup>353</sup> Moreland, *India at the Death of Akbar*, 47.

<sup>354</sup> Mishra, "Trade of Surat and the Imperial Firman," 416.

<sup>355</sup> Hasan, "The Mughal Fiscal System," 714.

economic development—overlaps with their references to gifts, which could be “luxury items for personal use” or for giving to a superior to elevate one’s courtly profile.<sup>356</sup> As such, the line is further blurred.

Gift-giving is a practice which the literature describes both as a courtly ritual and as a mundane event happening at the village level. However, often implicit in portrayals of the gift is some notion of hierarchy. To this extent, the ‘gift’ is akin to ‘patronage,’ and the two concepts appear to overlap sometimes. That gifts are customary is not a notion particular to literature on India: just like for ‘patronage,’ there is tremendous anthropological work done on the concept of ‘the gift’ in societies more generally, especially non-Western ones. Just like in this general literature, in Moreland’s account too, gifts historically formed a part of patronage, and in fact they were a formal “part of the established system.”<sup>357</sup> Etiquette prescribed their offering, we read, “while the value was determined mainly by the ambition of the donor.”<sup>358</sup> Moreland cites the memoirs of Mughal ruler Jahangir where each visitor’s gifts “in succession are described and appreciated from a strictly financial point of view.”<sup>359</sup> Gift-giving, in other words, was a functional and systematized—not haphazard and irrational—practice in Moreland’s account. Moreover, lest we assume that this collapsed any basis to discern abuse, we read that there were proper (and improper) ways to present gifts, for Moreland distinguishes the practice from what he calls “secret bribery.”<sup>360</sup>

Mughal rulers themselves also gave what we might call gifts. Moreland refers to this as “three practical forms” of “patronage,” and he distinguishes between what he calls “the gift of rewards for particular performances,” “conferment of rank” (for which he uses the local term “mansab”), and finally, “the grant of stipends in land or cash,” which will become crucial in our subsequent discussion on the later Company era. Moreland goes on to describe two types of land revenue grants: the *jagir* where revenue collection and governing power over an estate are “bestowed” on a state official either unconditionally or to perform a “public service, such as the levying and maintaining of troops for the benefit of the realm.”<sup>361</sup> In the latter case, what looks like a gift in fact comes with an expectation of a duty. The other type of grant has many names, according to Moreland: “the Turki name of *swyurghal*,” “the Persianised expression *madad-i-ma’ash*,” and several others. Although it was “granted” indefinitely and was “in theory hereditary,” Moreland says, “it would be a great mistake to regard [it] as permanent in the sense which that word bears in modern administration.”<sup>362</sup>

It is with great respect for the practice’s complexity that Moreland renders for us the systematic operation of what could otherwise be monolithically and pejoratively lumped together as ‘gifts.’ The caution for the reader not to project modern sensibilities onto the permanency of the *swyurghal* / *madad-i-ma’ash* land grant reflects a historiographical attentiveness to Mughal India that is more common in scholarship today than in 1920 when Moreland was writing. That being said, the sensitivity to nuance Moreland brings to bear on the characteristic of permanency does not

<sup>356</sup> Van Meersbergen, “The Diplomatic Repertoires of the East India Companies,” 15.

<sup>357</sup> Moreland, *India at the Death of Akbar*, 261.

<sup>358</sup> Ibid.

<sup>359</sup> Ibid.

<sup>360</sup> Ibid.

<sup>361</sup> Editors of Encyclopædia Britannica, “Jāgīrdār system,” *Encyclopædia Britannica*, September 5, 2018, <https://www.britannica.com/topic/jagirdar-system>.

<sup>362</sup> Moreland, *India at the Death of Akbar*, 83.

necessarily extend to his subsequent remarks on the land grant's historical abuse. Therein, Moreland writes that "lavishness in granting coupled with every conceivable variety of fraud in the details of the allotments" alternated with "shorter interval[s] of vigorous financial reform."<sup>363</sup> Moreland sweepingly glosses the "history" of the administrator designated to oversee such land assignments as "a consistent record of corruption."<sup>364</sup>

Here Moreland reflects just how much of a transformation the colonial encounter had wrought on the earlier association of gift-giving in Mughal India as merely customary. In fact, it was already by the late eighteenth century that gift-giving had come to be coded as corrupt. Its status vis-à-vis corruption changed from the early encounters with the Company in the seventeenth century—where gift-giving was an unfair nuisance—to the latter half of the eighteenth century: by this time, the gift came to symbolize thoroughly devious machinations, though in different ways. In fact, we might describe the gift as a transitional notion marking the difference between the early period and the later period of the Company's presence in Mughal India.

Indeed, if there were something like a historiography of colonial-era corruption, it might entail the separation of these two moments in a way that matches the historiographical divisions of the Company's trajectory on the subcontinent. Regarding the first half of this trajectory, from the Company's arrival until roughly the mid-eighteenth century, contemporary historian Om Prakash describes a time of "by and large amicable" relations between local authorities and the Europeans, a relationship "based essentially on perceived mutual advantage."<sup>365</sup> The same has not been said of the second half of this trajectory. Therein, we read of the Company's steady ascendance giving way to their effective rulership over the Mughal province of Bengal—with plenty of violence involved in the process. It is for this reason that Prakash classifies the "functioning" of the Company in the first, earlier period under the heading "the absence of coercion."<sup>366</sup> For Van Meersbergen, the division of the two eras is a division between a "'Mughal-centred' system of diplomatic relationships, ceremonies, and hierarchies" and a "'Company-centred diplomacy.'"<sup>367</sup> In the first half of his periodization, the Company "had little choice" overall when it came to accepting, however grudgingly, local customs if they sought trade advantages.<sup>368</sup> But in the second half, the Company maneuvered the situation to its advantage with more than just overt violence. In other words, contemporary critics also hold practices they deem corrupt to have enabled the Company's rise: gifts and bribes are two such practices.

Already by the end of the seventeenth century, the Company's manner of doing business in India was changing in ways that scholars Neilesh Bose and Victor Ramraj consider corrupt. They refer, for example, to a *firman* which Aurangzeb conferred in 1680 "under extreme duress and accompanied by a Rs. 50,000 bribe."<sup>369</sup> Alongside official orders like *firmans*, Bose and Ramraj also classify the Company's "entry into local customs and practices and working with local traders" as other sources of their growing authority. Crucially, Bose and Ramraj claim that it sometimes involved "selling exemptions" to locals for "reciprocal privileges." Such practices

<sup>363</sup> Ibid.

<sup>364</sup> Ibid.

<sup>365</sup> Prakash, "The Mughal Empire," 124–25.

<sup>366</sup> Prakash, "The Mughal Empire," 119.

<sup>367</sup> Van Meersbergen, "The Diplomatic Repertoires of the East India Companies," 7.

<sup>368</sup> Ibid.

<sup>369</sup> Bose and Ramraj, "Lex Mercatoria, Legal Pluralism," 284.

which would occasionally be “off the books,” we read, so that the Company could maintain its “official fidelity to imperial mandates” even though “bribery and illegitimate transactions” constituted most of its activity.<sup>370</sup>

Indeed, Bose and Ramraj conclude that the Company’s behavior was increasingly characterized by “an aggressive, and at times violent, aspiration towards concessions.” Once the Company was effectively a ruling presence by the second half of the eighteenth century, we read that other European companies in India could not compete “on a basis of equality” anymore.<sup>371</sup> Rather, as Prakash writes, the Company imposed “all kinds of arbitrary regulations” on rival Europeans.<sup>372</sup> Meanwhile, in Bengal where it was governing, the Company no longer traded with locals on terms “determined by the market.”<sup>373</sup> Instead, we read that the relationship was now “one of domination by the Company over these groups,” and it deprived locals of their full “legitimate share.”<sup>374</sup> By these accounts, the very practices which the Company had earlier perceived as unfair were now being undertaken by the Company itself. Where today’s scholars largely see the Company’s early complaints over corrupt discrimination as unfounded, they nevertheless consider its actions in this later period as corrupt. For these scholars, the Company’s later actions are better understood through the notion of the bribe rather than the custom of the gift.

The picture of corruption in eighteenth-century Mughal India that many of the era’s British writers painted, however, is rather different. For these writers, it is the local culture which is to blame: not only gift-giving, but the entirety of Indian commerce was allegedly corrupt. James Mill was prominent among such critics, and in 1817 he had the following to say in his *History of British India*. The passage is worth citing at length, given how authoritatively the book was received by contemporaries:

In India as under most uncivilised governments, the transit of goods within the country was made subject to duties; and upon all the roads and navigable rivers, toll-houses or custom-houses were erected which had power of stopping the goods till the duties were levied. By the rude and oppressive nature of the government, these custom-houses were exceedingly multiplied; and in long carriages the inconvenience of numerous stoppages and payments was very severe. As in all other departments so in this, there was nothing regular and fixed, the duties varied at different times and different places, and a wide avenue was always open for the extortion of the collectors.<sup>375</sup>

Mill’s passage reflects another differentiation we might make between the early and late Company eras where the portrayal of corruption is concerned. For by the time *History of British India* was published, notions of bribery and extortion had thoroughly subsumed any respect for customary practices like gift-giving as systematic or positively functional. In other words, something happened to the British perception of India. Gifts went from something which Company officials believed were a nuisance demanded by Mughal rulers to a sign of the devious and depraved nature of the country. The change in what constituted the gift as a symbol of much deeper corruption is

<sup>370</sup> Bose and Ramraj, “Lex Mercatoria, Legal Pluralism,” 285.

<sup>371</sup> Prakash, “The Mughal Empire,” 111.

<sup>372</sup> Ibid.

<sup>373</sup> Ibid.

<sup>374</sup> Ibid.

<sup>375</sup> John Mill, *History of British India: Volume II*, 193–94 as qtd. in Shah, *History of Indian Tariffs*, 19.

part and parcel of the Company's own transition from subservient trading partner to powerful ruler of India, as we shall see. Therein, we might say that it was the Company's behavior itself which deformed Mughal India into something 'backwards', such that writers like Mill could then deem 'corruption' as inherent to the country.

But the Company was not always spared by British writers in this period. In fact, the Company's entanglement in gifts marks one of the main sites of corruption alleged by the era's contemporaries back home in Britain. Again, this concerns developments in the late eighteenth century: having instigated and won battles in Bengal, the Company took over the right of revenue-collection from local rulers. Now it was the Company that was in the position to receive gifts, a practice which began as early as the reign the first Bengal Presidency (1757–60) under Robert Clive. We read that Clive had to convince critics that his land grant was "a present from the Mughal emperor" and not "part of some underhanded negotiation."<sup>376</sup>

Writers both then and now criticize Clive's "insistence on keeping a jaghire (land grant)" which the titular Mughal ruler of Bengal had given him. Company officials are also said to have received gifts and "the promise of a regular salary" for representing in England the interests of a local leader from the Carnatic region. These gifts have also been read as deferments for debts which the local Carnatic leader owed the Company and which "made vast fortunes from extortionate rates of interest."<sup>377</sup> Indeed, it seems that gifts were not just given to the Company out of gratitude or even with an expectation of return. Rather, following the Company's crucial victory at Plassey in Bengal, Company officials including those now tasked with Bengal's administration "used their ruling influence in extorting gifts and fortunes from native princes and others."<sup>378</sup> In such accounts, not only had the line between gifts and bribes collapsed, but so too had the line between gifts and extortion. Instead, a new custom of the gift appears to have been established: in Dirks, we read that Company employees increasingly accumulated "extraordinary fortunes simply by taking bribes" from rivaling locals.<sup>379</sup> Dirks says that these "bribes" were referred to by Company officials as "presents."<sup>380</sup>

In such accounts, however much the Company may have perceived gift-giving to be discriminatory, there does not appear to be much compunction on its part to be on the receiving end of the practice and to transform it altogether. Dirks cites an estimation of a 1772–73 House of Commons committee that "presents"—Dirks here puts the term in scare quotes—valued at "over two million pounds" were "distributed" from the Company's victory at Plassey in 1757 to 1765.<sup>381</sup> The practice came under scrutiny by the British and soon represented the Company's excesses in India and, as we shall consider later, India's potential to corrupt. Among the prominent individuals who came under criticism in Britain for receiving gifts were not only Clive but also head of the Presidency of Fort William in Bengal (1772–85) Warren Hastings. Both are later credited with laying the groundwork for what would become the British Empire in India, but at the time both faced intense governmental scrutiny. Clive would face a hearing by the select committee cited

<sup>376</sup> Dirks, *The Scandal of Empire*, 10.

<sup>377</sup> Dirks, *The Scandal of Empire*, 12.

<sup>378</sup> B.B. Misra, *The Central Administration of the East India Company 1773–1834* (Manchester: Manchester University Press, 1959), 381.

<sup>379</sup> Dirks, *The Scandal of Empire*, 10.

<sup>380</sup> Ibid.

<sup>381</sup> Ibid.

earlier, and Hastings would famously go on to face an impeachment trial which began in 1787.<sup>382</sup> Therein his relationship to gifts among other charges of corruption featured prominently in the allegations. The trial is very well-documented in literature on British colonialism in India where it represents a turning point, precipitating what are called the subsequent ‘reforms’ of the Company.

It is noteworthy that Clive and Hastings defended their receiving gifts, that too by reference to local custom. In Dirks’ account, Clive held that “presents were permissible” if “given voluntarily for genuine interests” and did not harm Company interests.<sup>383</sup> For Hastings, meanwhile, the practice of receiving gifts was “usual in the country, and it is impossible for any person to read any oriental history without knowing that the custom has prevailed all over the EAST [sic], from the most ancient times to the present.”<sup>384</sup> As historical and anthropological literature about the subcontinent tells us, gifts were indeed an old custom in India, but it is remarkable to see gifts defended as customary from senior officials of a Company whose success was otherwise premised on disrespecting local commercial customs when deemed profitable to do so.

Furthermore, gifts would often become personal fortunes for those in the Company who received (or extorted) them. As such, they could be “a direct deduction of Company coffers,” Dirks reminds us.<sup>385</sup> Dirks’ narrative concerns “the personal activities and acquisitions” of senior Company officials, and for him, any “misreadings” on their part about local customs “were clearly not unintentional.” Rather, they served to “excuse and further imperial aggrandizement” locally and to justify such behavior in the parliamentary inquiries which were to come.<sup>386</sup> Custom became an excuse for corruption, but in this case, it was not the local but rather the foreigner proffering the claim. In the case of gifts, it may be that Clive and Hastings individually had actually read such customs correctly: at least in principle, both could have received gifts in a manner deemed legitimate and fair by Mughal standards, though this argument appears to have fallen short for onlookers of the period and critics today. The other issue, crucial for us in this chapter, appears to hinge on the way the line was drawn—or in this case, not drawn—between Company profits and personal fortune.

This particular problem brings up a related Company practice that had blurred this same line and was also eventually discredited as ‘corrupt’: the practice of private trade. Private trade was one of the most challenging issues with which the Company struggled in its quest for profits in India. One of its early facets—that of so-called ‘interlopers’—was the source of rich controversy and debate, while a later facet—the abuse of the *dastak*—was among the crucial triggers for subsequent changes in Company policies.

#### 4. The *dastak*

We opened this chapter with mention of the royal charter granted to the Company for monopoly over trade in what was called the ‘East Indies.’ We might have added that what went by the name ‘East India Company’ was not exactly a unified entity acting as we might imagine today’s modern multinational enterprises to do. Rather, the East India Company has been described as a highly

<sup>382</sup> Andrew Rudd, *Sympathy and India in British Literature, 1770–1830* (London: Palgrave Macmillan, 2011).

<sup>383</sup> Dirks, *The Scandal of Empire*, 44.

<sup>384</sup> Hastings as qtd. in Buchan and Hill, *An Intellectual History of Political Corruption*, 166.

<sup>385</sup> Dirks, *The Scandal of Empire*, 44.

<sup>386</sup> Dirks, *The Scandal of Empire*, 46.

“experimental,”<sup>387</sup> “hesitant, semi-speculative financial venture”<sup>388</sup> of “a small group of merchants”<sup>389</sup> funded at first on “a voyage-by-voyage basis.”<sup>390</sup> By no means did this group represent the entirety of that era’s British merchant class. Rather, those who could not get into the “favoured ring” of the Company began to operate as “Free Merchants,” a phenomenon observed from the very start of the Company.<sup>391</sup> It is these ‘Free Merchants,’ some of whom would go on to form a rival ‘New Company’ in 1698 (the ‘English Trading Company Trading to the East Indies’), that are sometimes referred to as ‘interlopers.’ In other accounts, the free merchants were said to be former servants of the Company who were allowed to continue to trade in the East Indies so long as they did not impinge on the Company’s business.<sup>392</sup> These merchants operating independently were no small fringe group. In fact, by the eighteenth century, we read that they were the biggest and most profitable European group involved in what has been called “private trade” in the East Indies.<sup>393</sup> Though it is largely recent accounts that we will consider below, the frustration with private trade and its overlap with corruption is not a phenomenon which only scholars today render visible. Rather, its problematization is a feature of the Company era itself. The trajectory of the problem of private trade traverses the early seventeenth century through the late eighteenth century, and its characterization as corrupt reached a fever pitch concomitant with the rise of Company rulership in India, especially once crystallized around a Mughal legal instrument called the *dastak*.

Prior to its association with the *dastak*, private trade was not always seen as exclusively a matter of interlopers or independent operators. It was also something which Company employees, at all levels, themselves could partake in. At times the Company even formally permitted private trade for its own constituent merchants. The practice was allowed already as of the first few years following the Company’s founding in the early seventeenth century.<sup>394</sup> Subsequently in 1675, we read that private trade was permitted for “any commodity...to any port or places in the East Indies...”<sup>395</sup> Private trade was therefore sometimes allowed, sometimes not allowed; sometimes it denoted the activity of rivals of the Company and other times, that of Company employees themselves. Accordingly, historian Ian Bruce Watson has offered an expansive definition of private trade, referring to it “as a ‘portmanteau’ term delimiting all trade with the East Indians and within the East Indies not conducted for the Company’s benefit.”<sup>396</sup> But this characterization does not quite get at the Company’s recognition, however grudgingly, that either the explicit or tacit approval of private trade was ultimately in its own interest.

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<sup>387</sup> Moreland, *India at the Death of Akbar*, 225.

<sup>388</sup> K.N. Chaudhuri, *The English East India Company: The Study of an Early Joint-stock Company 1600–1640* (London: Frank Cass and Co. Ltd., 1965), 3.

<sup>389</sup> Erikson, *Between Monopoly and Free Trade*, 18.

<sup>390</sup> Ibid.

<sup>391</sup> Mukherjee, *The Rise and Fall of the East India Company*, 78.

<sup>392</sup> Maxine Berg et al., “Private Trade and Monopoly Structures,” in Emily Erikson, *Chartering Capitalism: Organizing Markets, States, and Publics* (Bingley: Emerald Publishing Limited, 2015), 130.

<sup>393</sup> Berg et al., “Private Trade and Monopoly Structures,” 130–31.

<sup>394</sup> Brijen Kishore Gupta, *Sirajuddaullah and the East India Company, 1756–1757: Background to the Foundation of British Power in India* (Leiden: Brill, 1962), 11.

<sup>395</sup> Commission of appointment from the Court of Directors to Streynsham Master, pars. 41–42, *Master Diary*, I, 213 as qtd. in Gupta, *Sirajuddaullah and the East India Company*, 11.

<sup>396</sup> Berg et al., “Private Trade and Monopoly Structures,” 130–31.

It might be worth recalling how this loose toleration of what could otherwise be officially discouraged mirrors the posture of the Mughal administration described earlier, one in which the presumed difficulty of overseeing potential abuses gave way to tacit approval. The issue around the *dastak* is one way to represent this early ambiguity and toleration. Defined as a pass which exempted its holder from customs and inland tax, the *dastak* was effectively a permit to trade duty-free that Mughal authorities could choose to confer at their discretion on locals or foreigners. Like the *firman* and practice of gift-giving we considered above, the *dastak* was another Mughal custom which the Company abused—according to writers today, as well as critics in the period itself. What marks its controversy as distinct from the other two customs, however, is that not only did British contemporaries criticize its abuse, but so too did senior Company officials themselves in certain cases. That being said, even when abuse in private trade was recognized as such—and there is no shortage of such instances in the literature—the eventual remedy in the initial years never seemed to be simple abolition. The early story, rather, appears to be one of reluctant acquiescence. For example, we read of Company servants in the East Indies from 1620–30 engaging in private trade that “had to be first recognized and then abandoned to them in 1660.”<sup>397</sup>

In another early case of the *dastak*’s implication in private trade, we find a similar arc of recognition and acquiescence: this concerns when Company servants began issuing such passes themselves.<sup>398</sup> In 1682, certain *dastaks* specifying the quantity and quality of goods which could pass duty-free had been issued only to two senior officers in the Company. Nevertheless, Company employees started giving them to locals in what has been called “an infinite manner,” thereby “defrauding the Mughal authority of its proper revenues.”<sup>399</sup> Company directors based in London were informed of employees “creatively using the company’s trading privileges,” and they occasionally discouraged it.<sup>400</sup> But despite such “directives,” contemporary accounts tell us this “malpractice” continued through most of the eighteenth century.<sup>401</sup> In fact, we read that “no explicit prohibition of it was ever made in the contract and no individual was ever dismissed on the basis of private appropriation of corporate trading rights.”<sup>402</sup>

Beyond the *dastak*, we find that directors encouraged employees to use other “privileges and protection” that belonged to the Company, as when they permitted employees to store the privately-traded goods in Fort William where Company goods were held securely. Furthermore, when a 1717 *firman* was understood as being granted exclusively for the Company to trade, we read that once employees “insisted,” their employers gave in to the idea that “the company’s privileges applied to all Englishmen in Bengal whether in their public activities or in their private activities.”<sup>403</sup> Another related problem in this early period concerned interlopers which one scholar defines as those “who carried on trade between Europe and the Indian Ocean countries in open violation of the Company’s charter.”<sup>404</sup> By 1675, interloping posed such a threat that some are led

<sup>397</sup> I. Durga Parshad, *Some Aspects of Indian Foreign Trade 1757–1893* (London: P.S. King & Son Ltd., 1932), 19.

<sup>398</sup> Santhi Hejeebu, “Contract Enforcement in the English East India Company,” *The Journal of Economic History* 65(2) (2005): 516.

<sup>399</sup> Gupta, *Sirajuddaullah and the East India Company*, 12.

<sup>400</sup> Hejeebu, “Contract Enforcement,” 516.

<sup>401</sup> Gupta, *Sirajuddaullah and the East India Company*, 12.

<sup>402</sup> Hejeebu, “Contract Enforcement,” 516.

<sup>403</sup> Ibid.

<sup>404</sup> Gupta, *Sirajuddaullah and the East India Company*, 12.

to claim it had degenerated into near piracy.<sup>405</sup> In fact, for Mukherjee, trade and piracy were difficult to distinguish in this period.<sup>406</sup> Furthermore, because private trade could be lucrative enough to secure one a personal estate, being fired from the Company “had little impact” on newly wealthy employees engaging in the practice who instead, we read, “simply became interlopers.”<sup>407</sup> Despite the antagonism between Company directors and the interlopers, we even read of “neutrality, and sometimes collusion” between Company employees and interlopers in India.<sup>408</sup> In fact, we are told interlopers’ ships were used for the private trade of Company employees.<sup>409</sup> The abuse of the *dastak*, therefore, was but one of a number of interconnected problems for the Company which tried to lay exclusive claim over the profit it generated. The Company failed to do so entirely in the seventeenth and early eighteenth century, as the accounts above indicate.

As the eighteenth century progressed, we read that “[t]he abuse of *dustucks* became progressively worse.” Even in English historian F.P. Robinson’s otherwise sympathetic account from 1912 of the Company’s rise, we read that in Bengal by 1765 “the reputation of the English was so bad that no sooner did a European come into one of the native villages, ‘than all the shops were immediately locked up, and all the people for their own safety ran away.’”<sup>410</sup> Elsewhere, we find that during the reign of the last independent ruler in Bengal, “[t]he abuse of trade privileges, particularly of the privilege in connection with the Company’s dustuck, which was used not only by the servants of the Company, but by the natives of the country also, to whom it was sold for valuable considerations, was one of the chief complaints of the Nawab.”<sup>411</sup> And even Mir Qasim, the puppet Nawab the Company installed in Bengal following the Battle of Plassey, is said to have complained that “every man with a Company’s dustuck in his hand, regards himself as not less than the Company.”<sup>412</sup>

By the late eighteenth century, Company private traders “grew bolder,” Robinson writes, and were able to amass personal profits through the *dastak*.<sup>413</sup> In Dirks’ account, it is already from 1752 (several years prior to Plassey) that the use of the *dastak* increased, and “local contracting merchants” who normally undertook private trade on behalf of the Company’s merchants “were replaced by Company servants who used their own agents.”<sup>414</sup> By issuing *dastaks* to enable duty-free trade domestically, Company private traders could undersell local merchants who were not exempt from duties, and, by doing so, “secure the entire country trade for their personal profit.”<sup>415</sup> Local officials tasked with inspecting the *dastaks* were rendered ineffective: Company agents would call British sepoys to imprison them upon any interference. A senior Company official Harry Verlest even commented that it was common for a local “to purchase the use of the name”

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<sup>405</sup> Ibid.

<sup>406</sup> Mukherjee, *The Rise and Fall of the East India Company*, 301.

<sup>407</sup> Gupta, *Sirajuddaullah and the East India Company*, 11.

<sup>408</sup> Edward Thompson and G.T. Garratt, *Rise and Fulfillment of the British Rule in India*, p. 39 as qtd. in Gupta, *Sirajuddaullah and the East India Company*, 12.

<sup>409</sup> Gupta, *Sirajuddaullah and the East India Company*, 12.

<sup>410</sup> F.P. Robinson, *The Trade of the East India Company from 1709 to 1813* (Cambridge: Cambridge University Press, 1912), 69.

<sup>411</sup> Parshad, *Some Aspects of Indian Foreign Trade*, 11.

<sup>412</sup> Parshad, *Some Aspects of Indian Foreign Trade*, 40.

<sup>413</sup> Robinson, *The Trade of the East India Company*, 70.

<sup>414</sup> Dirks, *The Scandal of Empire*, 45.

<sup>415</sup> Robinson, *The Trade of the East India Company*, 69–70.

of a Company employee and use the threat of imprisonment “to harass and oppress his fellow-countrymen.”<sup>416</sup>

Dirks tells us that the senior Company directors were “under no illusion about the nature of the problem,” issuing 25 (unheeded) directives in the period from 1702 to 1756. In a letter from 1765, the directors even went on to state:

Treaties of commerce are understood to be for the mutual benefit of the contracting parties. Is it then possible to suppose that the Court of Delhi by conferring the privilege of trading free of customs could mean an inland trade in the commodities in their own country at that period unpractised and unthought of by the English, to the detriment of their revenues, and ruin of their own merchants?...[W]e do not find such a construction was ever heard of until our own servants first invented it, and afterwards supported it by violence.<sup>417</sup>

Subsequent historians have also asked “Who could suppose the Moghul Emperor meant by his farman to give to the English the right to trade from place to place, in the centre of his own country, upon a better footing than his own subjects?”<sup>418</sup> But this particular passage above, with its apparent concern over customs-free private trade enabled by the *dastak*, is a curious one for several reasons.

Firstly, what we find in this passage is an admission on the part of senior Company officials—a stark one at that—of the deliberateness of abuse on the part of their lower-level employees, that too “supported [] by violence.” Therefore, when we think about those British contemporaries like Mill who imagined the subcontinent as a site of lawlessness and corruption well prior to the Company’s arrival, we may detect a subtle projection at work. After all, the Company’s admission of its employees’ abuse of the *dastak* stands in contrast to complaints we read in British texts of the vexatious payments being exacted from the Company by rapacious locals—complaints which we see writers like Mill use to portray a near-state of commercial anarchy in India.<sup>419</sup>

Secondly, for all our discussion of the Company’s *misreading* of local norms, here we see an avowed concern for how commercial treaties *should* be “understood,” what their terms “could mean.” Both here and elsewhere, we see the Company’s concern over interpretation foregrounded in certain texts. Dirks, for example, cites Company directors as having written three years after the passage above:

Our chief object in confining our servants to the strict letter of the phirmaund [firman] has been to do justice to the natives in restoring them their rights, yet we never meant to give up such revenues as Government is justly entitled to for the protection it gives.<sup>420</sup>

In both cases, we might wonder how much of the desire for reading “the strict letter” can be attributed to the fact that it was the Company which would suffer losses: in the first passage, losses from employees’ abuse of the *dastak*, and in second passage, losses of local revenue now that it

<sup>416</sup> Robinson, *The Trade of the East India Company*, 70.

<sup>417</sup> Directors as qtd. in Dirks, *The Scandal of Empire*, 47.

<sup>418</sup> Parshad, *Some Aspects of Indian Foreign Trade*, 43.

<sup>419</sup> John Mill, *History of British India: Volume II*, 193–94 as qtd. in Shah, *History of Indian Tariffs*, 19.

<sup>420</sup> Dirks, *The Scandal of Empire*, 47.

had assumed the role of government in Bengal. Once it held a superior position in India, it seemed that it was the Company's own interests to which misreading could pose a threat.

Thirdly, and finally, the depiction of the abuse of the *dastak* as a “construction” and “invention” suggests something crucial about the conceptualization of corruption in this period. What had first been a commercial norm, internally coherent for locals to generate prosperity in the Mughal Empire, would—after the arrival of the Company—be deemed the very site of ‘corruption.’ The case of the *dastak* suggests that a given practice did not merely undergo a recoding. Rather, it was transformed into an abusive practice: we are not talking about the same thing when we speak of the *dastak* as it was intended versus when it was manipulated. Moreover, there was an active effort to manipulate it. For the (abuse of the) *dastak* to be associated with corruption, therefore, it had to be constructed and invented as such, as something altogether different. Ultimately, what the abuse of the *dastak* suggests is that the Company *created* what was retroactively called ‘corruption,’ by turning existing practices into something that suited them. Eventually, although the Company would be held responsible for more than just the abuse of the *dastak*, as we shall see in the remainder of the chapter, it was India which would come to be viewed as the original source of Company corruption.

### 5. ‘Old Corruption’

Our discussion thus far of three Mughal instruments sets the scene for what happened in Company-era India as the nineteenth century approached. At this point, the perception of excess—in particular, as a result of the personal wealth of Company officials high and low through gift-receiving and private trade respectively—had been building up. Not only were people back home in Britain criticizing the Company for such behavior, but Company Directors in India too were eager to re-channel profits that they believed were rightfully theirs. Both of these factors played a role in the emerging characterization of the Company as corrupt in the late eighteenth century: the word was now decisively used as a charge against the Company itself. Ultimately allegations of corruption against the Company led critics to ban various practices, modify the organization of the Company, dissolve its monopoly in India through a parliamentary act in 1813, and ultimately take over its rulership of India in 1857. All this happened under the banner of what was called ‘reform,’ which we will examine in the subsequent section. For the moment, we consider a third factor that lent credence to the corruption accusations against the Company: the rising criticism of certain practices in Britain itself that have come to be referred to as ‘Old Corruption.’

‘Old Corruption’ has been described by historian Philip Harling as the allegation of “urban radicals” and “country gentlemen” (the lowest rank of landed gentry in British nobility) against the state. Their claim was that “a parasitic system” was taxing the nation’s wealth and diverting it to a narrow elite, “whose only claim to privileged status was its proximity to the sources of patronage.”<sup>421</sup> The specific practices which these critics targeted mostly concerned government, and they included “sinecures,” “reversions,” and “rotten boroughs”: practices, in other words, in which senior government officials dispensed government offices, contracts, and constituencies to

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<sup>421</sup> Philip Harling, *The Waning of “Old Corruption”: The Politics of Economical Reform in Britain, 1779–1846* (Oxford: Clarendon Press, 1996), 1.

moneyed supporters, often to purchase influence.<sup>422</sup> In the case of sinecures, “influential patrons” received “lucrative emoluments” from the offices which officials gave them.<sup>423</sup>

For a number of writers, the notion of public office as the ‘property’ of the office-holder—widespread in eighteenth-century Britain—was the source from which practices of ‘Old Corruption’ derived. Yet an earlier arc can also be traced: one can even go as far back as twelfth-century Britain, as does N.S.B. Gras in his 1912 article “The Origin of the National Customs-Revenue of England.” In this text, we see the same difficulty British onlookers described in the Mughal context: that of separating tolls, taxes, licenses from what are perceived as arbitrary royal prerogatives or even capture and seizure. Here too, as Gras mentions, the absence of “a discriminating nomenclature at the formative period” becomes a setback in terms of historiography.<sup>424</sup> For example, one of his references is to the “prise”: which could mean either the king’s *seizure* of or the king’s *purveyance* of goods from a particular shipment for his own consumption or that of the court, for resale, for the Great Wardrobe, or some other purpose.<sup>425</sup> It is Gras’ notion of “abuse” of the prise that is especially relevant for the critic of Old Corruption.<sup>426</sup> The abuses of the prise which he catalogs are as follows: the taking of “excessive amounts [of producers’ or merchants’ goods], non-payment, delay of payment, undervaluation,” and finally, “the abuse of the irregular or unsystematic prise.”<sup>427</sup> Gras’ study is a good (even if unwitting) example of how something called ‘corruption’ in Britain could also be said to be as timeless as is sometimes alleged for India—that is, if one so desired to suppose such long continuity.

Indeed, much of what was deemed by the Company and its contemporaries to be corrupt on the subcontinent appears to mirror practices that—in an earlier (or even the same) era—had been taking place in Britain itself. Gift-giving is one such practice. In the British context, just as in the Mughal one, we see references to it as ‘patronage’ or criticisms of it as ‘bribery,’ and the Company is often in the spotlight. For example, we read of “its traditional method of offering ‘presents’ and ‘loans’” to safeguard against threats to its monopoly and secure its renewal.<sup>428</sup> In the intense competition between the Company and rival companies to secure a monopoly charter from the Crown, we read that “[b]ribes flowed like water.”<sup>429</sup> When it assumed the right to collect revenue in Bengal in 1765, the Company negotiated to pay an annual subvention of £400,000 to Parliament for maintaining the charter—which Dirks refers to as a “massive bribe.”<sup>430</sup> The Company also financed public debt through bonds and, we read, “was obliged to lend £3.2 million—in effect its entire equity capital—to the state” in 1709.<sup>431</sup> For some analysts, it is these “loans” which cannot so easily be distinguished from bribery.<sup>432</sup> (Incidentally, the practice of “usury” appears to have

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<sup>422</sup> Ibid.

<sup>423</sup> Ibid.

<sup>424</sup> N.S.B. Gras, “The Origin of the National Customs-Revenue of England,” *The Quarterly Journal of Economics* 27(1) (1912): 108.

<sup>425</sup> Gras, “The Origin of the National Customs-Revenue,” 113–14.

<sup>426</sup> Ibid.

<sup>427</sup> Gras, “The Origin of the National Customs-Revenue,” 115.

<sup>428</sup> Mukherjee, *The Rise and Fall of the East India Company*, 394.

<sup>429</sup> Mukherjee, *The Rise and Fall of the East India Company*, 87. See also Mukherjee, *The Rise and Fall of the East India Company*, 71, 65, 78.

<sup>430</sup> Dirks, *The Scandal of Empire*, 14.

<sup>431</sup> Dirks, *The Scandal of Empire*, 38.

<sup>432</sup> Mukherjee, *The Rise and Fall of the East India Company*, 78.

its own relationship with ‘corruption’ in Britain in ways we no longer usually attribute to the word.)<sup>433</sup>

As in the case of the Mughal context, however, the prevalence of Old Corruption does not mean there were no means of discerning abuse in Britain. For example, historians Bruce Buchan and Lisa Hill cite the seventeenth-century notion of “gifts gone wrong,” the giving or receiving of which “did not conform to conventional expectations of generosity, grace and liberality, but which were given to mask enmity, or caused resentment when generosity was not returned.”<sup>434</sup> These also included those gifts given to secure “official favour” which, rather than the “customary giving of gifts to one’s patron,” involved a “secret gift of money” in return for some service. “In England,” Buchan and Hill remark, “the word for this was ‘briberie’ or ‘bribery,’” a term whose usage they tell us was rare in the sixteenth century, though diplomatic practice sanctified it.<sup>435</sup> This differentiation between “good and bad gifts” is just one example of a distinction between proper use and abuse, legitimate and illegitimate. Therefore, when we see critics of Old Corruption decry the blurred lines of the personal sphere and public duty, Buchan and Hill tell us that it “should not blind us to the ability of contemporaries to navigate the distinction.”<sup>436</sup>

Nor should we be blind, as we noted in the case of Mughal India, to the earlier functionality or rationality of what was critiqued as (Old) corruption. Harling, for instance, cautions us to “refrain from passing Whiggish judgments on the eighteenth-century administrative structure, which was clearly not as uniformly wasteful and ‘irrational’, as some historians have made it out to be.”<sup>437</sup> “Property in office,” he says, “had long been considered a safeguard against any royal pretensions to absolutist control over the administrative system.”<sup>438</sup> Besides, Harling writes, property’s “virtual sacralization” in the eighteenth century made it hard for reform to curb what was seen as an office-holder’s “right” to their office.<sup>439</sup>

All this said, much of the earlier rationale behind these constituent elements of Old Corruption seems to have been forgotten, while only the stigmas appear to linger on: after all, these are practices which to this day we would still associate with the word ‘corruption.’ Perhaps it is not a stretch to say that ‘Old Corruption’ may well be the predecessor to today’s generic notion of corruption. Indeed, we still bring to bear many of the same constituent elements: most of all, the key notion that public office should not be used to accrue private wealth. We also bring to bear many of the same ideals which would represent reform and progress of corruption: namely, “a lofty standard of public conduct” for government officials.<sup>440</sup> Incidentally, Old Corruption critics added to this list of ideals: “cheap government” (i.e. “low expenditures” set in contrast to high inflation), a “laissez-faire” economic approach, and “free trade.”<sup>441</sup> These ideals too have a continued impact today, as can be felt in our discussion of the License Raj in the previous chapter

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<sup>433</sup> Buchan and Hill, *An Intellectual History of Political Corruption*, 114.

<sup>434</sup> Buchan and Hill, *An Intellectual History of Political Corruption*, 111–12.

<sup>435</sup> *Ibid.*

<sup>436</sup> Buchan and Hill, *An Intellectual History of Political Corruption*, 111.

<sup>437</sup> Harling, *The Waning of “Old Corruption”*, 23.

<sup>438</sup> Harling, *The Waning of “Old Corruption”*, 22.

<sup>439</sup> *Ibid.*

<sup>440</sup> Harling, *The Waning of “Old Corruption”*, 9.

<sup>441</sup> *Ibid.*

where liberalization was seen as a kind of antidote to the corruption associated with state planning—a regime that was anything but “laissez-faire” and “cheap” for its critics.

If the debate around Old Corruption has left its influence on ideas of corruption (and its reform) today, then, as we shall see, allegations of corruption against the Company were a central part of this debate. Company corruption was believed to be linked to Old Corruption in at least three crucial ways. The first concerns the gifts or bribes which the Company was said to give to the Crown to secure and retain its monopoly. (Indeed, the debate over the Company’s monopoly is a crucial matter in the literature on corruption in the Company era, and we will consider it at length in Chapter 5 of this study.) The second concerns the system of eighteenth-century “borough-mongering,” one of the practices which Old Corruption critics decried, and which is argued to have emerged from how companies vying for the monopoly over trade with the East Indies electioneered.<sup>442</sup> The third concerns allegations against former Company employees who used their wealth to ‘purchase’ seats in parliament.

The critique of ‘Old Corruption’ and the critique of the Company were indeed intertwined. As one contemporary writer describes critics of the era: “They opposed ‘old corruption’ at home and the ‘old colonial system’ abroad.”<sup>443</sup> In this account, Old Corruption and a colonial system of plunder and conquest were connected, and the monopoly over colonial trade in particular was a part of this connection.<sup>444</sup> Even Parliament, which would become a key target of Old Corruption, came to be seen as “linked” to “middle-class institutions as the East India Company” in the imagination of certain critics.<sup>445</sup>

In fact, linkages between Parliament and the Company are described in the literature as a crucial factor by which Old Corruption and Company corruption became intertwined in the eyes of critics. One historian today describes the “genuine nexus” between “Pitt-Liverpool Tories” and “the older, more conservative segments of the middle classes like the East India Company.” (Whig aristocrats’ allegiance, on the other hand, was apparently to “newer segments of the middle class” like the manufacturers in Northern England and all those who dissented from or did not completely agree with “the old consensus.”)<sup>446</sup> Indeed, we are told that it was the Company’s efforts that in 1784 led to William Pitt the Younger’s return to power. As a token of “his gratitude,” we read that the new Prime Minister even “reduced the duty on tea from 50% to 12.5% and shortly afterwards introduced his famous India Bill.”<sup>447</sup>

The conversations which took place around a 1783 predecessor to this Bill—introduced by the then-governing Fox-North Coalition—crystallize how fears of Company corruption were tied up with parliamentary influence. Our brief consideration of it herein sets the stage for the larger discourse of reform which began to emerge in this period. In Harling’s account, it was this 1783 East India Bill introduced by Charles Fox which “revived the popular charges of élite corruption,” since the Bill was predicted to greatly increase “the patronage” that ministers could deploy to

<sup>442</sup> Mukherjee, *The Rise and Fall of the East India Company*, 87.

<sup>443</sup> Tom Burden, “Victorian Capitalism and the British Legacy in India,” in *Contemporary Europe and South Asia*, eds. D.K. Giri and B. Vivekanandan (New Delhi: Concept Pub. Co., 2001), 1–2.

<sup>444</sup> Ibid.

<sup>445</sup> W.D. Rubinstein, “The End of Old Corruption in Britain 1780–1860,” *Past & Present* (101)1 (1983): 63.

<sup>446</sup> Rubinstein, “The End of Old Corruption,” 77.

<sup>447</sup> Robinson, *The Trade of the East India Company*, 104.

reward supporters and bribe opponents.<sup>448</sup> Edmund Burke was one such critic prominent in the debates over the Bill. According to Dirks, Burke criticized those who made personal fortunes on the subcontinent, returned home and used what Dirks calls “their corrupt fortunes” to purchase positions in the landed gentry and power in politics more broadly.<sup>449</sup> In one particular quotation which Dirks cites, we read Burke’s remarks about these men returning rich from Company trade in India:

They marry into your families; they enter into your senate; they ease your estates by loans; they raise their value by demand; they cherish and protect your relations which lie heavy on your patronage; and there is scarcely a house in the kingdom that does not feel some concern and interest that makes all your reform of our Eastern government appear officious and disgusting.<sup>450</sup>

“Reform” is the word Burke uses, and indeed both Fox’s and Pitt’s ‘India Bills’ have been understood by some to have been intended as precisely that. Critics deemed the Fox version as anything but reform. Those like Christopher Wyvill—landowner, cleric, and one of the leading critics of the Old Corruption through his Yorkshire Association—said that the Bills would “introduce[] corruption to a degree of profligacy which this country had never seen...”<sup>451</sup> According to Harling, however, Fox did intend for the Bill to curb, at least in part, “inside privileges,” and broaden the capacity for “responsible government.”<sup>452</sup> Fox wished to have British government secure direct rule over the Company’s commerce and governance networks. Critics like himself believed the Company had exploited such networks to secure personal fortunes through (what Harling describes as) “private trade, extortion, and warfare,” all at the cost of local rulers as well as people in both the colony and the metropole.<sup>453</sup> By legislating to supervise the Company more closely, Fox tried to save (what he called) “the poor unhappy natives” from the “anarchy and confusion” and “peculation” under Company rule and prevent the Company from “bankruptcy.”<sup>454</sup>

Critics of the Bill saw the attempt instead as “a plot to multiply the fruits of office available to Foxites and Northites.”<sup>455</sup> Harling quotes Pitt, who would go on to succeed Fox as Prime Minister, denouncing the Bill as “the boldest and most unconstitutional measure ever attempted, transferring at one stroke, in spite of all charters and compacts, the immense patronage and influence of the East to Charles James Fox, in or out of office.”<sup>456</sup> It was not any better for critics that “the patronage of India should go to the crown,” as Harling quotes peer Henry Belasyse (the 2nd Earl Fauconberg) as having said, “but shall it go to Charles Fox? Is he a man of such virtue?”<sup>457</sup> Wyvill meanwhile remarked: “The man who wanted the patronage of the Indies, wanted to govern by corruption.”<sup>458</sup>

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<sup>448</sup> Harling, *The Waning of “Old Corruption”*, 38–39.

<sup>449</sup> Dirks, *The Scandal of Empire*, 80.

<sup>450</sup> Burke as qtd. in Dirks, *The Scandal of Empire*, 80.

<sup>451</sup> Wyvill as qtd. in Harling, *The Waning of “Old Corruption”*, 38.

<sup>452</sup> Harling, *The Waning of “Old Corruption”*, 40.

<sup>453</sup> Harling, *The Waning of “Old Corruption”*, 39.

<sup>454</sup> Fox as qtd. in Harling, *The Waning of “Old Corruption”*, 39.

<sup>455</sup> Harling, *The Waning of “Old Corruption”*, 40.

<sup>456</sup> Ibid.

<sup>457</sup> Harling, *The Waning of “Old Corruption”*, 41.

<sup>458</sup> Ibid.

Even apparently well-intended measures of ‘reform’ of corruption were themselves met with accusations of corruption. We too may share Harling’s assessment, therefore, that the 1784 election demonstrated just how deep-seated “the suspicions of ministerial greed and ‘corrupt influence’ were.” This is not to say that the government never coalesced on a course of action for reform. Indeed, for Harling, Pitt ultimately ushers in an era of ‘reform’ of Old Corruption. This apparent transformation and the perception of its success constitutes the narrative of Harling’s text, Pitt’s India Bill is a key part of this narrative. As we read elsewhere, the Bill was meant to augment the Company’s “executive efficiency,” while simultaneously bringing it “under proper control” by reducing the power of certain senior roles and introducing a supervisory board.<sup>459</sup> In fact, the Bill even included a provision to investigate the private fortunes of retiring Company employees and to institute a tribunal to punish where appropriate. This Bill—the East India Company Act, passed in 1784—is the legislation which is often marked as the start of Company ‘reforms.’ However, as we shall examine in the following section, just like in Fox’s India Bill, it will be difficult to separate corruption from its alleged reform—though, for Harling, many critics of the period were content following 1784.

## 6. Reform

Corruption in India and corruption back at home were ultimately intertwined for the critics of Old Corruption. So too was the series of so-called reforms which took place around the turn of the nineteenth century as well as throughout it. As Pitt and his successors sought to change the perception of corruption at home, Parliament set about instituting changes in British rule of India. In the arc which often gets narrated in the literature, critics and scholars trace the move from Company rule of India to Crown rule, from monopoly to free trade, and from Old Corruption in Britain to what we might provisionally call ‘good government.’ In the context of the Company rule in India, the prohibition of receiving gifts and of private trade were among the eventual outcomes of so-called reform. So too, we read, was a “working, uniform and improved customs administration” which replaced a supposedly “corrupt and oppressive system that existed in Bengal before.”<sup>460</sup> This aim of ‘standardization’ may even be said to have been reflected in the texts which were produced in the nineteenth century. For example, we find a ‘glossary of the British Raj’ attached to an 1810 report for the House of Commons’ Select Committee on the East India Company and the 1886 *Hobson-Jobson: A Glossary of Colloquial Anglo-Indian Words and Phrases, and of Kindred Terms, Etymological, Historical, Geographical and Discursive*. Categorizing and translating a wide array of terms, we might consider these texts to put an end to the mis-readings we described earlier, ones which British rule over India apparently could no longer afford.

Another institution that represented ‘reform’ of colonial rule was the Indian Civil Service (ICS), the so-called ‘steel frame’ of administration of ‘British India’ once it was under the rulership of the British Crown. The 1857 uprising in India was one precipitating factor behind this transfer of power with the ICS authorized under the Government of India Act in 1858. There is no shortage of accounts on the uprising and its impact, but it suffices to say for our purposes that the event does not appear to have disturbed the continuity of ‘the reform of corruption,’ but it rather only appears to lend credence to the notion that Company rule was ineffective. This is true both for

<sup>459</sup> Robinson, *The Trade of the East India Company*, 104.

<sup>460</sup> Shah, *History of Indian Tariffs*, 26.

critics then who were interested in securing British rule in India and for critics now making various arguments about the colonial encounter. It was the ICS which came to be seen by its contemporaries to be just as good at *effective* rulership as it was at rulership with ‘integrity.’ We might say that in the eyes of self-styled colonial reformers, corrupt rulership was bad because it was ineffective rulership.

Indeed, the crucial arc to follow in the colonial reform narrative is the transition from the Company era to the ICS where the latter with its proclaimed high standards for moral probity is set in contrast to the former era of corrupt Company servants. In fact, the apparent triumph of so-called reform may have also ushered in an apologist posture towards the Company’s behavior in the past. Soon, corruption would come to be projected entirely on the locals. For example, in certain twentieth-century accounts of the preceding century, the civil service is portrayed as a heroic institution overcoming the “temptations” of various types of corruption while dealing with a local population apparently prone to such behavior.<sup>461</sup> One memoir, for example, by L.S.S. O’Malley—himself a former ICS officer—presents itself as a history of the transformation from the Company to the ICS. However, it also reads often like a tale that valorizes an organization going through numerous ebbs and flows to prevent abuse (however defined) whether by early Company servants who take an undue portion of the revenue or by locals who may be just as unscrupulous. The Company servants on many an occasion get a pass from O’Malley who at times seeks to counter the stigma against those who served in India.<sup>462</sup> After all, O’Malley suggests that it was the age, and not the servants as such, which was “ruthless and corrupt.”<sup>463</sup> For O’Malley, the Company’s efforts are valiant: it would confine what it perceived as petty and violent Indian communalism, and it would deploy military force to support civil authority when officers observed “[d]acoits and robbers” were taking advantage of agrarian discontent.<sup>464</sup> O’Malley sees the local population as either in need of protection or blameworthy—because they tempted the British into vice and rattled colonial attempts at peacemaking. The local middle-men *banyans*, for example, are described as squeezing commission by knowing the local language, loaning the lowest-ranking staff money and sometimes extorting favors as a result. Here, O’Malley cites Burke who in his prosecution of Hastings writes that the Company was “nothing but the inferior tools and miserable instruments of the tyranny which the lower part of the natives exercise.”<sup>465</sup> Furthermore, Indian and Persian collectors of revenue under British control are portrayed as colluding with those who had to pay revenue when left to their own devices. Supervisors, therefore, were appointed to detect and correct any abuses, yet unfortunately they too had to depend on potentially dubious subordinates who knew the local language, according to O’Malley.<sup>466</sup> The overarching momentum of his history of the Company-turned-ICS is one accounting for what he believes is its morally progressive development, overcoming various challenges (posed largely by locals) and in doing so representing a civilizing and virtuous ethos and *esprit de corps* that became renowned worldwide.

We will have more to say about the ICS in the following chapter. For now, we stick to these early moments in the nineteenth century to see which developments came to represent the basis of reform in the eyes of corruption critics. The ICS was one such building block of the story about

<sup>461</sup> Sir Alfred Lyall as qtd. in O’Malley, *Indian Civil Service*, 11.

<sup>462</sup> O’Malley, *Indian Civil Service*, 30.

<sup>463</sup> O’Malley, *Indian Civil Service*, 21.

<sup>464</sup> O’Malley, *Indian Civil Service*, 29.

<sup>465</sup> O’Malley, *Indian Civil Service*, 20.

<sup>466</sup> O’Malley, *Indian Civil Service*, 17.

reform in the context of the Company. Furthermore, since allegations against the Company were intertwined with the notion of Old Corruption in Britain more generally, we also read of the call for a reformed civil service for Britain itself in the late eighteenth century. Discussions around a civil service were indeed as crucial for Britain domestically as they were for colonial rule abroad in India; both were linked in an imaginary of reforms at the time. The Northcote-Trevelyan report (formally known as *the Report on the Organisation of the Permanent Civil Service, Together with a Letter from the Rev. B. Jowett*) was published in 1854 calling for (among other things) entry to the civil service to be through merit-based examinations. The report has since come to be seen as “a vital catalyst for a permanent, meritocratic Civil Service, based on the guiding principles of integrity, honesty, objectivity and political impartiality that [are] still adhere[d] to today.”<sup>467</sup> Co-author Charles Trevelyan was himself a colonial officer in India having worked for the Company from 1826 to 1838.<sup>468</sup> His reports from India in the 1830s on town/transit duties and education of the natives suggest that his penchant for ‘reform’ emerged—at least in part—in India itself. After all, he is said to have remarked that “India has been the study of my whole life,” and his “first love.”<sup>469</sup> Following the publication of the Northcote-Trevelyan report, Trevelyan even went back to India where he was appointed governor of Madras and Finance Member of the Supreme Government of India, a time from which the examination of his letters from 1859–65 reveals the same reformist sensibilities that drove his views on changing the British civil service.<sup>470</sup>

But lest we assume the story of reform began exclusively with the establishment of the ICS, we should note there were ongoing modifications to the constitutional organization of the Company taking place already circa 1770: Fox’s and Pitt’s India Bills, which we discussed earlier, were two such attempts. Another crucial change was the introduction of the distinction between ‘covenanted’ servants (who were British and had to follow stricter rules) versus un-covenanted servants (who occupied posts reserved for locals). Other notable changes included the set-up of educational establishments in India, such as the College of Fort William in Calcutta founded in 1800, and in Britain, such as the East India Company College founded in 1806 (today known as Haileybury and Imperial Service College).<sup>471</sup> Even the evolution of paperwork can be said to be part of ongoing reforms of corruption. Indeed, a contemporary writer tells us that “[a]ll orders had to be reduced to writing as a legal safeguard against misuse of authority especially in a situation where under the guise of newly emerging abstraction of ‘public service’ and bureaucratic impersonality, individual officers had enormous powers over ordinary citizens.”<sup>472</sup> As the Company and then the civil service became increasingly centralized, O’Malley tells us “voluminous writing was a consequence that led to multiple reports, returns and correspondence and consequent obsession of office work,” and he speaks of employees chained to their desk.<sup>473</sup>

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<sup>467</sup> Sir Jeremy Heywood (Cabinet Secretary and Head of the Civil Service in 2015), “Timeless values in an age of change,” Civil Service blog, <https://civilservice.blog.gov.uk/2015/05/24/timeless-values-in-an-age-of-change/>

<sup>468</sup> Malcolm McRae and Charles Trevelyan, “Sir Charles Trevelyan’s Indian Letters, 1859–1865,” *The English Historical Review* 77(305) (1962): 707.

<sup>469</sup> Ibid.

<sup>470</sup> See McRae and Trevelyan, “Sir Charles Trevelyan’s Indian Letters.”

<sup>471</sup> H.V. Bowen, *The Business of Empire: The East India Company and Imperial Britain, 1756–1833* (Cambridge: Cambridge University Press, 2005), 203.

<sup>472</sup> Misra, *The Central Administration of the East India Company*, 10.

<sup>473</sup> O’Malley, *Indian Civil Service*, 109.

One other key pre-ICS event that has received ample attention in the literature for its significance in the so-called Era of Reform is the trial of Warren Hastings, the Governor-General of Bengal in 1773. The 1788–95 impeachment trial (and ultimate acquittal) of Hastings is a central part of what Dirks' account calls imperial “scandal.”<sup>474</sup> The trial did indeed attract much attention in the wider public. For critics like Burke who led the prosecution, it was proof of the corruption of the Company. Dirks is perhaps right to suggest implicitly that Hastings was a victim of changing mores and perhaps even a kind of sacrificial lamb necessary for the public to tell itself a story about the necessity of reform. Hastings’ “political methods,” after all, stretched across a period in which what constituted “public virtue and private corruption” transformed drastically. Dirks even speaks of Hastings’ “relative moderation” in comparison to Clive, which appeared “scandalous” only retroactively.<sup>475</sup> Although Hastings was acquitted, the fervor around the trial indicates that the tide had apparently turned: the meaning of ‘corruption’ had now changed to reflect what he had allegedly done. Hastings was discredited as corrupt despite his own efforts at reform in India: a reform at times sympathetic to the notion that law and order was not foreign to India. In fact, as a letter from him to British Chief Justice Lord Mansfield in 1774 reveals, Hastings argued against the idea of Indians as “a people who were supposed to be governed by no other principle of justice than the arbitrary wills, or uninstructed judgments, of their temporary rulers,” arguing instead that “[i]t would be grievance to deprive the people of the protection of their own laws, but it would be a wanton tyranny to require their obedience to others of which they are wholly ignorant, and of which they have no possible means of acquiring knowledge...”<sup>476</sup>

Burke’s polemic against Hastings, Dirks therefore suggests, may have represented “the national expression of a bad conscience.” As such, it was ultimately successful: Hastings’ name has since become synonymous with this scandalous trial and the perceived excesses of the Company era. But as Dirks goes on to say, “Burke no more offered to give India back to the Mughals than did Hastings offer to return his early winnings to the Company.”<sup>477</sup> “Indeed,” Dirks concludes,

the trial of Warren Hastings was at one level simply the continuation of earlier parliamentary efforts to take control over a rogue English state, to harness imperial power—and wealth—securely to Britain. And once that was accomplished, whatever the particular political, or financial, fortunes of Warren Hastings, empire would no longer be a scandal.<sup>478</sup>

To the extent that the impeachment represented reform, in other words, reform also represented legitimization of the larger colonial enterprise. What was deemed corrupt was a narrower matter of what was deemed excessive or ineffective in the project of wealth extraction from India, not the larger project itself. If we follow this view, it puts into question the very periodization of (first) corruption followed by (subsequent) reform. Reform may well have been a way to continue to ‘corruption’ by other means, with the Crown rather than the Company at the helm of systematized, rationalized, legalized extraction of wealth of the colony. In the nineteenth century, this was an

<sup>474</sup> Dirks, *The Scandal of Empire*, 10.

<sup>475</sup> Dirks, *The Scandal of Empire*, 20.

<sup>476</sup> Hastings as qtd. in Mukherjee, *The Rise and Fall of the East India Company*, 318.

<sup>477</sup> Dirks, *The Scandal of Empire*, 21.

<sup>478</sup> Ibid.

improvement from the vantage point of the British—it made colonial rule uncorrupt—but the illegitimacy at the heart of colonial rule would only be rendered visible a century later.

If this ‘reformed’ British colonial rule came to be seen by contemporaries at home as an improvement upon its ‘corrupt’ predecessor, it relied in part on certain rhetorical maneuvers. The first rhetorical move concerns the projection of corruption as a phenomenon intrinsic to the subcontinent, with which the British could become ‘infected.’ For example, Hastings, who at times displayed apparent respect for native notions of law, claimed in his trial, according to one account, “that arbitrary power had been thrust upon him because despotism was the only form of government that existed in Asia.”<sup>479</sup> Elsewhere too, we read that William Burke—a family member of Edmund who (having lived in Company-era India) even provided supposed proof of “Hastings’ acts of bribery and corruption”—nevertheless supported Hastings during his impeachment,” portraying Indians as “‘rascally black natives’ and Eastern culture as ‘all Usurpation and Force.’”<sup>480</sup> Edmund Burke is also said to have suggested in his prosecution that if Hastings were not punished, corruption in India would “come home to England and ruin British society.”<sup>481</sup> Furthermore, when Dirks describes the 1786 “anti-corruption reform” that Hastings’ successor as Governor-General on Bengal, Charles Cornwallis, undertook—in which Indians were purged from government as part of “the ‘Europeanization of the [civil] services’ in India”—he cites Cornwallis as saying, “Every native of India, I verily believe, is corrupt.”<sup>482</sup> Here we might note that the projection of India as the source of corruption is accompanied by the belief that it was only Britain which could eradicate it, as it had imagined itself to do back home with ‘Old Corruption.’ Finally, we read what Pitt’s father (Pitt of Chatham, or William Pitt the Elder) said about the newly wealthy Company officials returning to Britain:

The riches of Asia have been poured in upon us, and have brought with them not only Asiatic Luxury, but, I fear, Asiatic principles of government. Without connections, without any natural interest in the soil, the importers of foreign gold have forced their way into Parliament by such a torrent of private corruption as no hereditary fortune could resist.<sup>483</sup>

All these remarks suggest that the move to deem corruption as originary to the Orient was as much motivated by the threat which the early colonial project represented for certain stakeholders in Britain as by a desire to exculpate responsibility for the perceived abuses of the Company. As historian Bowen writes, so-called “Eastern practices” were seen to hurt the virtuous traditions of the West, while plundering Asian wealth was seen to disintegrate Britain’s social, political, and economic order.<sup>484</sup> Dirks too argues that newly returned wealthy Company servants were not only “figures of fun” for the British public, but also, for older aristocrats, figures of “scurrilous critique,” representing “the threats of new money.”<sup>485</sup> Following this view, Company reform could ensure what was considered as colonial plunder or excess would be carried out in a manner that was

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<sup>479</sup> Padideh Ala’i, “The Legacy of Geographical Morality and Colonialism: A Historical Assessment of the Current Crusade Against Corruption,” *Vanderbilt Journal of Transnational Law* 33(4) (2000): 887.

<sup>480</sup> Ala’i, “The Legacy of Geographical Morality and Colonialism,” 890.

<sup>481</sup> Ala’i, “The Legacy of Geographical Morality and Colonialism,” 886.

<sup>482</sup> Ala’i, “The Legacy of Geographical Morality and Colonialism,” 892.

<sup>483</sup> Dirks, *The Scandal of Empire*, 12.

<sup>484</sup> Bowen, *The Business of Empire*, 16.

<sup>485</sup> Dirks, *The Scandal of Empire*, 83.

appropriate to how Britain wanted to see itself—and which would safeguard those who were threatened by an un-reformed Company.

The second rhetorical move whereby British rule came to be seen as an improvement upon its ‘corrupt’ predecessor has to do with the story told about its linkage to Old Corruption. For Rubinstein, “the ending of Old Corruption is obscure and rather mysterious” because it is one of the rare historical instances whereby an elite paid a great financial cost to reform itself. But if we consider the notion of reform as a tactic of legitimization, it might lead us towards an important insight about Old Corruption’s “mysterious” ending.<sup>486</sup> For example, we might ask: if reform was a tactic of legitimization, exactly what did succeed Old Corruption if it was not ‘good government’?

Here, Harling points us in the direction of answer. After all, the central question of his study is how is it that, by 1850 fewer observers alleged corruption in the government even though it was mostly the same “narrow élite” (earlier condemned for corruption) who nevertheless maintained dominance.<sup>487</sup> The aura of reform appeared to do the trick, instituting a set of changes that assuaged the earlier charges of corruption, but it nonetheless maintained the centrality in power of the accused clique. Dirks’ account concurs—at least when he writes that the more the spotlight of corruption could be focused on the Company, its behavior, and its staff, the more Old Corruption “could protect itself.”<sup>488</sup>

Ultimately, the narrative of reforming corruption in Britain and in the Company is linked to a narrative about the origin of this corruption in India: a corruption the Company purportedly encountered—rather than ‘invented’—and brought back to Britain, precipitating the process of reform in question. This narrative directs our attention towards India as the site of the problem of corruption, and it deflects our attention away from Harling’s élite who remained in power following reform even if no longer in the spotlight of allegations. In the transition from the Company to Crown rulership—a key part of this narrative of reform—we are offered the justification that much of what was wrong about Company rule could be condensed in the term ‘corruption.’ The meaning of this word was narrowed to what threatened the power of certain British stakeholders. The conceptualization of this ‘corruption’ was such that it could be shown to be eradicable by a different, and more effective, type of colonial rule, whose wealth an emerging industrialist constituency in Britain could better reap.

Finally, this particular conceptualization of ‘corruption’ has had an outsized impact on our thinking today. It may well be that ‘Old Corruption’ is what we think of when we think of ‘corruption’ generically, for it is the set of practices and associations which ‘Old Corruption’ conjures that are also largely those which the general term evokes. To this extent, ‘corruption’ today is what ‘Old Corruption’ was for eighteenth- and nineteenth-century Britain. Tucked into this generic term is a story about Britain’s dynamic encounter with—and crucially, its perception of—India. A certain story about India as the true origin or cause of Old Corruption appears pivotal to the construction of the contemporary, seemingly acontextual word ‘corruption.’ If this is the case, this notion of corruption relies on the historical consolidation of a variety of other practices as ‘corrupt’: the interpretation of the *firman*, the abuse of gifts and of the *dastak*, the Company’s extraction of

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<sup>486</sup> Rubinstein, “The End of Old Corruption,” 78.

<sup>487</sup> Harling, *The Waning of “Old Corruption”*, 2.

<sup>488</sup> Dirks, *The Scandal of Empire*, 13.

wealth from India, its relation to monopoly, to borough-mongering in Britain, and to the ‘purchase’ of seats in parliament, and so on.

When License Raj critics suggest that ‘corruption’ in India’s mixed economy has colonial legacies, therefore, many of them may be unaware of just how deep this legacy goes. India’s colonial legacy may be relevant not only for the critique of corruption in the License Raj, but of corruption more generally the world over.

## Chapter 4: Modernity

### 1. Introduction

Where the question of continuities in corruption from the colonial era to post-independence India arises, the bureaucracy is one recurrent subject of focus. It is not always clear exactly what the term ‘bureaucracy’ refers to, where it begins or ends, but something about it appears suspect to many writers interested in the subject of corruption. For some, the association of corruption with India’s planned economy has its origins in the colonial-era bureaucracy. Other writers—who may not necessarily see state planning as the exemplar of corruption—still lament what they believe are certain bad habits that the bureaucracy has developed from an earlier era, habits which they argue have stymied the effort towards industrial development and the alleviation of poverty. The ‘administrative machinery’ or ‘steel frame’ which many British observers of the pre-independence era believed served colonial India well has—for certain subsequent Indian critics—failed the country following its independence from British rule in 1947. Corruption is alleged to be one of these intrinsic failures, if not the central one.

In this chapter we will consider two motifs in the literature that imagine the bureaucracy as the site of post-independence corruption. One motif concerns *modernity*. Therein, writers situate the bureaucracy in what they believe are larger stories about the transition from an earlier, apparently ‘premodern’ life in India before its independence from British rule. Corruption and the bureaucracy often figure in here in conflicting ways. On the one hand, especially in the immediate postwar era, the bureaucracy is sometimes portrayed as the modernizing instrument which will eradicate corruption. In this view, corruption is seen as a symptom of the incompleteness of modernization to usher in a ‘proper’ bureaucracy otherwise understood to be the vehicle for developing avant-garde industry and reducing poverty. On the other hand, we see increasingly in each passing decade following independence a discrediting of the notion that bureaucracy modernizes. Bureaucracy instead becomes the very reason for corruption, or at least, something akin to corruption has apparently rendered it ineffective (or inefficient, as one critique of the License Raj goes).

These two diverging sets of claims around modernity, corruption, and bureaucracy, however, often share at least one particular set of ideas. This common assumption is the second motif that we will consider in this chapter: *loyalty*. In the supposed ‘premodern’ moment, loyalty is seen as particularistic, even parochial, with words like ‘tribe,’ ‘caste,’ and ‘kin’ used. While it may or may not have had its uses earlier, this very loyalty is what certain critics consider to be the root of corruption in a modern bureaucracy. Loyalty to one’s ‘private interests’ above a notion of the putative ‘public interest,’ which a bureaucracy is supposed to serve, is a cause for corruption oft cited in the literature on India. The motif of premodern loyalty as the basis for the continuity of corruption in the Indian bureaucracy is frequently suggested by those who believe the bureaucracy to be an effective instrument of modernization, as well as those who do not.

Loyalty and modernity are also key motifs in the general or generic literature on corruption, and writers have many varied and interesting things to say. In the case of India, however, the way in which these two motifs interact with one another in the discussion on corruption and the bureaucracy is especially striking when we consider the conflicting role the bureaucracy is depicted as having played. On the one hand, in the pre-independence era, the Indian Civil Service

(the ICS) was led by so-called ‘covenanted’ civil servants exclusively from Britain while lower, ‘uncovenanted’ posts were reserved for locals. Together they worked to suppress independence movements with a special eye towards the Indian National Congress whom the British rulers saw as a prime opponent. On the other hand, after independence 1947, the same nationalist movement leaders who were seen earlier as threats by the ICS appeared to keep intact its framework in the Indian Administrative Service (or IAS), the successor bureaucracy which would administer the state planning regime, premised as the instrument for development. This is a puzzle for certain writers who are interested in describing the continuity of corruption from the colonial era to its aftermath. It is a story in which ideas about loyalty in the transition to modern, independent India appear stark, posing implications for how corruption is imagined vis-à-vis the bureaucracy.

## 2. Bureaucracy: A First Glance

When we read that, as early as 1964, the viability of the Indian administration was facing “gnawing doubts,” it might strike critics as a wonder that bureaucracy was ever believed to be an effective tool of governing, rather than part of its failure.<sup>489</sup> But indeed, as we saw in the last chapter, ideas about ‘good government’ in the colonial encounter revolved around an impartial and ‘rational’ bureaucracy. This bureaucracy was portrayed as playing a central and even heroic role in the narrative of British rule of India. Such notions first emerged where we last left off our discussion: in the transfer of rulership from the East India Company to the British Crown and the subsequent development of the Indian Civil Service after the mid-nineteenth century. The story we considered cast a glow around the ICS wherein the bureaucracy represented a progressive force in opposition to its discredited and corrupt Company predecessor. As we have seen, the reformist sensibilities said to have driven the development of the ICS in India are roughly contemporaneous with those behind the changes in the civil service back home in Britain that were part of curbing ‘Old Corruption.’ In both reform arcs, the new ideals of good government appear to be materialized in the bureaucracy which would have ‘merit’- rather than ‘patronage’-based criteria for entry, involve training of civil servants to uphold high ideals of administrative ‘integrity,’ and standardize the rules and regulations to which they would adhere. Where India was concerned, we read that, from the late nineteenth century to around the decade before independence, the ICS symbolized “the corps d’elite of imperial administration.”<sup>490</sup> Though some like Gunnar Myrdal claim that colonial authorities in South Asia struggled with enforcing “rigid standards” in the administration’s lower levels, Myrdal himself nevertheless states that the “successful” British rulers did, however, manage to found a “a higher civil service, which was honest, well paid, and manned by both colonial and indigenous personnel.”<sup>491</sup>

We have also considered how this narrative of an un-corrupt colonial bureaucracy in India involves a particular representation of the British vis-à-vis the Indians. As Myrdal’s quote suggests, it was believed that the more one went to the levels of administration manned by locals, the more authorities found it difficult to strictly enforce rules. Such remarks are lent further credence by

<sup>489</sup> S.P. Aiyar, “Political Context of Indian Administration,” *The Indian Journal of Public Administration* 17(9) (1971): 339.

<sup>490</sup> H.M.L. Alexander, “Discarding the ‘Steel Frame’: Changing Images Among Indian Civil Servants in the Early Twentieth Century,” *South Asia: Journal of South Asian Studies* 5(2) (1982/2007): 1.

<sup>491</sup> Gunnar Myrdal, “Corruption as a Hindrance to Modernization in South Asia,” in *Political Corruption: Concepts & Contexts*, Third Edition, ed. Arnold J. Heidenheimer and Michael Johnston (New Brunswick: Transaction Publishers, 2002), 274.

memoirs by ICS officers. For example, we come across a quote from a former civil servant Bernard Houghton describing the prototypical ICS officer: “In a land where much was dark and treacherous, he set a bright example of probity, of justice, and of the many virtues of his race. If in his methods he was a little arbitrary, a little arrogant, who shall greatly blame him?”<sup>492</sup> Houghton is joined by J.S. Furnivall, who described his time serving in Burma by stating: “Our government is based on the western principle of the rule of law, and in that respect may justly be claimed as superior to the Burmese system.”<sup>493</sup>

Yet although the framework of the ICS is widely believed to have remained intact in its post-independence successor the IAS, the attitude which critics have towards the latter is far from one of praise. Indeed, their attribution of corruption suggests otherwise. In their view, one may be led to think there is nothing continuous about ‘bureaucratic corruption’ from the colonial era to the contemporary era of independence. Rather, corruption in the Indian bureaucracy is somewhat uniquely a post-independence product. But only somewhat: for there are other, not necessarily contradicting views which hold that the ‘steel frame’ of the ICS may have served its purposes well for a colonial administration, but it was not fit for purpose in independent India. Here there is a perceived continuity, or as some put it, an “impact of the British legacy” which lies in the “centralization of decision-making, the system of rules, [and] the generalist concept of services” which has created a “pattern” of “inflexible adherence to, and dependence upon rules, a focusing of decision-making upwards, and its reverse, a lack of delegation of authority; and a generalized rigidity that prevents the organization from adapting readily to changing demands upon it.”<sup>494</sup> David Potter has made similar claims about “the distinctive bureaucratic structures” in the ICS that marked India’s colonial administration and still affect it today.<sup>495</sup> Elsewhere Mohan and Aggarwal write that, among other factors, because the British set up the administration for “political and social control” rather than “development,” the aspirations for development reflected in the Five-Year Plans have been hard to fulfill. “[T]he instruments inherited and subsequently expanded,” they write, “have been inappropriate for the tasks at hand.”<sup>496</sup> There is a similar remark in Potter’s account of the ICS where he writes that the “ICS tradition” is appropriate for a colonial administration when the government executed relatively simple and narrow functions. However, the “continuance of this tradition” into independent India where the government was expected to solve complex and technical problems, he continues, was “bound” to impact the success of development planning.<sup>497</sup>

One particular legacy or continuity of interest for the literature on bureaucracy in India is the role British rulers assigned to the Indian economy during World War Two. We read that “the form and content of much of the control and regulatory apparatus governing Indian industry is based on the Defence of India Rules promulgated in 1939 under the Defence of India Act, which was brought

<sup>492</sup> Bernard Houghton, *Bureaucratic Government: A Study in Indian Policy* (London: 1913), 11 as qtd. in O.P. Dwivedi, R.B. Jain, B.D. Dua, “Imperial Legacy, Bureaucracy, and Administrative Changes: India 1947–1987,” *Public Administration and Development* 9 (1989): 253–54.

<sup>493</sup> J.S. Furnivall, *Colonial Policy and Practice* (New York: 1956), 175 as qtd. in O.P. Dwivedi, “Bureaucratic Corruption in Developing Countries,” *Asian Survey* 7(4) (1938): 246.

<sup>494</sup> Dwivedi et al., “Imperial Legacy, Bureaucracy, and Administrative Changes,” 253–54.

<sup>495</sup> David C. Potter, “The Last of the Indian Civil Service,” *South Asia: Journal of South Asian Studies* 2(1–2) (1979): 20.

<sup>496</sup> Mohan and Aggarwal, “Commands and Controls,” 685.

<sup>497</sup> H.K. Paranjape, “A Trojan Inheritance,” *Seminar* 84 (1966): 32–33, as qtd. in Potter, “The Last of the Indian Civil Service,” 19.

into force after the outbreak of the Second World War....” In this Act, there were blanket provisions for “regulating or prohibiting the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of articles or things of any description whatsoever.”<sup>498</sup> The same rule, we read, allowed the control of prices and rates “at which articles or things of any description whatsoever may be sold” and gave the state the power to authorize “control over the pricing and distribution of supplies and services” deemed “essential.”<sup>499</sup> This wartime set-up involved the expansion of the state apparatus such that, for Sherman et al., “inexperienced and overburdened government servants found new opportunities for personal profit.” “Compulsory grain purchasing,” they tell us, was one such site for “corruption and bribery” since police could extort levies on grain transporters. In their analysis, a black market and public servants eager “to enhance their income” seem to co-constitute one another: as if bureaucrats were just waiting for such an illicit opportunity. The 1964 *Report of the Committee on Prevention of Corruption* (also known as the Santhanam Committee report), commissioned by the Government of India, makes similar claims. “The immense war efforts during 1939 to 1945 which involved an annual expenditure of hundreds of crores of rupees over all kinds of war supplies and contracts,” it reads, “created unprecedented opportunities for acquisition of wealth by doubtful means.”<sup>500</sup> “The war time controls and scarcities,” the report continues, “provided ample opportunities for bribery, corruption, favouritism, etc.” “The then Government subordinated all other considerations to that of making the war effort a success,” the report remarks, and “[p]ropriety of means was no consideration if it impeded the war effort.”<sup>501</sup>

All these examples of continuities or legacies implicate not only the bureaucracy but also more specifically (particularly in the remarks on the “war economy”) the state planning regime of post-independence India which the bureaucracy administered. In these claims of continuities, what is being posited is a lingering relationship between the administrative machinery and a notion of ‘corruption’—or of something that renders the bureaucracy as unable to do what it sets out to do. Although the ICS is portrayed as static enough to be kept intact in its successor and even to produce unintended continuities, the examples above suggest that it did not offer a framework in which the goal of colonial rule could simply be replaced with the goal of economic development (as well as other goals) in independent India and still be expected to operate as effectively. ‘Corruption’ is among the names given to this unfitness for purpose. That the continuity of colonial-era machinery unintentionally encouraged corruption even—or, apparently, *exclusively*—after independence is a critique many have leveled. India’s first Prime Minister Jawaharlal Nehru, for one, in Potter’s account, said as early as 1934 “that no new order can be built up in India so long as the spirit of the ICS pervades our administration and our public services.”<sup>502</sup> Over a decade later in 1948, Nehru remarked that the “present machinery is to some extent archaic, and is certainly not conducive to rapid and efficient handling of matters.”<sup>503</sup> “There is a great deal of lack of co-ordination and red tape and unnecessary noting....,” he continued, and “I am particularly concerned about the growth of corruption, both at the Centre, and in the provinces.”<sup>504</sup>

<sup>498</sup> Mohan and Aggarwal, “Commands and Controls,” 683.

<sup>499</sup> Ibid.

<sup>500</sup> Government of India, *Report of the Committee on Prevention of Corruption*, 1964, 6–7.

<sup>501</sup> Ibid.

<sup>502</sup> David Potter, “Jawaharlal Nehru and the Indian Civil Service,” *South Asia Research* 9(2) (1989): 128.

<sup>503</sup> Ibid.

<sup>504</sup> Potter, “Jawaharlal Nehru and the Indian Civil Service,” 132.

On the surface at least, Nehru's remarks here mirror what critics of state planning—especially those motivated by a desire for economic liberalization—would later say about the License Raj. Theirs may be seen not only as a criticism of colonial-era machinery as encouraging of later bureaucratic corruption, but also as a criticism that disavows an extensive role for government in the economy. Nehru, however, did not share this latter view. As is well known, he was one of the leading proponents of state planning. The target of his critique therefore may be seen as a more selective one. Indeed, later in 1948 he would say that, in spite of the system's many flaws, the British "had set up a more or less efficient administration for the purposes they had in view." "Those purposes," he continued, "were not to our liking and were sometimes directly opposed to our objectives, but "[n]evertheless, an efficient administration was worthwhile and a good thing." Concluding, he remarked that to upset it would be to "lose this legacy and allow our administration to deteriorate." That said, "[w]e have, of course, to change the whole tone of that administration and give it different objectives."<sup>505</sup>

But perhaps it is too strange to consider the bureaucracy as something which could be said to be roughly identical from one moment to the next, and not just any two moments but two historiographical markers as charged as 'colonial' versus 'independent' India. If the bureaucracy is not just an administrative apparatus with formal rules and regulations, but also something operating within and through informal norms and conventions—moreover, in a society as diverse as India and in a time as dynamic as the turn to independence—is it then still possible to freeze-frame it, even if just to say it was ultimately distorted, displaced, or rendered ineffective? There is something more to consider in the perception of this failure, but the claim of a static continuity in the 'framework' of the ICS to IAS keeps us only at the surface in exploring the relationship between bureaucracy and corruption. Therefore, in the following section, we dive a bit deeper to consider how time is marked in this transition and what that implies for our discussion thus far.

### 3. Modernity

Whether claims of continuity are proffered or not, ideas about transition—in particular from colonial rule to independence (and in it, from the ICS to the IAS)—play an important role in how critics situate corruption and the bureaucracy in the Indian scene. Even when they believe corruption to be timeless, critics are apt to mark some sort of historiographical break in the stretch of its alleged continuity: corruption might not fundamentally change, but it does apparently move. If not the year 1947, if not even a particular year, then at least some sense of history is brought to bear when corruption is considered across time in India. But in the literature, more often than not, corruption is described as something which can transform (and as something which *has* transformed). In such claims, notions of historical change or even rupture are particularly crucial.

The dichotomy between the modern and the premodern is one such prominent notion, and it is an important premise of many studies on corruption in India, even where history is not being expressly foregrounded. India is not necessarily unique in this matter. In fact, it is difficult to tell a story about corruption wherever 'development' is being evoked without it becoming a story about many other things also: among them, the set-up of the country's civil service, its societal organization, and colonial legacies or other continuities. The comparison implicit in these background stories of

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<sup>505</sup> Ibid.

corruption is a temporal one with ‘modernity’ being a popular term offered as a means of drawing a boundary of significant change.

Modernity is an important motif in literature not only on corruption in India but also on corruption more generally. It is represented in various inflections or registers not all necessarily commensurable. One such register serves (expectedly) to mark time and establish a chronology. In the Indian context, political scientist Atul Kohli, for example, divides post-independence India into three chronological phases: “the Nehru era (approximately 1950-1964), the era of Indira Gandhi (approximately 1965 to the early 1980s), and the last two decades of the twentieth century,” but he groups all three under “modern India’s political economy.”<sup>506</sup> Modernity here is roughly coterminous with independence from British rule. Elsewhere, modernity may be seen to be inaugurated with the arrival of the East India Company as early as the seventeenth century. Independent of where precisely the lines are drawn, the establishment of modernity on a timeline enables the retroactive casting of the ‘premodern’ upon the past. Something which may have appeared as just the way things were is—after the introduction of the dichotomy of the modern—suddenly cast as ‘premodern.’ “Behavior which was acceptable and legitimate according to traditional norms,” we read in one article on corruption and modernization, “becomes unacceptable and corrupt when viewed through modern eyes.”<sup>507</sup>

Whereas this first inflection can be said to periodize and construct a chronological framework, a second inflection might be described as fleshing out what scholars believe are the contents of modernity’s demarcations. Here, modernity is a set of programs. ‘Industrialization,’ for example, appears to figure quite prominently in the space of the modern. ‘Capitalism,’ ‘liberalism,’ ‘democracy,’ ‘development’—these too join industrialization as part of a larger set of terms associated with modernity in many works on political economy.<sup>508</sup> When described as dynamic processes, these terms may be imagined to stretch across time, even being represented in proto-forms, but their apparent allegiance is decisively to the modern even if premodern developments are portrayed as having laid the groundwork for them. For as functional as the premodern might be for subsequent developments of the modern, it is often what is seen as frustrating efforts at modernity. In other words, much of what is tagged as premodern is often portrayed by writers as an obstacle to ushering in the modern: premodern loyalties are one such imagined obstacle which we will consider in the second half of this chapter.

Modernity, therefore, is not just a discrete era in a chronology with a particular content; it itself may be described as a process. This is what the term ‘modernization’ suggests, and we might call it a third inflection. A country may not yet be modern, but it may be modernizing. This at least is the case for India, as it is depicted in texts which draw upon the term ‘modernization’ (or relatedly, development). The moment or state of modernization—as opposed to the state of finally being modern—can involve for writers a mixture of premodern along with modern elements that are in the process of arriving and consolidating in various degrees: not always a “linear” process

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<sup>506</sup> Kohli, *State-Directed Development*, 264, emphasis added.

<sup>507</sup> Samuel P. Huntington, “Modernization and Corruption,” in *Political Corruption*, ed. Heidenheimer and Johnston, 254.

<sup>508</sup> See, for example, Theobald, *Corruption, Development and Underdevelopment*, 161–65 and Huntington, “Modernization and Corruption,” 253.

but perhaps one of “undulations” or “periodic, wave-like convulsions.”<sup>509</sup> To the extent that the premodern is seen ultimately as a roadblock to complete modernization (which, as we have said, is usually the case), the relationship between these two elements is often illustrated as more tension than harmony. The Indian bureaucracy, as we shall see, is one site where this tension is said to play out—and with implications for how corruption is conceived.

Here it is worth pointing out that, across many of modernity’s inflections, when the contrast with the premodern is found, one term often represents the inverse of the other. For example, where modernity stands for industrialization or economic development, the premodern then will represent the feudal or the agrarian. Where the modern is positively marked, for example as representing progress, the premodern is consequently seen as its inverse in a decidedly negative way. As such, the notion of the modern frequently establishes not just a timeline of successive developments but also a teleology in which the forward movement of time works towards a normatively better end or ultimate good. This at least is one dominant mode in which literature on modernization and corruption in India plays out.

A fourth and final inflection of modernity which we might consider is modernism. More often associated with art and architecture, modernism is a less frequent motif in literature on corruption, at least if we are eager to find it mentioned by name. But if we think of modernism as involving a particular relation to matters of form, it may turn out that something like the bureaucracy, for example, could be described as a modernist legal aesthetic. Here, a set of institutional arrangements are thought not only to usher in the ‘content’ of the modern but also themselves to represent or prefigure the modern. In the way functionalism in modernist architecture decreed that ‘form should follow function,’ so too might we see bureaucracy as an institutional form motivated by a vision of ‘rationality’ and ‘standardization,’ one where the aims of an organization are performed through a pattern of systematic adherence to clear rules. Though he does not use the term ‘modernism,’ Max Weber is the recurring philosophical touchpoint in the literature where attention to the formal—we might even say ‘aesthetic’—features of bureaucracy is concerned. For example, in *Economy and Society*, he writes of the lines of separation to be drawn “in principle” between “the bureau from the private domicile of the official,” “official activity from the sphere of private life,” “public monies and equipment...from the private property of the official,” and so on.<sup>510</sup> Already, we can start to see how ideas about corruption have been implicated in the Weberian model of the bureaucracy that has come to represent the dominant conception of modern, dare we add ‘modernist,’ public administration.

But all these various inflections of the modern are here only provisionally presented, carved out in possibly too artificial a manner from the literature where they exist instead in a more overlapping and discontinuous way. So perhaps what modernity is most is a “theory,” and that too one which itself has a varied “career.”<sup>511</sup> This at least is how the matter is put in Ronald Inglehart and Christian Welzel’s entry on “modernization” in the *Blackwell Encyclopedia of Sociology*, which

<sup>509</sup> Mark Knights, “Anticorruption in Seventeenth- and Eighteenth-Century Britain,” in *Anti-corruption in History: From Antiquity to the Modern Era*, eds. Ronald Kroeze, Andre Vitoria, and Guy Geltner (Oxford: Oxford University Press, 2017).

<sup>510</sup> Max Weber, *Economy and Society: An Outline of Interpretative Sociology*, eds. Guenther Roth and Claus Wittich (Berkeley: University of California Press, 1978), 957.

<sup>511</sup> Ronald Inglehart and Christian Welzel, “Modernization,” in *The Blackwell Encyclopedia of Sociology*, ed. George Ritzer (Oxford: John Wiley & Sons, Ltd., 2007), 1.

traces how the term “emerged,” its “competing visions,” its immersion in “the dominant mood of the time,” and the central, “dazzling” role it played in “some of the most fundamental debates in the social sciences.”<sup>512</sup> Inglehart and Welzel chronicle, for example, some opposed ways in which modernization was represented: between Antoine de Condorcet and Edmund Burke, between Karl Marx and Adam Smith, and between “capitalist and communist superpowers” in the Cold War.<sup>513</sup> “The history of modernization theory,” Inglehart and Welzel write, “is thus the history of anti-modernization theory.”<sup>514</sup>

How then might one discuss corruption alongside such a debated notion as modernization? The perceived contestability of ‘modernization’ as a term has not stopped some writers from claiming with apparent ease that modernization represents progress. Even in one of the more heated “disputes” which Inglehart and Welzel describe, that between “modernization and dependency/world systems theory,” they remark it was not a disagreement over the existence of modernization.<sup>515</sup> Rather, it was a disagreement over the causes of modernization and over the reproducibility elsewhere in the world of “the Anglo-Saxon model.”<sup>516</sup> While dependency theorists argued that international structures of power forbid countries on the periphery from modernizing, these theorists—in Inglehart and Welzel’s view—neither deny the existence of modernization, nor reject it as an aim which “third world” societies should pursue.<sup>517</sup> While much about it can be quarreled over, including what constitutes it, modernization seems for many to be not only a fact of life but also a desirable goal.

It is therefore not surprising to hear that, for some writers, modernization is something which curbs corruption in India and other ‘developing’ countries. (“Modernization theory’s career,” as Inglehart and Welzel put it, is indeed “closely linked with theories of underdevelopment.”)<sup>518</sup> Corruption, in this view, can be associated with the premodern, or the “traditionally irrational,” and as such, it is held to be precisely what successful modernization will transform or eradicate.<sup>519</sup> As a corollary, corruption’s perceived existence may be read as a sign of modernization’s incompleteness or failure. As a supposedly premodern phenomenon, corruption is seen in this view as remarkably stubborn, portrayed as it often is on a remarkably long timescale, the cumulative weight of which over time frustrates efforts at modernization.

Where modernization comes up, it seems difficult for writers not to want to wade into “a country’s internal characteristics, especially its traditional psychological and cultural traits.”<sup>520</sup> Weber is again here the Ur-philosophical touchpoint: Inglehart and Welzel claim that theories of underdevelopment which see modernization as a cure are “strongly influenced by Max Weber’s theory of the cultural origins of capitalism, which viewed underdevelopment as a function of traditionally irrational, spiritual, and communal values.”<sup>521</sup> “From this perspective,” they write, “traditional values were not only mutable but could—and should—also be replaced by modern

<sup>512</sup> Inglehart and Welzel, “Modernization,” 1–2.

<sup>513</sup> Inglehart and Welzel, “Modernization,” 1.

<sup>514</sup> Ibid.

<sup>515</sup> Inglehart and Welzel, “Modernization,” 2.

<sup>516</sup> Ibid.

<sup>517</sup> Ibid.

<sup>518</sup> Ibid.

<sup>519</sup> Ibid.

<sup>520</sup> Ibid.

<sup>521</sup> Ibid.

values, enabling these societies to follow the path of capitalist development.”<sup>522</sup> (We might recall here Chapter 1’s consideration of claims that some “types and forms” of corruption “appear to be distinctive and special to a country or to a set of countries with a shared geography and history,”<sup>523</sup> such as India where it has been described, for example, as “a way of life.”<sup>524</sup>) All this is to say that many arguments about modernization may begin by foregrounding transformations in technology and the economy, but go on to depict changes in “social structures” and “cultural values” as the key representations of “technological progress.”<sup>525</sup> This is all the more the case for countries deemed to be developing (or indeed modernizing). Corruption is, in this view, deeply cultural, which is why it is apparently also premodern.

But modernization and its relationship to corruption are not always portrayed in so straightforward a manner. For one, there are the claims in which modernization is not an unqualified good. In fact, it may involve rather serious “dislocations.”<sup>526</sup> In one general text about corruption, for example, the modern “profane amoral world based on instrumental relationships premised on accumulation of rights rather than duties” is set in sharp contrast to the premodern one where the “primordial public is a sacred moral universe of sacrifice and duties.”<sup>527</sup> In another text specifically about India—the government-commissioned Santhanam Committee report on corruption—in a section titled “Causes,” modernization also presents significant costs. “A society that goes in for a purposively initiated process of a fast rate of change,” the report claims, “has to pay a social price, the price being higher where the pace of change excludes the possibility of leisurely adjustment which is possible only in societies where change is gradual.”<sup>528</sup> It goes on to list “alongside of the weakening of the social mores of the simpler society” of “former times,” a whole range of “signs” of modernization such as “materialism” and “growing impersonalism,” concluding “there has come about a certain amount of weakening of the old system of values without its being replaced by an effective system of new values.”<sup>529</sup>

Such views try to cast doubt on the movement of modernization as unequivocal forward progress, or at the least, such views try to catalog a set of costs associated with modernization. But they also sometimes simultaneously, if inadvertently, register some sense of loss or even longing for the premodern. Arjun Appadurai’s essay, “Corruption, Scale and Governance in India,” offers us one such example. Therein, Appadurai focuses on “the centrality of corruption discourse and the corruption debate to the structure of the Indian public sphere.” What he refers to as “corruption discourse” seems to serve in his argument as a dual register of decay and nostalgia. This is first evident in what he calls “charismatic corruption.” With this phrase, Appadurai associates “a deep unsettlement of the moral order, as part of the plunder of India, the abandonment of its religious traditions (as in the discourse of Baba Ramdev), and the sapping of its national spirit.”<sup>530</sup> To the extent that Appadurai’s take on “charismatic corruption” in this instance represents the failure of the promises (however conceived) of India’s independence, corruption is conceptualized as that

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<sup>522</sup> Ibid.

<sup>523</sup> Ram, *Why Scams Are Here to Stay*, 15.

<sup>524</sup> Quah, “Curbing Corruption in India,” 242.

<sup>525</sup> Inglehart and Welzel, “Modernization,” 3.

<sup>526</sup> Hanson, *The Process of Planning*, 20.

<sup>527</sup> Theobald, *Corruption, Development, and Underdevelopment*, 8.

<sup>528</sup> Government of India, *Report of the Committee on Prevention of Corruption*, 1964, 8.

<sup>529</sup> Ibid.

<sup>530</sup> Appadurai, “Corruption, Scale and Governance,” 74.

which tainted the aspirations projected onto modern statehood. As such, corruption is still a problem *for* modernization. But to the extent that observers believe what is valuable for independent India is that which predates the modern (its “religious traditions,” its deep-seated “moral order”), then it is modernity which can appear as “the plunder of India” and corruption its symptom. Corruption is here a problem *of* modernization. The yearning for what was imagined—even if falsely—as a superior premodern status is captured in Appadurai’s notion of “corruption discourse” when it sees modernization as an interruption at best and fall from grace at worst. Here, modernization—rather than representing social progress—is akin to the portrayal of corruption in some general literature: a “sign of human” or “moral decay.”<sup>531</sup> In such views, the failure of modernization does not attest to the unyielding persistence of premodern problems. Rather, it is modernization itself which is the problem. It represents a negative discontinuity in what instead ought to have been the forward march and amplification of all that was good about the past. In this view, it is modernization which corrupts—or which brings in its wake corruption.

Samuel Huntington is among those who have much to say about this. “Corruption obviously exists in all societies,” he writes, “but it is also obviously more common in some societies than in others and more common at some times in the evolution of a society than at other times.”<sup>532</sup> It is this latter focus on the periodization of corruption which leads him to remark that oftentimes corruption is widespread in countries undergoing “the most intense phases of modernization.”<sup>533</sup> By no means is modernization for him a phenomenon unique to countries emerging from colonization. After all, Huntington asks, “Is it merely coincidence that this high point of corruption in English and American public life coincided with the impact of the industrial revolution, the development of new sources of wealth and power, and the appearance of new classes making new demands on government?”<sup>534</sup> Modernization, as he sees it, does not simply coincide with corruption. It moreover “contributes to corruption” by offering new possibilities to generate power and wealth, possibilities that have a relation to politics not yet defined by the society’s “dominant traditional norms” and for which “modern norms” have not yet been internalized by the society’s dominant stakeholders.<sup>535</sup>

Huntington is joined by others who also diverge from the assumption that modernization is only ever positive. In fact, for some writers, modernization may not even always modernize if by that verb we mean the transformation-as-curbing of the premodern. For example, there is the extended treatment of modernity in Hanson’s study of state planning from 1950–64 in India. Against the view that “the traditional would rapidly give way to the modern as soon as economic development was seriously undertaken,” Hanson writes that, while “economic development has profoundly affected the traditional forms of social organization,” nevertheless “it has provided them with new and wider fields of action.”<sup>536</sup> In the face of modernizing forces, society ends up only doubling down on the “traditional,” in Hanson’s partial and subtle reorientation of the chronology of modernization in which there is no longer simply a forward march into modernity. Following Hanson’s view, to the extent that corruption is aligned with the premodern, we see how

<sup>531</sup> Inglehart and Welzel, “Modernization,” 1.

<sup>532</sup> Huntington, “Modernization and Corruption,” 253.

<sup>533</sup> Ibid.

<sup>534</sup> Ibid.

<sup>535</sup> Huntington, “Modernization and Corruption,” 255.

<sup>536</sup> Hanson, *The Process of Planning*, 244–45.

modernization can affirm rather than curb it or instead facilitate a kind of recourse to the premodern. Corruption here may even be seen as a reactionary cost of modernization.

In such claims about modernization, where either the lingering premodern is not necessarily deemed to be a problem or where modernization is itself problematized, the notion of modernity as a rupture in a chronological timeline—dividing the traditional from the new—is still maintained. Just like in Inglehart and Welzel’s understanding of debates within and across modernization theory, so too here we find modernization to be something which even its apparent critics nevertheless contend does in fact exist. Only every so often do we get a glimpse of a different understanding—one with implications for the notion of corruption, no less. See, for example, the following fleeting remarks across three different texts.

In the first text, anthropologist Lucia Michelutti refers to the criminalization of politics in India (“*goonda raj*” or “*goonda politics*”) as a subset and cousin of corruption. She writes that the prevalent view is that it represents “a general moral decay which is an integral part of the failure of the Indian post-colonial narrative of modernisation, secularisation, and development.”<sup>537</sup> Elsewhere, in a second text, in Hanson’s study, we find him quoting: “The essential function of ideology, as Professor Sigmund says, is ‘to carry the nation through the period of modernization of traditional society and to justify the ensuing sacrifices and dislocations.’”<sup>538</sup> Finally, in a third text, Huntington writes that for modernizing societies, “ideals of honesty, probity, universalism, and merit often become so overriding that individuals and groups come to condemn as corrupt in their own society practices which are accepted as normal and even legitimate in more modern societies.”<sup>539</sup>

Though these momentary evocations are situated in very different aims across the three respective texts, they may give us some pause before we take the alleged existence of modernization at face value, at least where an equally vexing term like ‘corruption’ is concerned. In Michelutti, modernization is mentioned not as a fact, but rather as a “narrative”; in Hanson, it is something that is justified by “ideology”; and in Huntington, it is the internalization of modernization’s “ideals” which produces the sight of corruption. Taking these three claims together, we might describe modernization not just, as Inglehart and Welzel write, as a “theory,” but also as an argument, a story, one which renders some things visible and makes others obscure and that too for a purpose. We might say that modernization *does* indeed constitute corruption—though not in the way Huntington suggests. Rather, modernization creates corruption like it creates the premodern—not the empirical phenomenon, but the very notion itself, its contours, its valences. Depending on the beholder, corruption may be represented, for example, both as modern decay and nostalgia for the premodern and as stubborn roadblock to the necessary and inevitable arrival of progress. This apparent incongruity between corruption and modernization is a function of how tethered the notion of corruption is to a particular vision of modernity, of which there are many competing and contesting ones.

But again, whether corruption is situated in the ‘before’ or ‘after,’ it is modernity which remains the notion that marks the break for critics. Seen as a discontinuity from the very past it itself

<sup>537</sup> Lucia Michelutti, “Wrestling with (Body) Politics: Understanding ‘Goonda’ Political Styles in North India,” in *Power and Influence in India*, eds. Price and Engelsen Ruud, 45.

<sup>538</sup> Hanson, *The Process of Planning*, 20.

<sup>539</sup> Huntington, “Modernization and Corruption,” 256.

conjures, modernization also throws into sharp relief some particular figuration of corruption in its wake.

#### 4. Bureaucracy and the Modern

Following this roundabout path, we can now return to bureaucracy: its relation to modernity is interpreted in no less charged a way than corruption's—in the case of the License Raj and also more generally. There are several views to consider here.

First, we can explore the characterization of the bureaucracy as a constitutive feature of modernization, a belief of an earlier era so prominently held that it may strike later critics of the License Raj as naïve or foreign. For as much as modernity often represents the great discontinuity in the now taken-for-granted chronological framework of Indian political economy, the *particular associations* which modernity once entailed—at least where the bureaucracy is concerned—have since faded and even been turned on their heads.

Indeed, as we approach the era of market liberalization in India that writers mark from the 1980s, bureaucracy no longer retains the same avant-garde aura it once did around independence in 1947. Instead, bureaucracy becomes almost synonymous with antiquarian red tape, a refrain we find most often in the critiques of the License Raj. Bureaucracy's discrediting, therefore, appears to have to do with its perceived centrality to the mixed economy—intertwined associations we considered in Chapter 2 alongside the disavowal by liberalization proponents of the rationale for state planning.

The framing of not only the bureaucracy but also the mixed economy as 'modern' was an important part of this rationale around Independence. As such, we might even add state planning to (postwar) Indian modernity's 'content,' one of the inflections of the modern we sketched out earlier. Kohli, for example, distinguishes "the laissez-faire colonial state" from "the modern, interventionist state that replaced it at midcentury," remarking that the latter "provided a framework for modest economic growth and industrialization."<sup>540</sup> Elsewhere too, Bidyut Chakrabarty describes the "modern state" as "interventionist" ad state planning as "an effective means to ascertain its control over the entire social process."<sup>541</sup> State planning, he writes, "strode to transform India from a traditional to a modern society."<sup>542</sup> Inglehart and Welzel too contrast "limited," "despotic," and "rudimentary" "premodern states" with "modern welfare states" wherein industrialization "broadens the state's tax basis, enabling it to extract more resources" that are then "invested...in the creation of a more elaborate administrative infrastructure and the extension of performed tasks."<sup>543</sup> And perhaps Sanjay Seth sums it up most succinctly in writing that the state planning regime was understood to be the "the motor, the instrument, for the modernizing of India."<sup>544</sup>

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<sup>540</sup> Kohli, *State-Directed Development*, 219.

<sup>541</sup> Bidyut Chakrabarty, "Jawaharlal Nehru and Planning, 1938–41: India at the Crossroads," *Modern Asian Studies* 26(2) (2008): 275.

<sup>542</sup> Ibid.

<sup>543</sup> Inglehart and Welzel, "Modernization," 3–4.

<sup>544</sup> Sanjay Seth, "'Nehruvian Socialism,' 1927–1937: Nationalism, Marxism, and the Pursuit of Modernity," *Alternatives* 18 (1993): 466–67.

There are those, however, who hold more qualified views. Hanson, for example, proclaims “the bureaucracy acts simultaneously as a promoter of economic growth and as an obstacle to it...” The bureaucracy in his view is not only the instrument of modernization but also produces, through “the powerful forces of inertia associated with routine, the very life-blood of officialdom,” a “resistance to modernization.”<sup>545</sup>

Meanwhile in Theobald, modernity is not simply a generic marker of the break from the past in the development of the state. Rather, it is the outcome of a specific place and of a specific moment. In his text on corruption, Theobald writes that:

the concept of the modern state with its ‘clean’ administration is the product of a particular period in the development of western capitalism: a period of enormous economic expansion generated by massive reconstruction and investment which followed the second world war...<sup>546</sup>

He remarks on the “major irony” that developing economies, which have trouble supporting “modern administrative structures,” usually have a state apparatus that is far more extensive than those in industrialized countries.<sup>547</sup> To this, Theobald attributes the “inheritance from European rule” of a very large “administrative apparatus,” the purpose of which is to subordinate the society and economy of the colony to what the metropolitan country needs.<sup>548</sup> Here Theobald deploys the same critique we discussed earlier: where the bureaucracy is not ‘fit for purpose’ and possibly corrupt due to a legacy that produces an “imbalance” between what is demanded of the state and its capacity for meeting in demands.<sup>549</sup> Notably, the comparatively large bureaucracy of Theobald’s developing postcolonial economies also has to do, for him, with the “perceived development needs and the ideological thrust of independence,” leading, as if necessarily, “to some form of socialist planning...”<sup>550</sup>

Theobald is joined by Huntington, who also links corruption with the bureaucracy of state planning and modernity—albeit in a different formulation. “Modernization,” Huntington writes, “particularly among the later modernizing countries, involves the expansion of government authority and the multiplication of the activities subjected to governmental regulation.”<sup>551</sup> Since every law “put[s] some group at a disadvantage,” that group becomes a possible “source of corruption.”<sup>552</sup> On this basis, Huntington claims that the “multiplication of laws thus multiplies the possibilities of corruption.”<sup>553</sup> “Laws affecting trade, customs, taxes plus those regulating popular and profitable activities such as gambling, prostitution, and liquor,” Huntington concludes, “consequently become major incentives to corruption.”<sup>554</sup> This is the assumption behind the many critiques of the License Raj which see corruption as inherent to state planning, and which conclude

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<sup>545</sup> Hanson, *The Process of Planning*, 22.

<sup>546</sup> Theobald, *Corruption, Development and Underdevelopment*, 161.

<sup>547</sup> Theobald, *Corruption, Development and Underdevelopment*, 84.

<sup>548</sup> Ibid.

<sup>549</sup> Ibid.

<sup>550</sup> Ibid.

<sup>551</sup> Huntington, “Modernization and Corruption,” 255.

<sup>552</sup> Ibid.

<sup>553</sup> Ibid.

<sup>554</sup> Ibid.

that liberalization—and the eradication therein of the bureaucratic regimes which regulate the economy—will cure corruption.

Unlike Theobald who seems keen to situate corruption in the aftermath of the colonial encounter and in the perceived weaknesses of the comparatively large bureaucratic planned economies of developing countries, Huntington does not appear interested in such specificities. His account is replete with almost, but not quite *fully*, ahistorical sketches; recourse to some notion of history, after all, seems inevitable in discussions on modernity. One senses in his text a search for general scientific principles that could relate corruption, bureaucracy, and modernization, and indeed what we find are lean sentences shorn of detail, let alone rhetorical flourish. There is an alignment, then, both in style and in substance, between his claim about excessive bureaucratization as necessarily leading to corruption and the vision of the lean administrative state sought in pro-liberalization critiques of the License Raj which follow from precisely this claim. But lest we collapse him into another proto- or covert proponent of liberalization, Huntington does diverge from that camp of License Raj critics in a couple of significant ways.

There is, first, his oft-quoted remark: “In terms of economic growth, the only thing worse than a society with a rigid overcentralized, dishonest bureaucracy is one with a rigid, overcentralized honest bureaucracy.”<sup>555</sup> Indeed, Huntington claims that “[c]orruption may be one way of surmounting traditional laws or bureaucratic regulations which hamper economic expansion.”<sup>556</sup> (There is the qualifier, though, that while the “developed traditional society may be improved—or at least modernized—by a little corruption,” “a society in which corruption is already pervasive, however, is unlikely to be improved by more corruption.”<sup>557</sup>) Elsewhere, Dwivedi too asks whether “bureaucratic corruption” in fact hinders development or whether it can be “a catalyst” that harnesses modernization.<sup>558</sup> If it is the latter, he continues, can bureaucratic corruption then be “constructive”?<sup>559</sup> It would seem the thrust of much of what has been written about modernization, corruption, and bureaucracy is closely linked, if not an intimate part of, the mixed/planned economy versus market economy debate.

But there is also another divergence from the License Raj critics which we may deduce from Huntington’s text. In it, as much as excessive bureaucratization is linked to corruption in “later modernizing countries,” it is still under the larger banner of modernization in which this corruption—which, as we have seen him suggest in part, may even be beneficial for development—plays out. In other words, it is not the premodern which is the problem. Rather, for Huntington, corruption and the bureaucracy in the mixed/planned economies of developing countries is still a *modern* problem through and through—however much certain subsequent critics may deem it as some return of the repressed or irrepressible premodern.

Following Huntington’s text, we even see that liberalization is not necessarily aligned with modernization, or if it is, it does not escape the possibility of corruption. As Huntington writes, foreign business “tends to promote corruption” since “foreigners have less scruples in violating the norms of the society” and “their control of important avenues to economic wellbeing forces

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<sup>555</sup> Huntington, “Modernization and Corruption,” 261.

<sup>556</sup> Ibid.

<sup>557</sup> Ibid.

<sup>558</sup> Dwivedi, “Bureaucratic Corruption in Developing Countries,” 245.

<sup>559</sup> Ibid.

potential native entrepreneurs to attempt to make their fortunes through politics.”<sup>560</sup> Indeed, unlike many License Raj critics, “politics” is a word that interests Huntington, and because of this, he can claim that “corruption [has] provided immediate, specific, and concrete benefits to groups which might otherwise be thoroughly alienated from society.”<sup>561</sup> In fact, he goes so far to say that corruption can therefore be “functional to the maintenance of a political system in the same way that reform is.”<sup>562</sup> “Corruption itself may be a substitute for reform and both corruption and reform may be substitutes for revolution,” he writes.<sup>563</sup>

Ultimately, there is a certain ideal balance which Huntington seems to have in mind for the relationship of the bureaucracy vis-à-vis the economy in developing countries with regards to something called corruption. In this vision, never stated, only modestly intimated, Huntington does retain some notion of bureaucratic excess or ‘red tape’ as linked to corruption, but without necessarily posing corruption against economic development and without advocating for the ‘non-interventionist’ bureaucracy which pro-liberalization License Raj critics idealize.

There is one final view on corruption, bureaucracy, and modernity which we may consider. Here, critics write in the aftermath of the License Raj’s demise and describe the bureaucracy’s failure to usher in modernization. In these texts, there is a posture of disillusionment, a disillusionment which itself can be thematized with regards to corruption. For example, in the previous section, we saw Michelutti say that many understand “contemporary *goonda* politics” as reflective of “a general moral decay which is an integral part of the failure of the Indian post-colonial narrative of modernisation, secularisation, and development.”<sup>564</sup> She goes on to say that “[s]cholars have causally linked the ‘vacuum of authority’ created by the fragmentation of the dominant Congress party to a rise in corruption, political violence and criminality in the political arena,” but “the link between criminality and politics in North India is not new.”<sup>565</sup> Rather, she says, “[t]he criminalisation of politics in India has been linked to the politicisation of bureaucracy and the police that took place soon after Independence.”<sup>566</sup> In this “widespread take” under consideration by Michelutti, there is an arc for which the downward trajectory chronicles the “decay,” “fragmentation,” and surely enough, “corruption,” which all apparently culminate in the “failure” of the modernization narrative. Something about corruption and the cluster of associations around it seems to help cohere the semblance of failure of the hopes projected onto an independent, modern India. Therein, the bureaucracy—the Indian Administrative Service (IAS), the successor to the colonial-era Indian Civil Service (ICS)—is the recurring site in which this failure is registered.

Elsewhere, S.P. Aiyar puts the matter more starkly. He describes “the crisis in the morale of civil servants” (who were afraid of being “penalized for [their] views” or “just interested in having security”) by which “the idealism of the youth” devolved into “their sense of disillusionment and shock at the political realities of India.”<sup>567</sup> Whereas Michelutti generally places the start of the

<sup>560</sup> Huntington, “Modernization and Corruption,” 259.

<sup>561</sup> Huntington, “Modernization and Corruption,” 257.

<sup>562</sup> Huntington, “Modernization and Corruption,” 257.

<sup>563</sup> Ibid.

<sup>564</sup> Michelutti, “Wrestling with (Body) Politics,” 46.

<sup>565</sup> Michelutti, “Wrestling with (Body) Politics,” 45–46.

<sup>566</sup> Michelutti, “Wrestling with (Body) Politics,” 45.

<sup>567</sup> Aiyar, “Political Context of Indian Administration,” 339.

decline shortly after Indian independence, Aiyar specifies that the “signs of anxiety among civil servants” and “the increasing uncertainties of politics” pick up pace not in Independence’s immediate aftermath but rather in the final years “of the Nehru era.”<sup>568</sup>

Senior IAS officer and former Chairman of the Union Public Service Commission P.C. Hota appears to concur. He too writes that “[a]fter Independence in 1947, the IAS started with a clean reputation,” but once “the old guard was gone, unfortunately we had a breed of politicians, who amassed money in the name of fighting elections.”<sup>569</sup> Hota tells us that “by and large, the IAS officers have lost their sense of values,” especially since the “early 70s [when] the culture of money infiltrated in a big way into the IAS and the IPS [Indian Police Service].”<sup>570</sup> “Once it became known that there are officers in the IAS, who can serve the selfish and partisan interest of the politicians in power,” Hota claims, “the IAS, as a class, lost its credibility in the eyes of the people.”<sup>571</sup>

Finally, Ravi Kalia also advances the same chronology of demise, albeit more broadly, remarking “that the India of the late 1960s was less mythic than that of the earlier generation, more humbled by social and political realities.”<sup>572</sup> “Its history, or histories,” he continues, “became increasingly obscured by waves of seekers more interested in the past than the future,” concluding that “over the whole 59 years since independence, there remain unresolved, perhaps irresolvable, tensions between, on the one hand, mythologies of Westernization and the promise of industrialization and, on the other, the realities of today’s complex, multifaceted India.”<sup>573</sup>

Whereas these portrayals register the sense of failure of the bureaucracy (or even the state) more generally, in his 2006 study *Locked in Place: State Building and Late Industrialization in India*, Vivek Chibber focuses on the state planning regime in particular. In the epilogue to his book-length historical narrative on the planned economy, corruption also appears after the immediate post-Independence era. “[C]orruption, clientelism and growing criminality in the policy apparatus during the late years,” he writes, “are often taken as root causes behind the relative failure of state-led development in India,” countering that “[a]lthough important, they were not the basic cause of the system’s weakness.”<sup>574</sup> While planning is thus saved from a portrayal as endemically corrupt in his account, for Chibber, as for many other critics, Indira Gandhi’s reign is not so saved, a matter we will explore at length at the end of this chapter. In fact, according to Chibber, “the politicization of the bureaucracy was an innovation for which Indira and Sanjay could take all the credit” since “fidelity to the ruling family” rather than “conformity to rules” became the basis of assessing decisions.<sup>575</sup> For Chibber, this brought “the dynamics of patron-client relations into the very

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<sup>568</sup> Ibid.

<sup>569</sup> P.C. Hota, “The Civil Service—Past, Present and Future,” *The Indian Journal of Public Administration* 56(2) (2010): 194.

<sup>570</sup> Ibid.

<sup>571</sup> Hota, “The Civil Service,” 193.

<sup>572</sup> Ravi Kalia, “Modernism, Modernization and Post-colonial India: A Reflective Essay,” *Planning Perspectives* 21(2) (2006): 135.

<sup>573</sup> Ibid.

<sup>574</sup> Chibber, *Locked in Place*, 254.

<sup>575</sup> Chibber, *Locked in Place*, 251.

capillaries of the administrative structure,” eroding the “autonomous, rule-following bureaucracy” which he claims is one of the “basic conditions of effective policy.”<sup>576</sup> Chibber goes on to write:

As is well known, the Indira–Sanjay era in Indian politics, which lasted more than a decade, tore loose many of the traditions of governance that, under Nehru, had acted as a brake against the powerful tendencies toward political degeneration.<sup>577</sup>

The bulk of Chibber’s book is styled as a revisionist study that challenges with granular and even dry technical detail the narratives about the inherent ineffectiveness of state planning. As such, the text serves as a kind of implicit rebuke to the talking point that corruption and state planning necessarily go hand in hand. But in his epilogue—characterized as most epilogues are by broader brushstrokes—Chibber nonetheless ends up repeating precisely those refrains about corruption which are frequently heard elsewhere: the rule of law as the guarantor for uncorrupt and effective policymaking, political brokerage as dirty and corrupt, corruption as decay, and (as we shall consider in the following section) corruption as misplaced loyalty.

There seems to be something extremely attractive about the standard tale of corruption as a fall from grace, though the target may be a shifting one depending on the critic. For liberalization proponents, the target of corruption often seems to be the License Raj. For Aiyar, Hota, and Kalia, the target is coincident with the License Raj era: the post-Nehruvian India of the late 1960s and early 1970s. Chibber concurs, but in his text, invested as it is in the erstwhile aim of Nehruvian state planning (at least as against the subsequent liberalization), it is the perceived distortion of the state planning regime, specifically under Indira Gandhi, which is the target. His epilogue depicts, even if unwittingly, how corruption can serve as a register of disillusionment, which we might consider a sort of cousin of decay. Characterizing Chibber’s view as disillusioned by the failed modernizing aims of independent India, we uncover not the sense that modernization represents decay (of which corruption is the symptom), but rather the sense of a faith in modernization which has been shaken by the aftermath of independence and the fallout of planning under Indira Gandhi (a fallout which gets read as corruption).

Unlike the view that modernization represents decay, disillusionment appears to derive its emotional charge not from a rejection of modernization and its imagined constitutive features, but from its *investment* in precisely these features, an investment spurred by the sense of failure in which the premodern may or may not be implicated. (In Chibber’s epilogue, the reference to family loyalty might open the door to accusing the premodern.) Corruption is, in this view, a trigger for or deep sign of this disillusionment. Or, put another way, corruption is what this disillusionment appears to render visible. And for Chibber, as for others, the bureaucracy is the locus in which the arc of corruption-as-disillusionment plays out: first as promise, then as betrayal.

## 5. Loyalty: A Survey

In this discussion of disillusionment, we have so far alluded to the role of what we might call psychological elements in constituting what appears to the critic as ‘corruption.’ There is another way in which this human or personal element can brought to bear in discussions on modernity and corruption in the bureaucracy. The bureaucracy is made up of people, after all, and yet in the views

<sup>576</sup> Ibid.

<sup>577</sup> Chibber, *Locked in Place*, 249.

we have considered thus far (aside from Aiyar's perhaps), the bureaucrat—as a psychological subject, as a particular individual with an interiority and life experiences, rather than a static unit of an administrative apparatus—is nowhere in focus.

Hanson's study is one notable exception where the figure of the individual bureaucrat, albeit abstractly evoked, is someone who has an inner life and a past. Concerning the relation between the bureaucrat and "the victims of bureaucratic malpractice," Hanson writes of "barriers" which are "positively daunting" to bring down in "underdeveloped countries."<sup>578</sup> For him, this is because the "culture" of the premodern society is itself internally divided: whereas the bureaucrat is "a literate and comparatively sophisticated city dweller," his "clients" are "illiterate and superstitious villagers."<sup>579</sup> "The bureaucrat," as Hanson goes on to say, "is determined to avoid rural dirt," and his career promotion is not advanced by "becoming the 'father' of a community of mud-hut dwellers."<sup>580</sup> In the journey Hanson describes, "the village wallows in its squalor and superstition, while the bureaucrat goes off to the capital city."<sup>581</sup> There, he may be "lucky enough to get into the Atomic Energy Authority or the Hydro-Electric Commission" where he may even draft "the plans for rural uplift."<sup>582</sup> To be a bureaucrat apparently is itself to be modern, though the bureaucrat may themselves come from a premodern background, and may even end up modernizing their premodern birthplace. But in all likelihood, for Hanson at least, the bureaucrat from the very onset is cut from a different (modern) cloth than their premodern village counterparts.

Dwivedi also has something to say in this context. While some others implicitly portray the bureaucrat as the figure who advances corruption in the bureaucracy, Dwivedi notes instead that "[c]harges of corruption generally originate from the modernizing elites—the group to whom the responsibility for political, economic and social development has been entrusted."<sup>583</sup> The bureaucrat as a "modernizing elite" is here both accuser and accused, with Dwivedi paying special attention to their status as the former. "Trained mostly in Western norms but brought up in a traditional environment," he writes, "these people abhor the increase in corruption."<sup>584</sup> Therefore, Dwivedi goes on to call for a different type of "modernizing elite" altogether, recommending they "be induced to accept an altered perception of the nature of bureaucratic corruption."<sup>585</sup> Something about developing societies entails a "transitional stage" which may require, as Dwivedi quotes Herbert Spiro, not:

the impersonal, machine-like honesty and efficiency of the ideal type of Western civil servant [but rather] public officials who are more "human," approachable, amenable to influence, and leisurely than European civil servants under the conditions of highly industrialized, densely populated, and intensively bureaucratized societies.<sup>586</sup>

<sup>578</sup> Hanson, *The Process of Planning*, 21.

<sup>579</sup> Hanson, *The Process of Planning*, 21.

<sup>580</sup> Hanson, *The Process of Planning*, 21–22.

<sup>581</sup> *Ibid.*

<sup>582</sup> *Ibid.*

<sup>583</sup> Dwivedi, "Bureaucratic Corruption in Developing Countries," 253.

<sup>584</sup> *Ibid.*

<sup>585</sup> *Ibid.*

<sup>586</sup> Spiro as qtd. in *ibid.*

Heeding this call, we will now take another glance at this human (or all too human) bureaucrat by situating our discussion of modernity alongside a prominent if understudied motif in the corruption literature: loyalty.

In this literature, it is largely clear where loyalty stands. Many critics and writers associate it with the premodern (which, in these accounts, is often associated with corruption). Critics are eager to see the transformation and demise of premodern loyalty, while other writers at best offer a somewhat sympathetic take. This at least is the rough trend in general literature on corruption and modernity, as well as in studies about India. Even in this general literature, though, there are understood to be certain types of countries where premodern loyalty is especially at stake in corruption, namely those “regions of the world” where the understanding of a “modern state”—governed by the “rule of law”—is not solidly “established” or is perceived as “alien.”<sup>587</sup> In these places, curbing corruption is argued to be hard because of an apparent resistance to replacing “values of reciprocity and loyalty...with Western meritocratic thinking and formal equal treatment.”<sup>588</sup> There is, on the one hand, therefore, an “ideal of a meritocratic state on the basis of the rule of law,” and on the other, “communities based on family and clan relationships which are sustained by exchanging gifts and providing group members with official posts.”<sup>589</sup> As to why the former “disqualifies” the latter, we hear many (somewhat circular) explanations that riff on the same theme. “In pre-industrial society,” Inglehart and Welzel write, “the family is the core unit in which all social roles, from biological reproduction to economic subsistence, are performed.”<sup>590</sup> “In modern societies,” however, “family roles and economic roles fall apart and are performed in different social circles.”<sup>591</sup> When the nature of “social cohesion” changes, we are told to expect a transition “from clientelist relationships based on inherited loyalties to contractual relationships based on negotiated ties.”<sup>592</sup> However, there is countless other phraseology for this supposed transition: “mechanical solidarity” to “organic solidarity,” “holistic ‘communities’ to specific ‘associations,’” “communities of necessity” to ‘elective affinities,’” and so on.<sup>593</sup>

But this transition in loyalty is not depicted as a simple or taken-for-granted one. For writers like Huntington, “traditional codes” in modernizing societies dictated that a public official was responsible and obligated to provide jobs and rewards to family members: there was not a distinction, in his view, between state obligations and family obligations.<sup>594</sup> After all, as Ronald Wraith and Edgar Simpkins ask elsewhere, about “Africa”: “Why should a man become big and powerful except to look after his relations?”<sup>595</sup> These sorts of ideas are understood to run deep in modernizing, developing countries. So if a state official “fixes” license applications disregarding merit but prioritizing “family and caste loyalties,” we are told “he is obeying a law of social conduct more ancient than that of the upstart state.”<sup>596</sup> Consequently, when someone asks a fellow

<sup>587</sup> Anne Peters, “Corruption as a Violation of International Human Rights,” *European Journal of International Law* 29(4) (2018): 1280.

<sup>588</sup> Ibid.

<sup>589</sup> Ibid.

<sup>590</sup> Inglehart and Welzel, “Modernization,” 4.

<sup>591</sup> Ibid.

<sup>592</sup> Inglehart and Welzel, “Modernization,” 4–5.

<sup>593</sup> Ibid.

<sup>594</sup> Huntington, “Modernization and Corruption,” 254.

<sup>595</sup> Wraith and Simpkins, *Corruption in Developing Countries*, 34.

<sup>596</sup> W.H. Morris-Jones, *The Government and Politics of India* (London, 1964), 62 as qtd. in Dwivedi, “Bureaucratic Corruption in Developing Countries,” 248.

caste member in public office for “favors,” he will not even “consider his act unethical,” we read.<sup>597</sup> “[F]amily, kinship, caste, neighborhood, village, ethnic origin, and religious affiliations”: these, we are told, are those “associational forms that have the first and greatest call on individual loyalties.”<sup>598</sup> Even Dwivedi’s “modernizing elites” are depicted as being “swayed by such ties.”<sup>599</sup>

Where the bureaucrat is concerned, therefore, one prominent psychological portrait that emerges in the literature is that of a subject in conflict. “Trained in Western norms,” the bureaucrat might follow in public “the norms of objective and achievement-oriented standards of recruitment and selection,” Dwivedi suggests. “But privately,” the bureaucrat adheres to “more subjective and ascription-oriented standards—a rigid hierarchy of caste and particularistic norms.”<sup>600</sup> Hanson, in his study on Indian planning agrees, writing of “the prevalence of a contradiction between the formal organization and the inner dynamism of a bureaucracy,” notes that “the man who becomes a bureaucrat does not contract out of society and cannot bring to his work a set of values and criteria which are totally alien to his non-working hours.”<sup>601</sup> Wraith and Simpkins appear to concur when they write that “in life of the family, clan or tribe,” there is generosity “to the point of destitution” whereas “among strangers,” “the simplest service is extorted.”<sup>602</sup> Nepotism in Africa, they claim, becomes conceived as “virtue.”<sup>603</sup>

The premodern/modern tensions internal to the bureaucrat—as this figure recurs in the literature—seem to be especially bewildering, we hear, to Westerners who visit developing countries and find bureaucrats criticizing “bribery and corruption” on the one hand, “but secretly encouraging them” on the other.<sup>604</sup> Or, in one moment, “insisting on strict and literal enforcement of regulations,” but in another, “supporting the open violation.”<sup>605</sup> For the figure of the bureaucrat, as depicted in such accounts, we read that this is nothing short of “an identity crisis,” one which will persist “until the extended family system and caste and tribal loyalties have been abolished.”<sup>606</sup> These premodern loyalties apparently are stubborn and run deep—or so the literature suggests. Pranab Bardhan, for example, quotes Indian psychoanalyst Sudhir Kakar as remarking that “dishonesty, nepotism and corruption as they are understood in the West are merely abstract concepts” and “negative constructions.”<sup>607</sup> They are “irrelevant to Indian psycho-social experience, which, from childhood on, nurtures one standard of responsible adult action, and one only, namely an individual’s lifelong obligation to his kith and kin.”<sup>608</sup>

Issues of loyalty, ultimately, are presented not just as a feature particular to bureaucracies in developing countries, but as a socially and psychologically constitutive feature of these premodern societies. On these matters, Weber might again be the reference of choice for those seeking to add high-theoretical cachet to their argument. “Personal loyalty of the faithful servant, not functional

<sup>597</sup> Dwivedi, “Bureaucratic Corruption in Developing Countries,” 248.

<sup>598</sup> Dwivedi, “Bureaucratic Corruption in Developing Countries,” 247.

<sup>599</sup> Ibid.

<sup>600</sup> Dwivedi, “Bureaucratic Corruption in Developing Countries,” 248.

<sup>601</sup> Hanson, *The Process of Planning*, 21.

<sup>602</sup> Wraith and Simpkins, *Corruption in Developing Countries*, 17.

<sup>603</sup> Wraith and Simpkins, *Corruption in Developing Countries*, 35.

<sup>604</sup> Fred W. Riggs as qtd. in Dwivedi, “Bureaucratic Corruption in Developing Countries,” 248.

<sup>605</sup> Fred W. Riggs as qtd. in Dwivedi, “Bureaucratic Corruption in Developing Countries,” 248–49.

<sup>606</sup> Dwivedi, “Bureaucratic Corruption in Developing Countries,” 249.

<sup>607</sup> Kakar as qtd. in Bardhan, “The Economics of Corruption,” 17–18.

<sup>608</sup> Ibid.

duty of office and office discipline,” he claims, “control the interrelationship of the administrative staff,” where the “body politic” of “traditional authority” is concerned. Therein, “obedience” to a “lord” is the organizing social principle; consequently, the lord’s administrative staff is made up of “personally dependent men (members of the household or domestic officials), of relatives, of personal friends (favorites), or associates bound by personal allegiance (vassals, tributary princes) [sic],” etc.<sup>609</sup>

We may sense Weber’s operating in the shadow of self-styled premodern histories of India where a long arc establishes for writers just how deep the subcontinent’s premodern roots and corresponding notions of loyalty go, not unlike claims about the timelessness of corruption more generally. For example, historian S.K. Das writes on “the patrimonial-bureaucratic features of the administration of the Delhi Sultanate” and Mauryan empire in pre-colonial India. “Civil servants in the Mauryan empire,” he writes, “held office on the pleasure of the ruler.” Those seeking office were obligated “to demonstrate personal loyalty” to the benevolent, patriarchal ruler seen to be divinely descended. As in Chapter 1, the *Arthashastra* again comes to the fore with Das’ citing its “tests... designed essentially to test the loyalty of the incumbent.”<sup>610</sup> The Delhi Sultanate is seen by Das to be no different. In it, officials were chosen “on the basis of their loyalty to the ruler and assigned prebends or benefices as compensation for their services.” “More importantly,” Das concludes, “there was no distinction between the public and the private, or the official and the personal.”<sup>611</sup>

All this is to say that the literature on corruption in the Indian bureaucracy sometimes coheres around a common claim: that “ascriptive considerations help the perpetuation of bureaucratic corruption.”<sup>612</sup> Corruption, loyalty, and the premodern are therein joined in a cluster, and they are said to explain why “we observe that corruption is more prevalent in South Asia than in the developed Western countries,” as Gunnar Myrdal writes. According to him, it is the “difference in mores as to where, how, and when to make a personal gain” which is decisive. And in his estimation, South Asian mores endorse that “those vested with official authority and power very often exploit their position in order to make a gain for themselves, their family, or social group.”<sup>613</sup> “Where, as often in South Asia, there is no market for services and goods or only an imperfect and fragmented one, and where economic behavior is not governed by rational calculations of costs and returns,” there, Myrdal proclaims, “‘connections’ must fill the gap.”<sup>614</sup> And therein, he says, “a bribe to a person holding a public position is not clearly differentiated from the ‘gifts,’ tributes, and other burdens sanctioned in traditional, pre-capitalist society or the special obligations attached to a favor given at any social level.”<sup>615</sup>

This is not to say that loyalty writ large is always seen as something for even a modern society to get rid of. J. Patrick Dobel, for example, offers us a picture of the non-corrupt or ideal state in which loyalty takes center stage. For him loyalty “is the constitutive moral and psychological attribute of the minimum civic virtue necessary to sustain the symbols, laws and institutions of the

<sup>609</sup> Weber, *Economy and Society*, 9.

<sup>610</sup> Das, *Public Office, Private Interest*, 42.

<sup>611</sup> Das, *Public Office, Private Interest*, 48.

<sup>612</sup> Dwivedi, “Bureaucratic Corruption in Developing Countries,” 248.

<sup>613</sup> Myrdal, “Corruption as a Hindrance to Modernization,” 265.

<sup>614</sup> Myrdal, “Corruption as a Hindrance to Modernization,” 266.

<sup>615</sup> Ibid.

state.”<sup>616</sup> Loyalty, however, is not enough for Dobel to form an effective “barrier against corruption.”<sup>617</sup> Dobel refers to one of corruption’s etymological meanings—“literally ‘to break into many pieces’”—to indicate how corruption can break the loyalties which make a community persist and instead transform them into “quasi-self-interest loyalty to the faction.”<sup>618</sup> “A person might even come to internalize the goals of a faction and become loyal in the fuller emotional and moral sense,” Dobel writes, but by then, “the loyalty has been narrowed to the concerns of the faction, not the common good.”<sup>619</sup>

Weber too has some sense of what the appropriate outlet for loyalty ought to be. “It is decisive for the modern loyalty to an office,” he writes, that “it does not establish a relationship to a person, like the vassal’s or disciple’s faith under feudal or patrimonial authority but rather is devoted to *impersonal* and *functional* purposes [sic].”<sup>620</sup> Weber counterposes his model of premodern “traditional authority” with that of “legal authority”: in the latter, “[o]bedience is not owed to anybody personally but to enacted rules and regulations which specify to whom and to what rule people owe obedience.” “The person in authority, too,” he continues, “obeys a rule when giving an order, namely, ‘the law’, or ‘rules and regulations’ which represent abstract norms.”<sup>621</sup> Of “legal authority,” Weber states, the “pure type is best represented by bureaucracy.”<sup>622</sup>

We might also note here that ‘loyalty’ is etymologically related to ‘law.’ The word comes to us from French *loyauté*, where it is itself derived from the Latin *legalis*, meaning ‘legal.’<sup>623</sup> While in French the following definition is considered outdated, in English the OED still refers to “faithful adherence to the sovereign or lawful government,” especially “of government employees” as a secondary meaning of “loyalty.” We read also that, in later usage, loyalty can refer to “enthusiastic reverence for the person and family of the sovereign.”<sup>624</sup> We might therefore consider loyalty to law, which herein comes to represent the modern state and its assumed virtues, as the antidote writers have to offer to the corruption which they believe premodern loyalty entails. Loyalty to one’s kin or caste or tribe in premodern times, in other words, ought to be displaced by loyalty to law in modernity. There is something about premodern loyalty, such as “a family’s desire to secure a civil service post for its eldest son,” we read, that it is not usually “expressible in legislative terms.”<sup>625</sup> Neither are “demands [...] made on behalf of a wider grouping,” such as “ethnic, linguistic or regional blocks.”<sup>626</sup> But we are told this is not a “problem” of or with law and its capacity to accommodate such ties. It is a problem with “the very character of loyalties in a

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<sup>616</sup> Dobel, “The Corruption of a State,” 960.

<sup>617</sup> Ibid.

<sup>618</sup> Dobel, “The Corruption of a State,” 965.

<sup>619</sup> Ibid.

<sup>620</sup> Weber, *Economy and Society*, 959.

<sup>621</sup> Weber, *Economy and Society*, 7.

<sup>622</sup> Ibid.

<sup>623</sup> See “loyalty, n.”. *OED Online*. September 2021. Oxford University Press.

<https://www.oed.com/view/Entry/110759?redirectedFrom=loyalty&> (accessed September 10, 2021) and “loyal, -ale,” *Outil de consultation du Dictionnaire de l’Académie Française*, 9<sup>e</sup> édition.

<https://academie.atilf.fr/9/consulter/loyal?page=1> (accessed September 10, 2021).

<sup>624</sup> See “loyalty, n.”. *OED Online*. September 2021. Oxford University Press.

<https://www.oed.com/view/Entry/110759?redirectedFrom=loyalty&> (accessed September 10, 2021).

<sup>625</sup> Scott, “Handling Historical Comparisons Cross-Nationally,” 130.

<sup>626</sup> Ibid.

transitional nation and the demands fostered by such loyalty patterns.”<sup>627</sup> An effective transition to modernity, we read, “involves the shaking loose of traditional deference patterns.” Perhaps only then can “new economic arrangements take hold and provide new foci of identification and loyalty.”<sup>628</sup> Law, despite being the root of ‘loyalty,’ is not implicated in the problems of premodern loyalty. Rather, it only seems to be the solution to the problem of corruption which premodern loyalty poses. It is also apparently not law’s problem that it cannot in its terms absorb premodern loyalty—instead, it is the fault of premodern loyalty that it is inexpressible as law, and indeed that its alleged potential for corruption threatens loyalty to law.

Or so the story goes. For not all scholars are as quick to write off premodern loyalty as corrupt. As in the larger dichotomy between the modern and traditional, we read that premodern loyalty is both revealed as such by modernization and is reaffirmed (rather than only curbed) in the encounter with modernization. Huntington is again one relevant source. In posing the question as to why modernization breeds corruption, he first claims that society undergoes a slow but steady acceptance “of universalistic and achievement-based norms, the emergence of loyalties and identifications of individuals and groups with the nation-state, and the spread of the assumption that citizens have equal rights against the state and equal obligations to the state.”<sup>629</sup> Next, those exposed to such “values” (we may be reminded of Dwivedi’s “modernizing elites”) start “to judge their own society by these new and alien norms.”<sup>630</sup> Finally, Huntington concludes that “[c]orruption in a modernizing society is thus in part not so much the result of the deviance of behavior from accepted norms as it is the deviance of norms from the established patterns of behavior.”<sup>631</sup> Indeed, “[o]nly when the distinction” between obligation to the state and obligation to the family “becomes accepted by dominant groups within the society does it become possible to define such behavior as nepotism and hence corruption.” Corruption, in this view, is not a failure of modernization, but rather the result of its effective psychological internalization, one which henceforth enables the retroactive recognition of earlier loyalty as premodern and nepotistic.

At the same time, however, Huntington claims that when “achievement standards” are introduced, they may encourage “greater family identification and more felt need to protect family interests against the threat posed by alien ways.”<sup>632</sup> On this basis, for Huntington just like for Hanson earlier, modernization can entail a doubling down on the premodern. In Huntington, modernization not only enables the recognition of the premodern loyalty as such (and as ‘corrupt’). It also, if unwittingly, stimulates premodern loyalty’s exacerbation.

In Hanson, we also come across another, slightly different view. Of India, where he writes that numerous groups have “roots in a social order which is qualitatively different from the new social order struggling so desperately to be born,” where he claims the “psychology” of “caste and community groups is pre-democratic,” he argues that “traditional-type groups are better than no effective groups at all, particularly if such groups, as with those in India, are undergoing a subtle

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<sup>627</sup> Ibid.

<sup>628</sup> James C. Scott, “Corruption, Machine Politics, and Political Change,” *The American Political Science Review* 64(4) (1969): 1146.

<sup>629</sup> Huntington, “Modernization and Corruption,” 254.

<sup>630</sup> Ibid.

<sup>631</sup> Ibid.

<sup>632</sup> Ibid.

process of adaptation.”<sup>633</sup> With such a claim, Hanson suggests the functionality of premodern ties to actually facilitate social advancement. In fact, Hanson even concludes that so-called “[i]ndividualist” democracy has always been a myth and is today, in developed and underdeveloped countries alike, more mythical than ever...”<sup>634</sup>

Theobald also offers an interesting take militating against premodern loyalty as inherently corrupt. He states that even for modern societies, there is a rationality for political officials to desire “trusted friends” since “elite jobs” involve both high exposure and high stakes. The loyalties of those whom one trusts, Theobald argues, are “retained through dispensing favours.”<sup>635</sup> He then goes on to say that, for developed societies, limiting society to “rational-legal principles”—something made possible and also required by “[c]apitalist industrialization”—did not entail eradicating “personalism.” This ‘modernization’ did not restrict personalism to “the private sphere,” i.e. the realm of personal relations ostensibly exterior to the boundaries of “formal organization.”<sup>636</sup> Premodern loyalty, in other words, still exists for Theobald in developed and modern societies; it has instead taken on a different and even hidden form, with the goals of modern bureaucracy “constantly obscured, distorted, subverted.”<sup>637</sup>

Taking this cue, we will conclude in the following section by asking whether one way in which premodern loyalty lingers and hides is in the very loyalty to law itself. For this, we situate our discussion of loyalty thus far in two historical moments in the Indian civil service.

## 6. Loyalty and the ICS

The literature surveyed above speaks of loyalty in rather general terms. As much as a notion of historical change is involved when a text employs the premodern/modern dichotomy, the literature is largely removed from historical specificity. It suggests that modernity is a vista or a horizon, not a series of particular moments or interruptions—and that the premodern is the static mass that precedes it, one which lingers.

In the texts that we will now examine, this matter is flipped on its head. We will now try to home in on a distinct scenario, one which presents a dilemma or contradiction for the themes at hand. Although loyalty and modernity are not always or necessarily the operative words being thematized, our aim will be to draw them out, and with that, to sketch out the stakes of what Arudra Burra calls “the puzzle of ICS continuity.”<sup>638</sup> In the first moment we will carve out, we will examine the role of Indian officers who served in the lower-level roles reserved for natives in the ICS alongside the burgeoning Indian National Congress (henceforth ‘Congress’) demanding independence from colonial rule. In the second moment, we will consider the place of the Congress, now an established political party, in the aftermath of Independence, in particular Indira Gandhi’s early tenure as Prime Minister. The issue of continuity (or discontinuity) in matters of

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<sup>633</sup> Hanson, *The Process of Planning*, 255.

<sup>634</sup> Ibid.

<sup>635</sup> Theobald, *Corruption, Development and Underdevelopment*, 48–49.

<sup>636</sup> Theobald, *Corruption, Development and Underdevelopment*, 161–62.

<sup>637</sup> Theobald, *Corruption, Development and Underdevelopment*, 162.

<sup>638</sup> Arudra Burra, “The Indian Civil Service and the Nationalist Movement: Neutrality, Politics and Continuity,” *Commonwealth & Comparative Politics* 48(4) (2010): 405.

loyalty, modernity, and corruption comes up when we juxtapose in these two moments the differing relationship of the Congress with the civil service at the time.

In the first moment, there is a question of loyalty posed for the Indians in the ICS formally expected to oppose the Congress once it embarked on a campaign of civil disobedience against the government which the ICS administered. In the second moment, the Congress—now the ruling political party of independent India—is depicted as securing its national authority through a patchwork of regional loyalties, or what scholars refer to as “machine politics” or “patronage politics,” only then to split once Indira Gandhi assumed leadership of the party. In trying make up for the departure of regional bosses from the party who are now her political opponents, Indira Gandhi is said to have greatly ‘politicized’ the bureaucracy to secure victory for her New Congress.

These two moments are not by any means neatly parallel with one another. In the first, we are in the colonial era, and in the second, we are several decades into the aftermath of Independence. In these two moments, there is a different aim for the civil service: in the first, one aim might be subordination of the colony to the metropole, and in the second, the primary goal might be the economic development of an independent democracy. Furthermore, the Congress goes from being a mass movement with provincial-level political experience in the first era, to being the dominant national party in the second, itself eventually becoming ‘deinstitutionalized’ under Prime Minister Indira Gandhi, according to the prominent view. But it is precisely the incongruity between these two moments that makes the question of continuity with which we opened this chapter stark, if not also strange. Are we in fact talking about the same sets of notions of bureaucracy and loyalty in each moment? Must we do so to be able to conjure up the claim of a legacy in corruption?

To begin with our first snapshot, we might recall the glory which the Indian Civil Service evokes in many depictions, in particular those which understand its development as a transformative improvement on its corrupt predecessor, the East India Company. But the moment we have in our sights takes place decades after the demise of the Company. We are now in the aftermath of World War One when it is said that higher levels of Indian recruitment and the 1919 Montagu-Chelmsford Reforms—which introduced gradual “self-government” through dyarchy—represented “to many civilians the death of the ‘Old I.C.S.’”<sup>639</sup>

Meanwhile, other developments were underway. These concern the Congress as well as the ICS. When the latter was emerging in the mid-nineteenth century, the Congress was becoming “a ‘proto-mass party.’”<sup>640</sup> As the ‘Old ICS’ declined, following the turn of the twentieth century, the Congress is said to have shed its “moderate, reformist”<sup>641</sup> roots and become the key opposition to colonial rule.<sup>642</sup> When it came to the Congress’s relationship to the ICS, Aiyar tells us that “[i]n the intensity of the new political environment, nationalist leaders viewed civil servants as the paid agents of the colonial bureaucracy, while [to themselves] they appeared, in their own eyes at least,

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<sup>639</sup> Alexander, “Discarding the ‘Steel Frame’,” 6.

<sup>640</sup> Paul D. Kenny, “The Institutional Origins of Patronage and Corruption in Modern India,” *APSA Annual Meeting Paper* (2011), 11, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1903157](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1903157).

<sup>641</sup> *Ibid.*

<sup>642</sup> Potter, “The Last of the Indian Civil Service,” 25.

as the true representatives of the masses.”<sup>643</sup> After all, “[t]he essence of the colonial bureaucracy,” Aiyar writes, “was the identification of administration with government.”<sup>644</sup>

What then should we make of the place of Indian officers in the ICS? They appear caught between following their oath to serve the government—‘loyalty to law’, as it were—and following what we might call, channeling Dwivedi, “ascriptive considerations,” in particular those with fellow locals in the Congress. There are two different sets of claims we come across with regards to this apparent tension. On the one hand, we read of “the tolerant attitude of the ICS to those Indian members who actively supported the nationalist movement.”<sup>645</sup> Historian H.M.L. Alexander informs us, for example, that the ICS refused a government request that sought to investigate “family antecedents” of Indian applicants.<sup>646</sup> In his narrative, following the acceptance of Indians in the ICS “as legitimate members of the fraternity,” he argues that “differences of political opinion could be assimilated.”<sup>647</sup> The ICS was “pragmatic” and had “limited objectives,” as his account goes, and it withstood “the onslaught of both nationalism and democracy in the period 1916 to 1922.”<sup>648</sup>

On the other hand, however, following the 1920s, the intensification of the independence struggle entailed several movements which increasingly challenged the ICS and, as a result, its relationship to its Indian members. The period in question saw “the Non-Cooperation Movement of 1921–22, the Civil Disobedience Movement of 1930–32, and the Quit India Movement of 1942–43.”<sup>649</sup> Alongside these movements, we might highlight their triggers to emphasize the force of the growing challenge facing Indians in the ICS. Among such triggers were, firstly, the enactment of acts such as the Anarchical and Revolutionary Crimes Act of 1919 (the Rowlatt Act) that curtailed political freedoms and expanded the meaning of sedition and, secondly, massacres such as those in Jallianwala Bagh in Amritsar that same year. In such instances, we read that it was difficult for the ICS to claim that it was “just following orders” by working to put down these movements. Further, the ICS could not easily disown responsibility for crafting policy to repress such agitations and the larger call for independence which they constituted. Indeed, we even read that the ICS pushed for “a much harsher response to the Civil Disobedience Movement than either the Viceroy or the Secretary of State.”<sup>650</sup>

In Arudra Burra’s work, we read in greater specificity of the variety of “weapons” a District Magistrate, for example, could use with regards to rising nationalist movements.<sup>651</sup> Some of these “tactics” are described as “straightforward exercises of his powers to enforce law and order.”<sup>652</sup> However, others—highly relevant for our discussion on corruption and the (proto-License Raj) bureaucracy—included “the exercise of patronage in terms of granting and withdrawing licenses.”<sup>653</sup> Both tactics, we read in Burra, were used especially “forcefully” during the moments

<sup>643</sup> Aiyar, “Political Context of Indian Administration,” 338.

<sup>644</sup> Ibid.

<sup>645</sup> Alexander, “Discarding the ‘Steel Frame’,” 8.

<sup>646</sup> Ibid.

<sup>647</sup> Alexander, “Discarding the ‘Steel Frame’,” 9.

<sup>648</sup> Alexander, “Discarding the ‘Steel Frame’,” 2.

<sup>649</sup> Burra, “The Indian Civil Service,” 406.

<sup>650</sup> Burra, “The Indian Civil Service,” 407.

<sup>651</sup> Burra, “The Indian Civil Service,” 405.

<sup>652</sup> Burra, “The Indian Civil Service,” 406.

<sup>653</sup> Ibid.

of intense agitation against colonial rule that we listed above.<sup>654</sup> So, on the matter of whether the government ought to issue orders to suspend or revoke licenses to known Congress allies, we read in Burra of “a heated debate within the Government of India... on the policy of ‘economic warfare’ against the Congress and its supporters.” The question was asked: “Would it be legal, given the fact that the relevant rules and acts did not authorise such exercises of discretionary authority on the part of district magistrates?”<sup>655</sup> One issue which arose concerned the particular types of licenses that the proposed policy would affect: only the “licenses for poisons or explosives” that posed a security threat, or more generally also “those licenses whose possession allowed licensees to make a profit?”<sup>656</sup> Although the trend Burra is keen to highlight in the ICS’s relationship to the Congress is not one of straightforward suppression, writers who allege discretionary abuse in the License Raj may nevertheless do well to look to this moment in their search for Indian corruption’s putative roots.<sup>657</sup>

What did all this mean for the Indian officers of the ICS and their relationship to their compatriots in the Congress which was organizing these movements? In H.M.L. Alexander’s work, we find a quote from B.G. Rao, an ICS servant as of 1934, who said that the Indian ICS officer was “at least as patriotic as any politician.” “The traditions, the discipline of the Service and the laws which he administered governed his actions,” Alexander continues, “but underlying them was the constant awareness that he was an Indian and that he had to strive for the welfare of his country.”<sup>658</sup> What emerges from his scholarship, then, “is a portrait of ICS Indians as rather ambivalent men.” While they were working for the British rulers of India, they could also be “fairly ardent nationalists”: in certain instances, they are even said to have covertly assisted the Congress when possible.<sup>659</sup> Here we are again struck with the depiction of the Indian bureaucrat as somehow internally divided, although the moment takes place much prior to the License Raj era. But crucially, in this case, the conflict is not portrayed as one between modern loyalty to law and premodern loyalty to caste or family. Rather, the portrayal is of a conflict between the loyalty to law and another, perhaps equally modern loyalty to an emerging nationalist movement that sought to take the reins of modernization for itself through self-rule.

Furthermore, some writers challenge the extent to which *only* a modern loyalty to law was in fact operative for the ICS. For example, Burra writes that the civil service may have been “neutral” in the sense of being “subordinate ultimately to the British Parliament” and “doing as they were told (or resigning)” when their political superiors decided to pursue an action that a civil servant did not like. That is, the ICS would nevertheless execute those policies that diminished their own power or which they opposed. But when it came to aloofness from party politics, Burra tells us that “clearly the ICS was not politically neutral.”<sup>660</sup> The ICS, in other words, took decisive stands against parties which sought to generate “nationalist opinion,” the Congress Party in particular.<sup>661</sup>

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<sup>654</sup> Ibid.

<sup>655</sup> Burra, “The Indian Civil Service,” 408.

<sup>656</sup> Burra, “The Indian Civil Service,” 408–09.

<sup>657</sup> Burra, “The Indian Civil Service,” 409.

<sup>658</sup> Alexander, “Discarding the ‘Steel Frame’,” 4.

<sup>659</sup> Potter, “The Last of the Indian Civil Service,” 24.

<sup>660</sup> Burra, “The Indian Civil Service,” 420.

<sup>661</sup> Ibid.

To the extent that this politicization of the bureaucracy and its corresponding methods of patronage or bribery represents “corruption,” the word is absent in that era’s characterizations of the ICS which instead sought to portray its commitment to integrity. The relationship with the Congress is not the only site in which such methods were at play in the ICS. In fact, Burra illustrates the very nature of ICS rulership as one which “depended a great deal on the activities of their subordinate officers and local collaborators, over whose activity they had little control” and whom therefore were sought to “be bribed by a variety of titles, such as that of Rai Bahadur, and threatened or harassed by the withdrawal of patronage or privileges such as gun licenses.”<sup>662</sup> In fact, we find India portrayed as “a patchwork of directly and indirectly ruled territories with very different experiences of colonial administration.”<sup>663</sup> Both the “collaboration” of the princely states and of India’s landed class had to somehow be “secured” in one way or another.<sup>664</sup> It would seem, then, that attempts of the ICS to keep within the bounds of law, or within the bounds of administrative integrity, nonetheless relied in some crucial way on what was deemed constitutively outside these bounds for its administration to be rendered effective. It is precisely this interwoven nature that is either obscured in the narrative of the glory of the ICS, or projected entirely upon the locals who are then described as compelling otherwise upstanding administrators to do potentially dubious things. In this context, loyalty to law appears to fail, or at least involves the shoring up of other kinds of loyalty. ‘Corruption’ is the name given to the negative consequences.

Indeed, the ICS case indicates differing understandings of loyalty to law altogether. After all, normally we might understand the claim of modern loyalty to law as altogether different from that of premodern loyalty to family, caste, etc. Namely, in the latter case, loyalty to a person might be exemplified when it is upheld *in spite* of that person’s foibles and grave errors. In this view, premodern loyalty to someone is only truly loyalty if it is exercised even or especially when that person commits a wrong. Those who seek to curb this type of loyalty because it is corrupt might deem it irrational, and where authority is involved, might deem it blind obedience. Loyalty to law, on the other hand, appears premised on the wholesale rejection of committing wrong; meanwhile, the legal rule comes to be synonymous with committing right. In these formulations, we can see how premodern loyalty to someone could entail ‘corruption,’ or rather the committing of a wrong, while loyalty to law precludes corruption altogether since what is legal cannot apparently be what is corrupt. Those who uphold the law as the proper outlet for loyalty, as the antidote to premodern corruption, might deem it a commitment to the rational pursuit of the public interest.

But the matter of the ICS and its relationship to the Congress suggests something else. If ICS (Indian or otherwise), who were officers sympathetic to the Congress, acted on this sympathy and broke a legal rule in doing so, would we deem it corrupt for them to pursue an end to colonial rule? Or, instead, if the officers remained committed to following the rules of the colonial government, would it still be an example of loyalty to law when that government called for suppression—however legally executed it might be? Does loyalty to law ever signify—rather than curb—corruption? Or is loyalty to law, *despite* knowing its ethical shortcoming, not so different from the apparently stubborn obedience of premodern times, which the modern commitment to probity projects as backwards? If so, is obedience—the willful, blind, or even irrational obedience that

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<sup>662</sup> Burra, “The Indian Civil Service,” 407.

<sup>663</sup> Kenny, “The Institutional Origins of Patronage and Corruption,” 9.

<sup>664</sup> *Ibid.*

premodern loyalty represents for critics of corruption—something which modernization does not actually curb, but only channels, or even hides, as loyalty to law?

## 7. Loyalty and the IAS

What was the trajectory of so-called ‘premodern’ loyalty with regards to corruption in the bureaucracy once India became independent? For this, we might first consider the competing ways in which we have seen India’s state bureaucracy framed. As we described at the opening of this chapter, the IAS did not long retain the aura of moral integrity which its predecessor, the ICS, was believed to have. Rather, the IAS is the very site of corruption as alleged by a variety of critics following India’s independence. These charges of corruption do not necessarily show up in the immediate aftermath of independence. Indeed, at first, the Congress leadership appears to have looked to the civil service, its “former enemy,” only to find “an admirable instrument for securing unity, order, and strength.”<sup>665</sup> According to some analysts, the fact that the bureaucracy remained intact appealed a diverse and even opposing set of groups. Both Nehruvian socialists and the capitalist class are said to have seen in the bureaucracy the means by which their respective post-Independence goals were to be pursued. But in these conflicting wishes, we can see the limits of institutional continuity and the benefits it was said to offer. For with the British now gone, forces internal to India which had coalesced in opposition to Indian rule are not portrayed as having stayed as wholly united in support of the newly independent administration, however much they may have generally agreed on the continued existence of the ICS framework. Rather, we read that “the introduction of democracy replaced a single focus of loyalty (the Raj) with competing ones and thus forced government servants to make their allegiances both more explicit and more flexible.”<sup>666</sup>

There is a good deal of overlap between the critique of corruption in the IAS that uses the term ‘patronage’ and that which uses the term ‘loyalty.’ In fact, what some writers refer to as the “long chains of patronage” which linked the Congress Party to the masses are also described by others as chains of premodern loyalty—between family members, between a family and the village head, farmer to landlord, all the way up to the government.<sup>667</sup> One way to characterize this overlap is in the prevalent claim that premodern loyalty in India did not give way to a modern loyalty to law in the transition from the colonial era to independence, but rather to something more dubious called ‘patronage.’

There are other similarities between critiques about patronage as a stand-in for corruption and those about (premodern) loyalty as a cause of corruption. One such parallel concerns the particular era in which these critiques situate their targets. The critiques we will consider in this section situate the object of their critique not so much in the immediate aftermath of independence, with Nehru as the head of government, but rather in the late 1960s through the 1970s, with Indira Gandhi as the head of government. “Recent quantitative analysis of India’s fiscal accounts,” Chibber writes, for example, “suggest that the use of the exchequer to make such side payments

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<sup>665</sup> Potter, “The Last of the Indian Civil Service,” 25.

<sup>666</sup> William Gould, Taylor C. Sherman, and Sarah Ansari, “The Flux of the Matter: Loyalty, Corruption and the ‘Everyday State’ in the Post-Partition Government Services of India and Pakistan,” *Past & Present* 219(1) (2013): 268.

<sup>667</sup> Kohli, *State-Directed Development*, 207.

took off starting in the mid- and late-1970s, during Gandhi's reign.”<sup>668</sup> More broadly, Chibber's text is relevant to consider here because, while he is supportive of state planning, or what he calls “the industrial policy system,”<sup>669</sup> he is nevertheless critical of what he calls its “corruption.”<sup>670</sup> For Chibber, as for others, planning's demise—indeed its corruption—turns on his *sotto voce* or oblique reference to premodern loyalty in the Congress-IAS relationship.

There are two ways in which loyalty figures into Chibber's argument as well as into others where the Congress-IAS relationship is held suspect for corruption. The first way concerns “the long chains of patronage”<sup>671</sup> we referenced earlier: where linkages between the Congress and a mass base construe what Chibber calls “payoffs” made as “political settlements.”<sup>672</sup> Even if the terms ‘loyalty’ or ‘patronage’ do not figure into such arguments, it is their “chains” which are evoked when one assumes—as many do—“a loose and largely federal political machine” as the reason for the Congress's electoral success in the License Raj.<sup>673</sup> What is elsewhere framed as premodern loyalty or patronage is what Sudipta Kaviraj is referring to when he says, in his 1986 article “Indira Gandhi and Indian Politics,” that this “political machine” operates on the assumption that “lower orders of the electorate voted on the advice of superordinate interests of some kind.”<sup>674</sup> As for Chibber, who describes “political settlements” and “the politicization of the bureaucracy,”<sup>675</sup> so too for Kaviraj, the “control of the bureaucracy” was a key lever in the political “strategy” of Indira Gandhi's reign.<sup>676</sup> For both Chibber and Kaviraj, the License Raj can be seen through and through as a political settlement device—one based on accommodating what we might call *new* chains of loyalty in an “increasingly competitive political environment.”<sup>677</sup> Whereas some claims made about patronage in this vein, as for example by Kohli in Chapter 2, consider that these chains facilitated democracy, for Chibber, it is the very reason that “the industrial policy system was thoroughly compromised.”<sup>678</sup> With the entry of “patron-client relations into the very capillaries of the administrative structure,” Chibber writes, “another of the basic conditions of effective policy—the presence of an autonomous, rule-following bureaucracy—was irremediably eroded.”<sup>679</sup>

The second way in which loyalty figures into Chibber's and Kaviraj's arguments, as well as those of others, concerns the nature of Indira Gandhi's leadership in particular. Stories about loyalty in the literature on corruption in India sometimes tend to be stories about individuals. In the case of allegations made against the License Raj, it is Indira Gandhi and Jawaharlal Nehru who are often contrasted as figures who come to stand in for eras and even administrative styles that are evidenced in the organization of the leader's inner circle. In narratives that concern corruption and the License Raj bureaucracy, the view of Nehru is often decidedly a positive one. For Chibber, as

<sup>668</sup> Chibber, *Locked in Place*, 250.

<sup>669</sup> Chibber, *Locked in Place*, 251.

<sup>670</sup> See, for example, Chibber, *Locked in Place*, 249, 252, and 254.

<sup>671</sup> Kohli, *State-Directed Development*, 207.

<sup>672</sup> Chibber, *Locked in Place*, 249.

<sup>673</sup> Sudipta Kaviraj, “Indira Gandhi and Indian Politics,” *Economic and Political Weekly* 21(38/39) (1986): 1699.

<sup>674</sup> *Ibid.*

<sup>675</sup> Chibber, *Locked in Place*, 250.

<sup>676</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1697.

<sup>677</sup> Chibber, *Locked in Place*, 250.

<sup>678</sup> Chibber, *Locked in Place*, 251.

<sup>679</sup> *Ibid.*

for many others, during the aftermath of independence, “Nehru’s commanding presence in the cabinet ensured that such malfeasance as existed remained within limits.”<sup>680</sup>

Indeed, it is Chibber’s view that Indira Gandhi’s tenure is the exemplar and true origin of the problem of License Raj corruption which has come to be the prominent one.<sup>681</sup> Chibber notes the “spiraling disillusionment” of the era, and contrasts it to “the traditions of governance [...] under Nehru.”<sup>682</sup> He admits that “administrative corruption was not an invention of Nehru’s descendants,” but its “sheer scale” during Indira Gandhi’s reign is, for him, “unprecedented.”<sup>683</sup> Chibber writes that under Indira, “the very purpose” of the License Raj “was substantially transformed, from a developmental apparatus to an instrument for the exchange of favors within patron-client networks.”<sup>684</sup> This transformation, in his account, “tore loose many of the traditions of governance that, under Nehru, had acted as a brake against the powerful tendencies toward political degeneration.”<sup>685</sup> As such, Chibber writes, “the politicization of the bureaucracy was an innovation for which Indira and [her son] Sanjay could take all the credit.”<sup>686</sup> He asserts that “it is impossible to deny that the changes the Indira–Sanjay regime wrought set into motion a process whose full implications have yet to be realized.”<sup>687</sup> Not only was Indira Gandhi’s reign a decisive break from the past in the matter of License Raj corruption, it also inaugurated a potentially far-reaching legacy into government administration. This, at least, is the thrust of Chibber’s argument, one shared by many critics, particularly those who believed in the notion of state planning for India’s economic development. The License Raj, Chibber appears to lament, “lost political legitimacy, as its corruption became ever more visible.”<sup>688</sup> Corruption, rather than inefficiency, is a crucial problem for planning’s legitimacy here. The source of the problem is not only that issues of loyalty are diffused into chains of patronage which Chibber and others then code as a corrupt political machine; the problem of loyalty in such claims also refers to Indira Gandhi’s supposed style of leadership.

“Gandhi was,” as Chibber writes, “by the early 1970s, already settling into a broadly clientelistic and even conspiratorial style of functioning.”<sup>689</sup> “The index of her insecurity,” Chibber continues, “was her growing reliance for advice on a small coterie surrounding her,” and “although the members of this coterie tended to change, all had to show unquestioning personal loyalty to Indira as a condition for admittance.”<sup>690</sup> “This dependence on personal loyalty, as against political consanguinity,” Chibber concludes, “found its ultimate expression, of course, in the meteoric rise to power of her son, Sanjay Gandhi.”<sup>691</sup> Loyalty to family is here assumed to produce the problem of corruption, for it is held—implicitly in Chibber and explicitly elsewhere—that decision-making in favor of the public interest would be displaced in favor of prioritizing family interests. The same goes for a ruler’s prioritization of loyalty in her political cabinet above other criteria, say,

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<sup>680</sup> Ibid.

<sup>681</sup> Kenny, “The Institutional Origins of Patronage and Corruption,” 40.

<sup>682</sup> Chibber, *Locked in Place*, 250.

<sup>683</sup> Chibber, *Locked in Place*, 251.

<sup>684</sup> Ibid.

<sup>685</sup> Chibber, *Locked in Place*, 249.

<sup>686</sup> Chibber, *Locked in Place*, 250.

<sup>687</sup> Chibber, *Locked in Place*, 251.

<sup>688</sup> Chibber, *Locked in Place*, 252.

<sup>689</sup> Chibber, *Locked in Place*, 248–49.

<sup>690</sup> Chibber, *Locked in Place*, 249.

<sup>691</sup> Ibid.

competence: this too is necessarily held to be a problem, rather than, for example, a means of ensuring stability or continuity in rule.

In such depictions, writers like Chibber seem to channel, even if unwittingly, Weber with their claims' undertones of premodern submission to the ruler. Such portrayals usually stop short of openly characterizing Indira Gandhi as the contemporary incarnation of an ancient feudal or imperial ruler, but nevertheless sometimes evoke precisely these connotations to represent what critics perceive to be a larger, systemic decay set against the hopes of ushering in modernization post-independence. Indeed, the problem of loyalty during Indira's reign is not a matter that can be confined to the inner circle for critics like Chibber. Rather, "the transformation of the upper rungs of the political elite," as Chibber sees it, "was also driven, famously, by the peculiarities of Gandhi's own personality and style of governance."<sup>692</sup> Loyalty to family, loyalty in one's coterie or cabinet, here come to represent the problem of systemic corruption, the problem which Chibber and others have with the "politicization" of the License Raj bureaucracy more generally. Ultimately, it is intimated and at times made explicit that, under Indira, loyalty is something which had infected Indian governance to the core, from the high command through to all "capillaries" of the bureaucracy.

In the literature that associates corruption in the License Raj with the problem of loyalty during Indira Gandhi's reign, there are a few recurring absences. For one, as much as the argument is sometimes framed as the problem of an individual, that of Indira Gandhi (often, as against, Nehru), there is little of the portrayal of psychological conflict that we saw in the claims about bureaucrats earlier, those who were described as struggling between modern and premodern impulses or commitments. Rather, Indira Gandhi, as she is depicted in views like Chibber's, apparently has no divided interiority worthy of evocation. Instead, in the literature in question, her loyalty is apparently only a weapon, her insecurity a flaw, and corruption in the License Raj the direct consequence. On this matter, there are some occasional asides. In one text, for example, the notion of Indira as a foil to Nehru comes under scrutiny. "It was implicitly understood," we read therein, "that as long as Nehru wanted to keep Congress' multiple factions within the Party fold, he would have to tolerate politicization of the administration at the sub-national level."<sup>693</sup> Others look to the backdrop of Indira's reign, rather than the Prime Minister herself, to frame their depiction of corruption and loyalty in the License Raj. Chibber himself admits the "increasingly competitive political environment," with "an increasingly assertive class of rich farmers in the northern regions" that "prompted a lurch toward political settlements based on payoffs to dominant classes."<sup>694</sup> Perhaps, then, framing the allegations of corruption as the problem of loyalty to Indira Gandhi is a way for critics to symbolize the political transformation of India in the 1970s that they have in mind.

Kaviraj is one such critic, and he has something to say about this transformation in "Indira Gandhi and Indian Politics." He begins by describing the particular moment in which Indira Gandhi succeeded in challenging the might of her rival colleagues within the Congress around 1967. His article is attuned to what he perceives to be the specificities of Indira Gandhi's tactical moves in this transition. One of these tactics, which Kaviraj elaborates, involves the transformation of

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<sup>692</sup> Chibber, *Locked in Place*, 252.

<sup>693</sup> Kenny, "The Institutional Origins of Patronage and Corruption," 40.

<sup>694</sup> Chibber, *Locked in Place*, 250.

premodern loyalty, or what Kaviraj calls “primordial controls,” into something else. He argues that Indira correctly calculated that “lower orders of people were becoming less inclined to vote on the basis of primordial controls,” which means that the political machine of the Congress—as it had operated in the first decades of independence—would soon “have to be replaced by something else.”<sup>695</sup> Kaviraj contends that Indira replaced the “primordial controls” with a radically different electoral strategy, one in which the Central government, or its leader could set up a direct relation with the electorate.”<sup>696</sup> Though Kaviraj is far from adopting a celebratory posture here, he does write that this change represented “a necessary part of the populistic transformation of Congress politics.”<sup>697</sup> The trendline of the transformation depicted here is not altogether different from that which is suggested by proponents of modernization. After all, older ties between state leaders (suggested to be conservative, even feudal figures) and their regional base (implied to be parochial figures) are replaced with newer, more direct ties to the center. The shift here is from a relationship with a regional patron to one with a national leader.

Kaviraj’s story, therefore, marks a break from other writers in two key respects. Firstly, in his narrative, Indira Gandhi’s political tactics represent a decisive move into a new era, not the lapse into backwardness. In particular, with her nationalizing the regional electorate away from “primordial controls,” the move is categorically ‘modern.’ Secondly, however, what we might see as ‘modern’ in his narrative is by no means a step in the right direction for him. On the one hand, he does not depict the transformation which Indira enacted as the concerted effort of a bold modernizer. Rather, as Kaviraj says, it was a series of “ad hoc and individual initiatives,” whereby she was acting “pragmatically” and according to the “logic of survival.” (Kaviraj writes that for Indira Gandhi “[t]o follow policies of any kind at all, even to follow the policies of her father, she had to survive.”<sup>698</sup>) On the other hand, Indira’s transformation was not a step in the right direction because of what it ultimately ushered in, in however “ad hoc” and piecemeal a fashion. Kaviraj writes that each of her pragmatic moves, taken together, eventually “altered the basic structure of Indian politics.” What was new, what was modern, what was decidedly *not* built upon premodern loyalty was nevertheless not better—in Kaviraj’s view.

The new “structure of Indian politics” which Kaviraj describes represents for him “a failure to appreciate the requirement of formal, impersonal principles, of the theory of a capitalist (or perhaps in her terms a modern) social form.”<sup>699</sup> The Indian electorate had broken away from “primordial controls” or premodern loyalties only to end up interfacing with a bureaucracy and with politicians who did not operate on the “logic of ‘rationalisation’, greater impersonality and predictability of decisions, and a building of institutions to control modern processes.”<sup>700</sup> This new system did not reflect “the bourgeois liberal view that the state was supposed to be the representative of general or universal interests.”<sup>701</sup> Rather, the new “politicians were seen to be legitimized not by their claim or pretence to universalism, but by their evident and aggressively declared affiliation to particular interests.”<sup>702</sup> It is precisely Indira’s “strategy” of accommodating these “particular

<sup>695</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1699.

<sup>696</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1700.

<sup>697</sup> Ibid.

<sup>698</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1697.

<sup>699</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1700.

<sup>700</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1700.

<sup>701</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1701.

<sup>702</sup> Ibid.

interests,” through what Kaviraj calls “the internal allocation of resources through [...] connection with and control of the [License Raj] bureaucracy,” which Chibber calls “payoffs” for “political settlements”—and which other critics call bureaucratic corruption. Notably, it is the premodern here which is absent in Kaviraj’s depiction of a transformed polity that has shed its “primordial controls.”

Ultimately, for Kaviraj, although Indira Gandhi’s reign broke older chains of loyalty and developed a new structure, this new structure was not modern in the way “the bourgeois liberal view” upholds, and yet it was not premodern either. Indeed, what is striking about Kaviraj’s text is that the depiction of this new polity is decidedly not a relapse to premodern loyalties, but rather their breaking and re-forging of something altogether different—though not what critics of the premodern would idealize. His text suggests that loyalties to law, or to the general or universal interest, are not necessarily what take the place of premodern loyalties to parochial interests. Particular interests too can be the outcome of what is elsewhere deemed a modernizing, political transformation, and they do not necessarily spell the end of corruption in the bureaucracy or elsewhere.

In fact, there is another aspect of Kaviraj’s argument which suggests that the modern polity can encourage corruption, even if it simultaneously curbs premodern loyalties. In one moment in his text, Kaviraj describes a new political figure in the offing under the transformation Indira Gandhi wrought on Indian politics. He writes of those who worked in electoral politics as operating “in the nature of political ‘contractors’”—the term is set off by quotes in his claim—“who were willing to go to any length to dragoon votes, systematically replacing discursive techniques with money and subtle forms of coercion.”<sup>703</sup> His notion of the “contractor” who appears to transact for votes with “money” is evocative of a decidedly modern sensibility. Is there a figure, then, who emerges over the course of so-called modernization whose loyalties would not be coded as premodern—rather, they may even be associated with the modern—but who is said to beget corruption nonetheless?

For this, and to close out this chapter, we now turn to Stanley Kochanek’s 1987 text “Briefcase Politics in India: The Congress Party and the Business Elite.”

## 8. Conclusion

Portrayals of the private sector in the arguments about corruption in the License Raj are ones we will explore more closely in the following chapter. In the narratives we have explored thus far on loyalty, our spotlight has been instead on those loyalties which writers coded as both particularistic and premodern. It is believed that these demands tend to come from “groups based on language, religion, region, and caste...”<sup>704</sup> Indeed, for Kochanek too these are the “demand groups” which form “the most intense pressures” in India.<sup>705</sup> But the focus of his text concerns what he describes

<sup>703</sup> Kaviraj, “Indira Gandhi and Indian Politics,” 1699.

<sup>704</sup> Stanley A. Kochanek, “Briefcase Politics in India: The Congress Party and the Business Elite,” *Asian Survey* 27(12) (1987): 1278.

<sup>705</sup> *Ibid.*

as “newly emerging functional interests” which he contends have come to serve “an important but limited role.”<sup>706</sup>

“One of the most vocal and organized of these functional, class-based interests,” Kochanek writes, “has been the Indian business community.”<sup>707</sup> For Kochanek, this “business elite” is a decidedly modern grouping, one which “lacks ideological legitimacy in a society that traditionally has tended to view the profit motive and private gain as inherently antisocial.”<sup>708</sup> Not only is this modern “business elite” framed in opposition to tradition but also their rise appears to have something to do with modernization itself. For example, Kochanek writes that their increasing “influence within the Congress” tracks the rise of “more competitive and progressively more costly” elections as well as the fading “memories and loyalties of the nationalist movement.”<sup>709</sup> At times, however, even such a modern group as the business community does not appear to behave in what others would deem a modern way. After all, Kochanek writes that business groups too trade in “jobs for relatives”<sup>710</sup> and are themselves “sharply divided on the basis of family, caste, region, and ideology,” with “large family-controlled houses [playing] the most politically prominent role.”<sup>711</sup> Whether it is Kaviraj’s new “contractors” or Kochanek’s business elites, what replaces premodern loyalties is never quite adequately modern in the way critics of the premodern seem to desire as an antidote to corruption.

Indeed, not only is the “new” interest group of the business community itself riven by ‘old’ divisions that have been considered as the cause of corruption, but also the nature of the “influence” they pursue is precisely what critics elsewhere deem as License Raj corruption. “Business (the buyer),” Kochanek writes, “went to government (the seller) for benefits, and in return paid in the form of resources such as campaign contributions, political donations, and jobs for relatives.”<sup>712</sup> In Kochanek’s view, for each party to the transaction, there was a function served. While the Congress’s political leadership relied on “the system as a quid pro quo” to generate campaign finance, the bureaucracy came to depend on it for payoffs, employment, power, prestige, and patronage,” while the business elite relied on it “to secure and maintain monopoly, protection, and guaranteed profitability.”<sup>713</sup> Kochanek’s usage of a modern-coded vocabulary to describe this “system” (“buyer,” “seller,” “exchange relationship”)—and the absence of depictions of the premodern—do not suggest he finds the “exchange relationship” to be a positive outcome of modernization. Rather, he concludes that “under the permit-license-quota Raj, regulation in India became increasingly designed to promote private interests rather than vague notions of the public interest.”<sup>714</sup> And it is decidedly a “newly emerging” group, rather than a putatively premodern group which is held responsible in Kochanek’s text.

The language of “private interest” rather than “loyalty” may evoke modern connotations. After all, in the texts we have thus far considered, it seems the premoderns have “loyalties” whereas what

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<sup>706</sup> Ibid.

<sup>707</sup> Ibid.

<sup>708</sup> Kochanek, “Briefcase Politics in India,” 1281.

<sup>709</sup> Kochanek, “Briefcase Politics in India,” 1285.

<sup>710</sup> Kochanek, “Briefcase Politics in India,” 1284.

<sup>711</sup> Kochanek, “Briefcase Politics in India,” 1281.

<sup>712</sup> Kochanek, “Briefcase Politics in India,” 1284.

<sup>713</sup> Ibid.

<sup>714</sup> Ibid.

the moderns have are “interests.” The implied hierarchy therein seems to be that the loyalties of the premodern are to parochial, even regressive forces, rather than to the legal order of the state wherein modern interests are channeled into a universal, public interest. In Kochanek, however, it appears that both premodern loyalties and modern interests can be accommodated by the bureaucracy in a way that critics would deem corrupt by the same logic.

Taken together, both Kaviraj and Kochanek suggest that the figures which emerge in the process called ‘modernization’ may resemble—rather than differ from—the premodern figures whose loyalties critics hold responsible for corruption in the Indian bureaucracy. As Hanson claims in his study on Indian planning, it may be that modernization produces a doubling-down on the premodern such that even the “newly emerging” business elite trade favors with the government for their family. Or, as Huntington suggests, it may be that, while modernization produces altogether new outcomes, those outcomes do not serve as a bulwark against corruption—in fact, the opposite. Such seems to be the nature of Kaviraj’s political “contractor” who is part and parcel of the breaking of “primordial controls” at the grassroots level, someone who represents a new social force, but who nevertheless exchanges votes for money in a manner critics would deem corrupt.

In Hanson’s scenario, modernization does not adequately take place: it might proceed recursively, or its forward march may be met with interruptions. In Huntington, its forward march is not a march towards progress, if by that word the critic assumes a curbing of what is considered corrupt. Here, ‘premodern loyalties’ may be become ‘modern interests,’ but it may be difficult to only pin ‘corruption’ on the former.

Chibber’s portrayal of Indira Gandhi seems to assume the relapse which Hanson has in mind: premodern loyalty seems to make a comeback in the face of new rising political forces that require “payoffs.” Kaviraj’s contractor and Kochanek’s business elite seem closer to Huntington: these are new forces set in contrast to an old order, and yet they are not a decisive break from the practices deemed corrupt. In fact, they rely on it. Here, the modern figure is simultaneously a *break* from the premodern—the contractor versus the independence-era political worker, the “newly emerging” business elite born of a society “traditionally” antagonistic towards profit—and *hard to distinguish* from the premodern, for both appear to share loyalties to family or caste, and both engage in a “patronage” that may or may not be called ‘corruption.’

Whether in the specific matter of loyalty, or more generally, that which is coded as ‘modern’ seems to rely on, and retroactively make visible, a prior notion of the ‘premodern’ as ‘corrupt.’ At the same time, however, the two temporal terrains—forged in relationship to one another—can be difficult to disentangle. As a result, there is a persistent slippage when terms as potentially unstable or dynamic as ‘modernity’ (and its various inflections) and ‘loyalty’ are associated, or not, with equally shape-shifting terms like ‘corruption.’ The Indian bureaucracy, where debates about the continuity with or break from the past remain unresolved, is a dynamic site at which to examine how these various terms align and do not align. Closer examination reveals that there is nothing straightforward about the association of premodern loyalties, or the ‘premodern’ more broadly, with whatever a critic deems ‘corrupt.’

## Chapter 5: Monopoly

### 1. Introduction

As we have seen throughout this dissertation, corruption can take on multiple forms for its critics. Bribery, nepotism, or embezzlement are some of the more familiar terms that come to mind, each with their own definitional debates (when is something bribery and when it is just a gift?; when is something nepotism, and when it is just favoritism?). Other times, corruption is discussed with reference not to subsidiary forms but rather to what appears to the critic as a parallel association or deeper root causes: bureaucratic discretion (Chapter 2), colonial hangover (Chapter 3), or parochial loyalty (Chapter 4) are among those we have considered thus far. Sometimes a root cause for one critic is a solution for another: when one critic alleges premodern arrangements as the origin of corruption in developing countries, as we saw in Chapter 4 for example, another may criticize modernization as corruption's source. Sometimes, as in Chapters 1 and 2, we saw corruption given a different name altogether, as a kind of metonym. Therein, one term is not only intimately related to the other, but able to stand in its place. For example, rent-seeking or patronage may in one instance be associated with corruption while in another represent the very practices labeled as corrupt. Or so it goes in the eye of the beholder.

It is these sorts of rhetorical puzzles that the word 'corruption' presents with which we opened this dissertation. 'Corruption' seems to be a difficult word to pin down: contradictory associations, neverending arguments over its definition, and something apparently called 'relativism' risk, according to writers, unraveling the term's coherence altogether. In other words, a deep-seated anxiety over what corruption means exists within the literature. But rather than looming large in a given work, we have noted in Chapter 1 that this anxiety is often reduced to an opening gesture or an aside. The writer pays a proper scholarly deference to these purportedly 'merely philosophical' issues only to move on to what is assumed to be a more pressing or practical matter: usually how to curb corruption. Of course, to curb is to assume a prior definition. Despite any uneasy status the term 'corruption' may have, over the course of this study, we have seen recurring assumptions writers make about corruption's definition: that it involves public officials, often in the developing world, who undertake illegal conduct.

In this chapter, we start to move away from this preoccupation with the public official as the target of corruption allegations. We also consider a matter where, unlike in the case of bribery, it is *legal* conduct that gets deemed corrupt. The association of corruption with monopoly in India has involved both these features: that is, in certain instances, monopoly has been deemed corrupt albeit legal, and the allegation of corruption in monopoly has targeted private firms rather than public officials.

To explore this allegation in its varied dimensions, this chapter will consider two particular moments in Indian history where monopoly and corruption were seen as linked. The first—which we raised in Chapter 3—is the place of monopoly in the criticism of East India Company corruption. The second is the place of monopoly in the criticism of License Raj corruption. In both cases, the association of monopoly with corruption tells us something about the relevance of corruption allegations to justifications for economic policy: whether over mercantilism and free trade in the Company era or state planning and liberalization in the License Raj era.

## 2. Monopoly and the East India Company

Monopoly has been defined as “exclusive possession or control of the trade in a commodity, product, or service” or “the condition of having no competitor in one’s trade or business.”<sup>715</sup> Today, it can refer to a state whereby a “supplier or producer controls more than a specified fraction of the market.”<sup>716</sup> Its usage in English as early as 1622 suggests that the word denoted an unfavorable situation. Specifically, what may be favorable to one or some is unfavorable to a range—even a wide range—of others. For example, Edward Misselden in *Free trade; or the meanes to make trade florish* writes that “Monopoly is a kind of Commerce, in buying, selling, changing or bartering, usurped by a few, and sometimes but by one person, and forestalled from all others, to the gaine of the Monopolist, and to the Detriment of other men [sic].”<sup>717</sup> Ephraim Chambers in the 1<sup>st</sup> edition of the *Cyclopaedia; or, an universal dictionary of arts and sciences* in 1728 calls monopoly “an unlawful kind of Traffick.”<sup>718</sup> *The Edinburgh Review* in 1820 called it a “nuisance.”<sup>719</sup> Writing in 1844, Edmund Burke—whose remarks we shall consider at length later—described monopoly as “the power, in one man, of exclusive dealing in a commodity or commodities, which others might supply if not prevented by that power.” According to historian Gregory M. Collins, Burke stressed the moral dimension of monopoly in such a definition: in other words, because monopoly fundamentally obstructed others’ activities, for Burke it was “contrary to common right” and to “Natural Right.”<sup>720</sup> This is not to say that monopoly is only looked upon as unfavorable or even illegitimate. In fact, the *Oxford English Dictionary* goes on to list as a separate definition for the word: “[a]n exclusive privilege conferred by a monarch, state, etc., of selling a particular commodity or of trading with a particular region.”<sup>721</sup> Monopoly, in other words, could be legally conferred as a right. This was the case for the East India Company to which in 1608 the Crown conferred chartered monopoly rights to trade in the East Indies.

Of these various conceptualizations of monopolies in the Company era, we will consider two in particular: the charter monopoly of the Company, in other words, the monopoly rights conferred to the firm by the Crown; and the economic situation of monopoly in India under Company rule where the boundary between sovereign and merchant was elided. There are a number of criticisms made against both these notions of monopoly, and the criticisms we will focus on are those which involve an allegation of corruption, a dynamic and shifting association across the Company period. Concerning the first notion—monopoly as the Company’s chartered right—we see it deemed corrupt mostly for how it was secured and maintained, for the presumed narrowness of the prosperity it creates, and for its putatively corrosive effect on the British constitution. For this constitutional criticism, Burke, among others, is the relevant thinker. Concerning the second notion—monopoly as an economic situation—we see corruption associated with (1) monopoly’s apparent inefficiency and (2) its supposed blurring of public and private boundaries. Here, Adam

<sup>715</sup> “monopoly, n.”. *OED Online*. September 2022. Oxford University Press.

<https://www.oed.com/view/Entry/121569?redirectedFrom=monopoly> (accessed November 19, 2022).

<sup>716</sup> Ibid.

<sup>717</sup> Ibid.

<sup>718</sup> Ibid.

<sup>719</sup> Ibid.

<sup>720</sup> William and Bourke, *Correspondence of the Right Honourable Edmund Burke*, vol. IV, 459 as qtd. in Gregory M. Collins, *Commerce and Manners in Edmund Burke’s Political Economy* (Cambridge: Cambridge University Press, 2020), 356.

<sup>721</sup> “monopoly, n.”. *OED Online*. September 2022. Oxford University Press.

<https://www.oed.com/view/Entry/121569?redirectedFrom=monopoly> (accessed November 19, 2022).

Smith is the relevant thinker. We will consider these criticisms of monopoly and situate them in a bipartite temporal classification: an earlier period from 1608 when the Company received its monopoly privileges to roughly the mid- to late eighteenth century, and a later period from the mid- to late eighteenth century through to 1813 when its monopoly over trade with the East Indies was revoked. In the earlier period, we will suggest that the criticism of *how* the monopoly was secured was prevalent, only to then be displaced, in the later period, by the (economic) criticism of monopoly *writ large*. Burke's theorization of the constitutional problem which the Company's abuse of monopoly represents also belongs to this later period.

The arc of this trajectory reflects the discrediting of monopoly—both in the sense of the Company's privileges and as an economic state of affairs. Allegations of corruption were a key part of this discrediting, and they helpfully foreshadow how corruption itself has come to be conceptualized. This trajectory also roughly represents the transition from mercantilism as the operating commercial principle of the British-Indian colonial encounter to that of 'free trade.' As historian Frederick Whelan writes, the whole period between the Company's victory at Plassey which led to its acquisition of revenue-collection rights in Bengal, and the replacement of Warren Hastings, discredited as corrupt, as the Governor General, can be seen "as a transitional phase" between "the anomaly of sovereign powers almost wholly in the hands of a private commercial company" and "when a more effective system" of British colonial rule was inaugurated.<sup>722</sup> Ultimately, we will suggest that the language of corruption helped effect these transitions, and the debate over the Company's monopoly has left a legacy in how 'corruption' is conceptualized.

Before we explore the various criticisms of monopoly, it is helpful to understand the early rationale for conferring it to the Company. The rationale for monopoly in the early period of our bipartite classification was multifold. Furthermore, it found support in the era's most prominent thinkers. Montesquieu, for example, wrote that European countries "acted so wisely that they granted sovereignty to trading companies who, governing these distant states only for trade, made a great secondary power without encumbering the principal state."<sup>723</sup> Elsewhere, Burke offers two instances in which awarding monopolies is justified: the first when it incentivizes others to "employ themselves in useful inventions" and the second when it inspires others to take "great risks for useful undertakings."<sup>724</sup>

Burke's views are also shared by others looking back on the Company period. For example, writing in 1912, F.P. Robinson in *The Trade of the East India Company from 1709 to 1813* is a representative text for the functional view of monopoly. As he writes in the opening page:

although, when tested by modern principles, the monopoly of a trading company may appear indefensible, it is probably just to say that the existence of such companies was not only consonant with the economic theories prevalent at the time, but was also the only

<sup>722</sup> Frederick Whelan, *Edmund Burke and India: Political Morality and Empire* (Pittsburgh: University of Pittsburgh, 1996), 38.

<sup>723</sup> Montesquieu as qtd. in Whelan, *Edmund Burke and India*, 38–39.

<sup>724</sup> William and Bourke, *Correspondence of the Right Honourable Edmund Burke*, vol. IV, 460 as qtd. in Collins, *Commerce and Manners in Edmund Burke's Political Economy*, 356–57.

possible expedient in view of the inefficiency of other branches of human activity, and particularly that of government.<sup>725</sup>

For Smith too, the conferral of the monopoly was a practical way whereby the government compensated the Company for partaking in a “dangerous and expensive experiment, of which the public is afterwards to reap the benefit.”<sup>726</sup> Meanwhile, in historian William J. Barber’s more recent account, contemporaries in the period defended monopoly on the account that only a monopolistic joint stock company—with its large pool of capital, centralized organization, and “assurances of reasonably prospects of continuity”—could overcome high costs of entry into the East India trade.<sup>727</sup> “All this,” Barber writes, “approximated to a ‘natural monopoly’ case for the defence of the Company’s structure and its privileges”: in other words, there were heavy and indivisible fixed costs as well as great economies of scale.<sup>728</sup> Other scholarly work done recently has even challenged the characterization of the Company’s monopoly as inefficient, proposing instead that it successfully exploited opportunities in commerce.<sup>729</sup>

All this is to suggest there were a number of (primarily) economic rationales for conferring monopoly. But there have been other rationales proffered: one of which contends that had the Crown opened the East Indies trade to other English merchants, it could have harmed chances of British victory (against other European rivals) for the conquest of India. In Robinson’s self-avowedly “patriotic” account of the Company, we are offered a stark example of this view—set in contrast to one focused exclusively on economic criteria. While he otherwise agrees with free trade, Robinson says the economist’s adherence to this amounts to a “strictly theoretical” dogma. The economist, in Robinson’s view, may have forgotten precisely what the Company’s monopoly historically enabled. As Robinson asks: had the East Indies trade been open to all British merchants in the eighteenth century, it may have yielded more profit to Britain, but “would India now form part of the British Empire?”<sup>730</sup> For Robinson, therefore, the free-trade adherent would be “wise to remember” that the monopoly of the Company enabled it to grow and ultimately win India for Great Britain.<sup>731</sup> In his account, the losses to British wealth from the Company monopoly may hence be seen as compensating for “the acquisition of India without the payment of a single shilling from the national treasury.”<sup>732</sup> If a monopoly, however corrupt, ultimately *bought* India, then, following Robinson, it is justified, for after the eighteenth century, it was clear “which nation would be supreme in India.”<sup>733</sup> With the Company monopoly’s having prepared the way, “India was now ready to reap the benefit of Free Trade,” Robinson concludes, “and by the wisdom of the British Government she was permitted to do so.”<sup>734</sup> Despite all the “the accusations of corruption and of selfish motives” with which the Company was “assailed,” these criticisms “lose much of their force” for Robinson when one recalls “how great a portion of England’s final triumph in the

<sup>725</sup> Robinson, *The Trade of the East India Company*, 1.

<sup>726</sup> Smith, *Wealth of Nations*, 527.

<sup>727</sup> William J. Barber, *British Economic Thought and India, 1600–1858: A Study in the History of Development Economies* (New York: Clarendon Press of Oxford University Press, 1975), 49.

<sup>728</sup> Barber, *British Economic Thought and India*, 49.

<sup>729</sup> Anthony Webster, “The Political Economy of Trade Liberalization: The East India Company Charter Act of 1813,” *The Economic History Review* 43(3) (1990): 404.

<sup>730</sup> Robinson, *The Trade of the East India Company*, 176.

<sup>731</sup> Robinson, *The Trade of the East India Company*, 178.

<sup>732</sup> Ibid.

<sup>733</sup> Ibid.

<sup>734</sup> Ibid.

struggles of the eighteenth century should be attributed to the self-denying patriotism of this mighty corporation.”<sup>735</sup> In Barber too we read of an argument from the early eighteenth century that “attempts to legislate an open competition would lead either to the extinction of English participation in the trade (in which case, the Dutch would fill the vacuum) or to the formation of a new monopoly.” “Should the Company be allowed to lapse,” Barber relates the argument of the period, “the total extinction of England’s commerce with the East was predicted.”<sup>736</sup>

All this said, however, monopoly’s functionality appears to be a function of time. We read in Smith, for example, the monopoly should be “temporary.”<sup>737</sup> Robinson agrees: the Company’s monopoly, a “temporary expedient” he says, eventually “outlived its period of usefulness.”<sup>738</sup> For Burke too, “monopolies of useful undertakings...ought to have limits; else they will transgress the purposes of their establishment, which was to discover a benefit for the most beneficial, that is, the most generally beneficial purposes.”<sup>739</sup> As we now consider the range of criticisms levied against the Company’s monopoly, we will see that by the late eighteenth century, the rationales for the Company’s monopoly had largely run out, ultimately discrediting monopoly writ large too.

In the first period under our classification, from 1608 to the mid-/late eighteenth century, the criticisms of monopoly that associate it with corruption largely often concern the means by which it was secured and maintained. Robinson’s account is instructive here. In it, we read that the Company faced heat for its monopoly ever since it first received the charter. Robinson considers many of these early complaints to be founded on “personal grounds” of rivals: namely, merchants who “were always [...] ready to take to take advantage of the temporary eclipse of the Company’s star to make private voyages to the East in violation of its exclusive rights, at the same time attacking its privileges with demands for Free Trade.”<sup>740</sup> “Not being members of the Company,” Robinson writes of the merchant classes, “they wished to be admitted to a share in the profits of the Eastern trade, and therefore they urged the advantages of a Regulated Company as against a Joint Stock Company [...] [f]or with a Regulated Company anyone who wished could participate in the trade.”<sup>741</sup> Other writers seem to affirm this assessment. Barber too relates that some of the best-known critics of monopoly were far less interested in “the demolition of monopoly shelters than with arrangements which would permit them to enjoy its privileges.”<sup>742</sup> In historian Anthony Webster’s account, furthermore, the Company’s monopoly “had long been criticized by manufacturers and private merchants in Britain.”<sup>743</sup> He writes that various industrial centers “coveted the India trade” for differing reasons: while industrialists in Birmingham and merchants in Liverpool looked to India as a prospective market, Plymouth, Bristol, and Hull wanted a part in the Company’s import and shipping trades.<sup>744</sup> We read Webster’s characterization of the passage of the East India Company Charter Act of 1813, which ended the East India Company’s monopoly of trade with India, “as a victory for the emergent class of merchants and manufacturers who, in

<sup>735</sup> Ibid.

<sup>736</sup> Barber, *British Economic Thought and India*, 49.

<sup>737</sup> Smith, *Wealth of Nations*, 584.

<sup>738</sup> Robinson, *The Trade of the East India Company*, 175.

<sup>739</sup> William and Bourke, *Correspondence of the Right Honourable Edmund Burke*, vol. IV, 462 as qtd. in Collins, *Commerce and Manners in Edmund Burke’s Political Economy*, 357–58.

<sup>740</sup> Robinson, *The Trade of the East India Company*, 19.

<sup>741</sup> Robinson, *The Trade of the East India Company*, 12.

<sup>742</sup> Barber, *British Economic Thought and India*, 53.

<sup>743</sup> Webster, “The Political Economy of Trade Liberalization,” 404.

<sup>744</sup> Webster, “The Political Economy of Trade Liberalization,” 405.

1812, lobbied against the retention of the E.I.C. monopoly.” Their “campaign,” Webster writes, was pitched “as a crusade against ‘London corruption’...”<sup>745</sup>

Ultimately, therefore, the allegation of corruption was a key part of the criticism of how the Company’s secured and maintained of its monopoly. Firstly, from Chapter 3, in our discussion of Old Corruption, we are familiar with “gifts” or “bribes” as the method by which the Company is alleged to have secured or maintained its monopoly.<sup>746</sup> Secondly, there is also the suggestion of a *quid pro quo* between the Crown and the Company: for example, we read that the Company was made to deliver a yearly supply of saltpetre whose price was fixed to the British Ordinance, export a prescribed amount of British manufactures every year (in particular woolen goods which we read did not sell “even at invoice prices” many years), export English copper, lend the treasury money (sometimes interest-free) and accept high duty rates on certain goods from the East Indies.<sup>747</sup> Thirdly, particularly in the later eighteenth century, there is the allegation of a linkage between the Crown’s maintenance of the Company’s monopoly rights with the purchase by parliamentarians of shares in the Company or with the electoral victories of returning Company servants in “rotten boroughs.”<sup>748</sup>

Barber also describes another “theme” in the criticism of the Company’s monopoly prior to the late eighteenth century, namely, the charge that it was “promoting an unfortunate distribution of income and wielding socially dangerous power” (a theme we will take up in our discussion of monopoly and corruption in the License Raj).<sup>749</sup> He cites an account from 1681 in which we read a fear about the Company: “that the whole Management thereof is fall’n into the hands of 10 or 12 men, and in all likelihood in a few years may come into the hands of 3 or 4...” Here we read of the concern that “The Particular and distinct Interest, being always preferred before the General and Publique”—a quote we shall return to later. For Barber, this portrayal of the Company suggests “the whole system was seen to be saturated with corruption.”<sup>750</sup> Robinson also points to similar criticisms which claimed that “though beneficial to the country’s prosperity as a whole,” monopoly offered “benefits [which] only reached a small portion of the community.”<sup>751</sup> He describes what he calls a “crisis” in 1730 whereby “once again a universal complaint was made that the jealousy of the Company prevented the British people from sharing in the untold wealth of the East.”<sup>752</sup> Ultimately, this notion that the Company’s monopoly limited the fruits of the trade of East India to a narrow group set the stage for the advanced critique of monopoly that developed in the late eighteenth century.

Indeed, as we approach the end of the eighteenth century, we see a shift in the understanding of monopoly. Some of the factors accounting for this shift include, on the one hand, the increasing perception among British observers that the power of the Company had grown too great: since the inauguration of the Company, Parliament conferred a variety of powers onto the firm: “to

<sup>745</sup> Webster, “The Political Economy of Trade Liberalization,” 412.

<sup>746</sup> See, for example, Robert Renny, *A Demonstration of the Necessity and Advantages of a Free Trade to the East Indies and of a Termination to the Present Monopoly of the East-India Company* (London: C. Chapple, 1807).

<sup>747</sup> Parshad, *Some Aspects of Indian Foreign Trade*, 19–20.

<sup>748</sup> Harling, *The Waning of “Old Corruption”*, 1.

<sup>749</sup> Barber, *British Economic Thought and India*, 41.

<sup>750</sup> *Ibid.*

<sup>751</sup> Robinson, *The Trade of the East India Company*, 11.

<sup>752</sup> Robinson, *The Trade of the East India Company*, 38.

administer naval discipline on its ships, to exercise civil and criminal jurisdiction and martial law in its settlements and over its employees, to maintain armed forces under British officers, and to make peace and war.”<sup>753</sup> On the other hand, there was a rise of new merchant classes in the backdrop of industrialization who wanted a piece of the India trade.<sup>754</sup> Barber, for example, writes that with the “self-confidence supplied by power-driven looms, English textile producers joined the classical economists in championing the cause of free trade in the debates preceding the renewal of the [Company’s] charter in 1813.” The more wide-ranging criticism of Old Corruption in England—which we discussed at length in Chapter 3—also begins to take shape during the eighteenth century, and the association of monopoly with corruption is a constituent part of this criticism. In this period, the Company’s growth in power appears to coincide with greater prevalence of abuse in the eyes of British onlookers. Historian Gregory Collins writes, for example, that over “the late 1760s and early 1770s, as additional reports from India of the corporation’s activities reached London, the British government became more conscious of the Company’s growing mismanagement on the subcontinent.”<sup>755</sup> Starting from this period, therefore, and into the nineteenth century, monopoly becomes discredited—both the Company’s chartered rights as well as the notion of state-backed monopolies more generally. Burke is instructive to illustrate the former while Smith the latter.

### 3. Burke versus Smith

Burke’s remarks associating corruption and monopoly are best understood in the context of a Bill put forth in 1783, as Collins describes it, “to reform [the Company’s] worst abuses.”<sup>756</sup> Whereas in 1766 Burke defended the Company’s charter and in 1773 opposed the Regulating Act (for intruding into the Company’s governance), by 1783 he appears in Collins’ text to argue “passionately for parliamentary reform of the corporation”<sup>757</sup> to combat its “maladministration.”<sup>758</sup> Collins accounts for this apparent change by referring to Burke’s increasing awareness “of the depth of Company malfeasance in the mid- to late 1760s and early 1770s.”<sup>759</sup> He relates that Burke was the principal author in the House Select Committee’s Ninth Report on India, “an exhaustive study of the firm’s corruptions of market order.”<sup>760</sup>

By 1783, therefore, Collins suggests that Burke came to draft what is referred to in the literature as Fox’s India Bill to allow for greater oversight into the Company’s governance, in effect transferring authority over British India from Company directors and shareholders to commissioners who would be selected by Parliament. In December 1783, Burke, who was a member of the ruling Fox-North coalition, defended the Bill in Parliament. The “tampering” with the Company’s governance, as Whelan puts it, had long been avoided for fear of upsetting a delicate balance in the British constitution.<sup>761</sup> Furthermore, asserting parliamentary control over

<sup>753</sup> Whelan, *Edmund Burke and India*, 33.

<sup>754</sup> Barber, *British Economic Thought and India*, 126.

<sup>755</sup> Collins, *Commerce and Manners in Edmund Burke’s Political Economy*, 352.

<sup>756</sup> Gregory M. Collins, “The Limits of Mercantile Administration: Adam Smith and Edmund Burke on Britain’s East India Company,” *Journal of the History of Economic Thought* 41(3) (2019): 377.

<sup>757</sup> Collins, “The Limits of Mercantile Administration,” 376.

<sup>758</sup> Collins, “The Limits of Mercantile Administration,” 372.

<sup>759</sup> Collins, “The Limits of Mercantile Administration,” 377.

<sup>760</sup> Collins, “The Limits of Mercantile Administration,” 372.

<sup>761</sup> Whelan, *Edmund Burke and India*, 47.

the Company could be deemed a violation of its charter—something seen at the time “to represent a threat to all chartered rights, and hence to the constitution itself.”<sup>762</sup>

Burke is portrayed as sympathetic to these concerns which is why, in Collins’ text, he did not seek to annul the charter: “I therefore freely admit to the East India Company,” Burke proclaimed in his 1783 speech in Parliament, “their claim to exclude their fellow-subjects from the commerce of half the globe.”<sup>763</sup> To address fears that reforming the chartered monopoly rights of the Company would put at risk the larger notion of chartered rights, Burke famously distinguished between the real “chartered rights of men” as expressed in the Magna Carta (which upheld the “natural rights of mankind”) from the Company’s charter.<sup>764</sup> The “Magna Charta,” he said, “is a charter to restrain power, and to destroy monopoly” while “[t]he East India charter is a charter to establish monopoly, and to create power.”<sup>765</sup>

Burke instead argued for reforming the Company’s administrative structure, rather than removing its monopoly rights; for him, this would correct the problems that stemmed from its abuse of monopoly: such reform, he claimed, would be beneficial both for Indian rule as well as for Britain. “I am certain that every means, effectual to preserve India from oppression,” he said, “is a guard to preserve the British constitution from its worst corruption.”<sup>766</sup> What it seems Burke has in mind with ‘corruption’ here is something distinct from what we will see below in Adam Smith’s writings on the Company monopoly. Like those for whom corruption entails abuse of public office or resources for private gain, for Burke the Company’s abuse of its chartered rights represents an abuse of public trust vested in it by the Crown. We might therefore say that Burke’s claim here reflects his association of corruption with monopoly on constitutional grounds.

As one scholar writes, explaining Burke’s position: in authorizing commercial privileges for the Company, the British government had “conveyed an elevated level of confidence in the corporation’s ability to use those privileges wisely.”<sup>767</sup> The Company, however, “failed this moral test, dissolving the bonds of trust between the political authority that granted the charter and the institution that benefited from it.”<sup>768</sup> Corruption is how Burke represents this failure. “The very charter, which is held out to exclude Parliament from correcting malversation with regard to the high trust vested in the Company,” he writes, “is the very thing which at once gives a title and imposes a duty on us to interfere with effect, wherever power and authority originating from ourselves are perverted from their purposes, and become instruments of wrong and violence.” “Malversation,” as we shall also see in Smith below, is one crucial analog for corruption.

Of course, Burke also has more specific allegations of corruption in mind when he claims that “[t]he Company’s charter was abused to the full extent of all the powers which it could abuse, and exercised in the plenitude of despotism, tyranny, and corruption.”<sup>769</sup> Here he appears to refer to

<sup>762</sup> Whelan, *Edmund Burke and India*, 49.

<sup>763</sup> Edmund Burke, *Mr. Burke’s Speech, on the 1st December 1783, Upon the Question for the Speaker’s Leaving the Chair, in Order for the House to Resolve Itself Into a Committee on Mr. Fox’s East India Bill* (Dublin: L. White, 1784), 7.

<sup>764</sup> Burke, *Mr. Burke’s Speech*, 6–7.

<sup>765</sup> Burke, *Mr. Burke’s Speech*, 6.

<sup>766</sup> Burke, *Mr. Burke’s Speech*, 5.

<sup>767</sup> Collins, *Commerce and Manners in Edmund Burke’s Political Economy*, 379.

<sup>768</sup> *Ibid.*

<sup>769</sup> Burke, *Mr. Burke’s Speech*, 9.

the wide range of (mis)conduct that he would catalog in his impeachment speech against Warren Hastings: the perceived abuse of gift-giving, as we saw in Chapter 3, at the top of this list. In the Eleventh Report of the Select Committee of 1783, for example, Burke denounces Hastings for acquiring “pretended Free Gifts” which, according to Burke, were extorted rather than freely given. “The very Nature of such Transactions,” Burke wrote, “has a Tendency to teach the Natives to pay a corrupt Court to the Servants of the Company.”<sup>770</sup> Burke also characterized the proof of the Company’s abuse in there being “no trace of equitable government [...] found in their politics” and “not one trace of commercial principle in their mercantile dealing,” a stark contrast, as we shall see, from Smith.<sup>771</sup> Ultimately, therefore, for Burke, the corruption that was associated with the Company’s monopoly was both general and constitutional—in the *overall* abuse of public trust vested by the Crown—as well as linked to *specific* practices Company officials like Hastings had undertaken, in Burke’s view, such as the extortion of gifts.

We have gestured at some of the intersections between Burke’s criticism of the Company’s monopoly as corrupt and that of Smith’s. However, there are crucial differences. One primary difference concerns the fact that Burke is not seen to have criticized the existence of chartered rights as such but rather only their abuse.<sup>772</sup> For Smith, however, as we shall now explore, the problem was monopoly itself. Relatedly, Burke held that the Company’s mercantile operating principles should be restored.<sup>773</sup> Smith, however, criticized the very system of mercantilism—of which monopoly was a part. Monopoly, as Smith writes, “seems to be the sole engine of the mercantile system.”<sup>774</sup>

On these matters, Burke is said to have publicly expressed difference with Smith. In his speech on Fox’s India Bill, Burke said:

I do not presume to condemn those who argue a priori, against the propriety of leaving such extensive political powers in the hands of a company of merchants. I know much is, and much more may be said against such a system. But, with my particular ideas and sentiments, I cannot go that way to work. I feel an insuperable reluctance in giving my hand to destroy any established institution of government, upon a theory, however plausible it may be.<sup>775</sup>

Subsequent scholars have interpreted these remarks as an allusion to Smith’s criticism of the Company’s monopoly.<sup>776</sup> For Whelan, however, while Burke did not agree with Smith’s analysis as an “abstract” principle or “theoretical critique,” he did agree with Smith’s analysis and that, in the specific case of India, the blurring between merchant and sovereign in the Company presented a problem.<sup>777</sup> Just as for Smith this made the Company “a strange absurdity,”<sup>778</sup> so too for Burke

<sup>770</sup> Select Committee of the House of Commons on the Affairs of India, “Eleventh Report,” in *The Works of the Honourable Edmund Burke*, Vol. VIII, 258. Accessed December 26, 2022.

<https://www.gutenberg.org/files/18161/18161-h/18161-h.htm>.

<sup>771</sup> Collins, *Commerce and Manners in Edmund Burke’s Political Economy*, 373.

<sup>772</sup> Collins, *Commerce and Manners in Edmund Burke’s Political Economy*, 379.

<sup>773</sup> Collins, *Commerce and Manners in Edmund Burke’s Political Economy*, 374.

<sup>774</sup> Smith, *Wealth of Nations*, 489.

<sup>775</sup> Burke, *Mr. Burke’s Speech*, 10.

<sup>776</sup> See Collins, “The Limits of Mercantile Administration.”

<sup>777</sup> Whelan, *Edmund Burke and India*, 40.

<sup>778</sup> Smith, *Wealth of Nations*, 494.

was the Company “that thing which was supposed by the Roman law irreconcilable to reason and prosperity—eudem negotiatorem et dominum,” both merchant and lord.<sup>779</sup> Smith is said to have been “critical” of monopolistic companies from at least around 1760; like Burke, his thinking on the Company is said to have deepened through the 1770s as negative reports of the Company increased.<sup>780</sup> Unlike Burke, however, who is characterized as situating the heart of the problem in the Company’s acquiring the right to revenue-collection in Bengal in 1765, Smith is said to have located the problem in “the inherent contradictions of mercantile administration.”<sup>781</sup>

“[T]he name of Adam Smith,” for Robinson like for many others, is closely associated with the criticism of the Company’s monopoly on the grounds of “general economic expediency.”<sup>782</sup> In his argument in *The Wealth of Nations*, there is a “natural distribution” of “stock,” or what Smith calls the “funds or sources of revenue which may peculiarly belong to the sovereign or commonwealth” that are not land.<sup>783</sup> (The *Oxford English Dictionary* defines—using Smith’s text as an example—“stock” as “movable property.”)<sup>784</sup> Monopoly represents an undue “intervention of law” into this distribution.<sup>785</sup> Not only does monopoly (as compared to the putative non-intervention of ‘free trade’) raise the price of goods, according to Smith, but it also lowers the overall possible wealth that can be generated for the nation as a whole. Not only monopoly but all “regulations of the mercantile system,”<sup>786</sup> according to Smith, “necessarily derange” the original, natural stock which is anyway already the “most advantageous distribution.”<sup>787</sup>

Although monopoly is portrayed as mostly an economic problem here, the ‘non-economic’ nonetheless looms large because for Smith, it is “the private interests and passions of men” which “naturally lead” to the most advantageous distribution. Despite each following their own self-interest—in fact *because* of each following their own self-interest—what results, according to him, is an outcome “most agreeable to the interest of the whole society.”<sup>788</sup> This is a key argument of *The Wealth of Nations*, and its legacy for conceptualizing self-interest vis-à-vis corruption is one we shall consider later.

Where corruption is specifically concerned in his argument, Smith begins by remarking that those whom the Company monopoly necessarily excluded from the East Indies trade paid the cost for it, like all England’s inhabitants, in the increased price of goods the Company charged. The “extraordinary profits” which the Company recouped as a result of the increased price due to their monopoly are “extraordinary” in the same way License Raj critics would later criticize rents as illegitimate: they are a departure from the putative ‘natural’ price, and the artificial gain is exclusively captured by the monopolistic faction. But beyond these unnatural profits, England’s inhabitants also paid in increased price “for all the extraordinary waste which the fraud and abuse,

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<sup>779</sup> Burke as qtd. in Whelan, *Edmund Burke and India*, 41.

<sup>780</sup> Collins, “The Limits of Mercantile Administration,” 372.

<sup>781</sup> Collins, “The Limits of Mercantile Administration,” 384.

<sup>782</sup> Robinson, *The Trade of the East India Company*, 11.

<sup>783</sup> Smith, *Wealth of Nations*, 632.

<sup>784</sup> Ibid.

<sup>785</sup> Smith, *Wealth of Nations*, 488.

<sup>786</sup> Ibid.

<sup>787</sup> Ibid.

<sup>788</sup> Ibid.

inseparable from the management of the affairs of so great a company, must necessarily have occasioned.”<sup>789</sup> The Company’s monopoly, in Smith’s depiction, therefore exists:

merely to enable the company to support the negligence, profusion, and malversation of their own servants, whose disorderly conduct seldom allows the dividend of the company to exceed the ordinary rate of profit in trades which are free, and very frequently makes it fall even a good deal short of that rate.<sup>790</sup>

In this formulation, monopoly, not unlike rent in Chapter 2, is associated all at once with waste, inefficiency, and indeed corruption. “Malversation,” the word Smith uses, after all, is defined as “corrupt behaviour in a commission, office, employment, or position of trust.”<sup>791</sup> The economic problem of “waste” and the problem of the “management of affairs” are all bound up in one larger critique of monopoly. Corruption or “malversation” is one key part of this intertwined problem, for it is the “disorderly conduct” of the corrupt Company servants which “allows” for “ordinary” profits to be disfigured. Smith’s conceptualization of monopoly vis-à-vis corruption, therefore, has three dimensions. As an economic problem, its dividends do not meet the “ordinary rate of profit.” As an administrative problem, it also produces “waste” and further is “disorderly.” Finally, as a moral problem, it suppresses the “private interests and passions of men.” Taken together, these three dimensions served to delegitimize the state’s conferral of monopoly, monopoly as an economic outcome, and mercantilism to which state-backed monopolies and inefficient outcomes like monopoly belong.

Smith’s economically oriented critique of monopoly found support in other critics of the late eighteenth century and early nineteenth century. For example, we read in Robert Renny’s 1807 text that “every individual concerned in the monopoly, from the Directors to the door-keeper of the palace in Leadenhall Street,” a reference to the address for Company headquarters in London, “are amassing independent and princely fortunes.”<sup>792</sup> Renny’s polemic was titled *A Demonstration of the Necessity and Advantages of a Free Trade to the East Indies And of a Termination to the Present Monopoly of the East-India Company*, and his text is littered with references to “corruption” and “bribery” which he associates with the Company and its monopoly.<sup>793</sup> Another allegation cited by Robinson is from an 1768 publication of the *Gazette* in which a critic from the *National Mirror* argues:

...the royal prerogative hath been arbitrarily extended to the injury of the state;... the territorial revenues of our conquests in Asia are the indisputable property of the nation, and not of individuals;... [and therefore] the exclusion of subjects in general by a pernicious monopoly is both unwarrantable and oppressive...<sup>794</sup>

In these depictions of corrupt monopoly as legal, political, or constitutional problems, the particularistic interest of the Company is seen to be central to the problem: here we may recall also

<sup>789</sup> Smith, *Wealth of Nations*, 489.

<sup>790</sup> Smith, *Wealth of Nations*, 584.

<sup>791</sup> “malversation, n.”. *OED Online*. June 2021. Oxford University Press.

<https://www.oed.com/view/Entry/113098?redirectedFrom=malversation> (accessed June 10, 2021).

<sup>792</sup> Renny, *A Demonstration*, 99.

<sup>793</sup> See, for example, Renny, *A Demonstration*, 37, 39, 41, 46, 49, 58–59.

<sup>794</sup> Robinson, *The Trade of the East India Company*, 92–93.

the references in Barber to “The Particular and distinct Interest, being always preferred before the General and Publique.”<sup>795</sup> Smith’s critique of monopoly, however, seems to suggest that the particular or private interests as such are not the crucial problem. In his view, as we have said already, without the “regulations of the mercantile system,” the “private interests and passions of men” “naturally” produce a distribution of “stock” that is “most agreeable to the interest of society.”<sup>796</sup> In other words, the economic critique, as under Smith, suggests that there are certain conditions under which self-interest is not only *not* a problem but is also part of the solution. Put another way, there is a certain relationship between government and market under which self-interest thrives and which does not lead to corrupt monopoly. It is this issue to which we will now turn. We may call it corrupt monopoly as a problem of boundaries.

This problem of boundaries greatly overlaps with and may even be subsumed entirely by the legal/political/constitutional problems of corrupt monopoly as well as by the economic and economic-administrative ones. But it deserves its own discrete attention nonetheless, for the relationship between government and commerce (or alternatively, state and market), not unlike the relationship we considered in Chapter 2 between the ‘political’ and ‘economic,’ has enormous bearing on how corruption has come to be conceptualized. The issue of the Company and of its monopoly was central to drawing the lines which prominent notions of corruption implicitly assume as natural and timeless.

The problem of corrupt monopoly as a problem of boundaries concerns the merger of government and commerce in eighteenth-century Company rulership of Bengal. Of course, the word ‘merger’ already presumes a notion of differentiation, and of the early seventeenth century, we read that “something like a Company-State made sense,” both to Britain as well as to India.<sup>797</sup> In other words, that a company could assume “quasi-governmental powers”—dealing in commerce but also practicing diplomacy and waging war, for example—was not from the onset understood as a problem of boundaries.<sup>798</sup> Like the critique of monopoly, this matter of boundaries too came to be understood as a problem as the Company era progressed. The problem of the Company’s monopoly was in fact crucial to establishing such boundaries which came to be retroactively seen as having been problematically merged. The Company’s assumption of the right to revenue-collection in Bengal following the 1757 Battle of Plassey seems to have been the precipitating factor for many critics to problematize the merger of a commercial entity with governmental rulership.

Smith is again the prominent critic here. The “proper business” of the Company, he wrote, “is that of merchants.”<sup>799</sup> Meanwhile, the proper role for a sovereign is “to open the most extensive market for the produce of his country, to allow the most perfect freedom of commerce, in order to increase as much as possible the number and competition of buyers.”<sup>800</sup> But having assumed both roles, the Company—in Smith’s view—privileged its own “narrow commercial interests” instead of “the

<sup>795</sup> Barber, *British Economic Thought and India*, 41.

<sup>796</sup> Smith, *Wealth of Nations*, 488.

<sup>797</sup> Philip J. Stern, “‘A Politie of Civill & Military Power’: Political Thought and the Late Seventeenth-Century Foundations of the East India Company-State,” *Journal of British Studies* 47(2) (2008): 257.

<sup>798</sup> Bruce Lenman, *England’s Colonial Wars: 1550–1688; Conflicts, Empire, and National Identity* (Harlow: Pearson Education Limited, 2001), 207.

<sup>799</sup> Smith, *Wealth of Nations*, 495.

<sup>800</sup> Smith, *Wealth of Nations*, 494.

larger public interests of the sovereign” which would be “obliged to abolish monopolies granted to mercantile ventures and remove all other impediments restraining trade.”<sup>801</sup> In other words, the Company did what a business does and ought to do, according to Smith: to prioritize its own commercial interests. As a sovereign, however, the Company failed, putting its business interests that prioritized its monopoly over its sovereign duty to abolish monopolies and encourage competition. In other words, as Smith writes, “the objective of the sovereign to expand market activity was irreconcilable with the remit of an exclusive trading company whose purpose was to constrict competition in all markets in which it operated.”<sup>802</sup> A monopolistic company involved in rulership, Smith wrote, “tends to make government subservient to the interest of monopoly.”<sup>803</sup> “The government of an exclusive company of merchants,” Smith concluded, “is, perhaps, the worst of all governments for any country whatever.”<sup>804</sup> As Barber describes Smith’s view, “[m]onopoly was inherently bad—but its results were far worse when monopoly was combined with governance.”<sup>805</sup> For monopoly, for Smith, “is a great enemy to good management.”<sup>806</sup>

In this formulation—an exemplar of the ultimately victorious view of the Company era—only a government distinct from monopoly could prevent the latter’s “narrow commercial interests” from corrupting its pursuit of free trade in the public interest. Competition and free trade are aligned with the public interest while monopoly is aligned with the threat of corruption through private interests. According to this view, the private interest or self-interest is the right thing for a business to prioritize, but it is the wrong thing for a government to prioritize. That self-interest drove the Company to hold on to its monopoly is normal and even sanctified; only a government can and should abolish such a monopoly and other “restrictions”: *that*, in fact, is the prime role for government, according to Smith.

The Company’s monopoly is already deemed corrupt for a variety of other reasons we considered earlier, but in this particular formulation, it is the unwillingness of the sovereign (whose role the Company occupies) which ensures the continuation of monopoly. The merger, in other words, ensures that public office is used precisely for private gain: public office and private gain are even made synonymous in the Company’s rulership and revenue-collection over Bengal. While Smith does not use the word ‘corruption’ directly in addressing this merger, this prominent definition of corruption is exactly what is at stake. Elsewhere, however, he does refer to the “embezzlement and misapplication” of taxes in the “territorial acquisitions of the East India Company,” which—governed otherwise—could have yielded a “source of revenue more abundant” and legitimately claimed as “the undoubted right of the crown, that is, of the state and people of Great Britain.”<sup>807</sup>

Ultimately, Smith’s vision of the sanctification of “private interest,” aggregated to form a public interest, reveals how important his economic vision has been to how the boundaries implicit in the prominent notion of corruption are defined: the boundaries between government and commerce and those between private interest and public interest. These boundaries were not always stable or

<sup>801</sup> Mark Donoghue, “Adam Smith and the Honourable East India Company,” *History of Economics Review* 77(1) (2020): 7.

<sup>802</sup> *Ibid.*

<sup>803</sup> Smith, *Wealth of Nations*, 495.

<sup>804</sup> Smith, *Wealth of Nations*, 441.

<sup>805</sup> Barber, *British Economic Thought and India*, 97.

<sup>806</sup> Smith, *Wealth of Nations*, 120.

<sup>807</sup> Smith, *Wealth of Nations*, 739.

even presumed as desirable, but it is the end of the Company era which has been pivotal in drawing them, thus shaping what has come to be so prominently conceptualized as corruption.

#### 4. Monopoly and the License Raj

Years later in the literature on Indian political economy, the problem of monopoly reappears. Here too it is associated with corruption, but its root causes are contested. The era in question is broadly post-independence India, in particular the late 1960s. In this era, monopoly—and with it, corruption—appears to have something to do not only with state planning at large but also with the license regime in particular. Who and what is precisely at fault here in the claim of corrupt monopoly is a matter on which critics differ. As we have seen in Chapter 2, the License Raj is something which has generated much debate on the appropriate mode of industrialization, raising with it issues of the relationship between government and business, and, of course, bureaucracy, (in)efficiency, and corruption. The question of monopoly is another terrain on which this debate over how to industrialize can be said to have played out.

Monopoly, however, looks different in the case of the License Raj than it does in the Company era. For example, one writer distinguishes the nature of monopoly in Indian state planning from what he calls the “textbook definition of monopoly in the sense of single product firms like Marshall or Chamberlain or diversified giant corporations like Penrone or Robin Morris.”<sup>808</sup> In this Indian setting, however, he alleges that a handful of large industrial houses pursued “monopolistic” or “restrictive trade practices.”<sup>809</sup> Already by the end of the 1950s, we read that “126 companies at the top of the list accounted for 34 per cent of the total paid-up capital; and, 1 per cent of the companies accounted for 47 per cent.”<sup>810</sup> In an account about the Monopolies Inquiry Commission, we read that the Birla industrial house controls two-thirds of production in the automobile sector, over 70 percent in cotton textile machinery, nearly a third of electric fans, almost a quarter of railway wagons, and over 15 percent of room air-conditioners.<sup>811</sup> The literature refers to this phenomenon not only as monopoly but also as the ‘concentration of economic power,’ and writers varyingly hold the license regime and/or the industrial houses (sometimes referred to simply as ‘big business’) themselves responsible for it. At times, writers allege corruption as the means of achieving this concentration, which few see as desirable.

We find these references to monopoly, concentration of economic power, and corruption in a series of reports which the Indian government commissioned in the 1960s. These include the 1967 *Report of the Industrial Licensing Policy Inquiry Committee* (also known as the Dutt Committee Report), the 1967 *Report on Industrial Planning and Licensing Policy* (also known as the Hazari Committee Report), the 1964/1969 *Report of the Committee on Distribution of Income and Levels of Living* (also known as the Mahalanobis Committee Report), and one which will be of special interest to us, the 1965 *Report of the Monopolies Inquiry Commission* (henceforth the Monopoly Report). The allegation of corruption—and its relationship to the license regime and monopoly—was discussed not only in these reports but also in many of the journal articles written in this period, some of which commented on these very reports and subsequent legislative responses to the reports. While these texts reflect different views, many writers nevertheless converge in the belief

<sup>808</sup> Gupta, *Corruption in India*, 56.

<sup>809</sup> Ibid.

<sup>810</sup> Ibid.

<sup>811</sup> Ibid.

that ‘a concentration of economic power’ had in fact occurred by the 1970s and that the licensing regime had something to do with it. This is a claim we see, for example, across the set of aforementioned reports and the extensive commentary related to them. It is also a claim made in reference to the 1969 Monopolies and Restrictive Trade Practices Act which we will consider in more detail below.

What exactly do writers have in mind when they allege a concentration of economic power? Because the license regime regulated manufacturing capacity according to targets set out in the Five-Year Plans, large industrial firms like Birla or Tata are said to have made “preemptive license applications...as a means of foreclosing on plan capacity,” thereby empowering themselves and preventing others from applying for licenses.<sup>812</sup> This is the one method which many (otherwise differing) observers agree led to the concentration of economic power in large business houses. Precisely what is meant by this concentration, however, is where writers begin to diverge. Moreover, they differ as to whether it was an inevitable consequence of the License Raj, who is to blame when business and bureaucrats interact, and what exactly this interfacing entailed. Corruption figures into these matters in varying ways. To explore these matters, we will begin by considering two representative views of the period. In the first view, writers largely blame increased concentration on the policy of licensing, and they encourage liberalization as a corrective. At times, they appear hasty to hold the industrial houses responsible, even defending the monopolistic outcomes as beneficial for development. In the second view, however, critics blame big business for the increased concentration of economic power, alleging that the industrial houses abused the licensing regime to achieve monopoly. In this view, critics suggest that corruption entailed both illegal and legal means by which big business pursued monopoly to the detriment of broader development. We will consider both these views and then dive more deeply into the second, examining various terms that writers considered to broaden the meaning of the ‘concentration of economic power’ and therefore to broaden the meaning of ‘corruption’ too.

The first view contends that a license regime is by its very nature opposed to free market competition. We read that it “is a way of conferring monopoly of one sort or the other.”<sup>813</sup> The competition of free trade gets rerouted in the license regime into a “competition for licences and permits.”<sup>814</sup> In this view, therefore, the License Raj may have intended to eliminate the tendency towards monopoly by stimulating entry of new and smaller enterprises into the economy, but instead it was actually “*creating* monopoly—or at least oligopoly...”<sup>815</sup> When writers account for how the large industrial houses “manage to grab licences at the expense of new entrepreneurs,” they cite the Hazari and Dutt committee reports, among others, to argue that “multiple licences for the same product, foreclosure and pre-emption of industrial capacity and non-implementation of licences are only some of the means to forestall small entrepreneurs, achieve monopoly power and strengthen their grip over the economy.”<sup>816</sup> Here we may recall our discussion about rent-seeking in Chapter 2 when we read that as a result of the “regulatory system,” “micro level entrepreneurial functions were [...] taken over by the government,” and “the private entrepreneur became in effect

<sup>812</sup> Philippe Aghion, Robin Burgess, Stephen Redding, and Fabrizio Zilibotti, “The Unequal Effects of Liberalization: Evidence from Dismantling the License Raj in India,” *Suntory and Toyota International Centres for Economics and Related Disciplines London School of Economics and Political Science*, DEDPS 45 (2005): 5.

<sup>813</sup> Hazari, *Essays in Industrial Policy*, xxvi.

<sup>814</sup> Dhar, *Evolution of Economic Policy in India*, 138.

<sup>815</sup> Hanson, *The Process of Planning*, 242.

<sup>816</sup> Gupta, *Corruption in India*, 56.

a rentier.”<sup>817</sup> As in the case of critics of rent-seeking, here too the proposed solution points in the same direction. Namely, as the Monopoly Report itself suggested, that “licensing policy should be liberalised” or, as said elsewhere, “to do away with [...] licensing” altogether.<sup>818</sup> Licensing here represents “the main obstacle to the free entry of entrepreneurs into different industries and would bring in competitors in many of the fields where concentration now exists.”<sup>819</sup>

In the first view under our consideration, therefore, the criticism of licensing is at times part and parcel of the criticism of state planning writ large. Indeed, for some, the very notion of “capacity,” on the basis of which firms were to apply for licenses to grow their industrial units, was an “undefinable concept.”<sup>820</sup> What is important is “to have pressure of competition to reduce costs,” not “the pressure of parliamentary enquiries and issue of directives.”<sup>821</sup> In such remarks, we can glean that the criticism of licensing as producing monopoly is one which can be extended to planning writ large—hence also why liberalization is posited as a solution. When corruption figures into this view, it arrives as if belatedly; the main problem for critics is the fact of planning regulation: corruption, in the form of bribery of public officials, appears to be a mere symptom—a posture we might recall from the critics of rent-seeking in Chapter 2.

Following the publication of the report in 1965, the government passed the Monopolies and Restrictive Trade Practices Act (MRTP) in 1969. While the Industries (Development and Regulation) Act of 1951 (IDRA) has been called the “centerpiece of the industrial regulation system,” the MRTP Act is said to have been “superimposed upon the IDRA,” bringing “its own definitions, rules, administrative apparatus, and approval procedures.”<sup>822</sup> For critics, the Act did not solve their problem of monopoly stemming from the license regime. One observer wrote, for example, that while the Act was intended to end “restrictive trade practices and rationalize the organization of large business houses,” it “was administered in a manner that merely retarded industrial growth.”<sup>823</sup> Furthermore, with the licensing system still intact after the passage of this act—and licenses still distributed on a first-come, first-served basis—we read “that a feather bed was created for the most influential.”<sup>824</sup> As such, writers suggest that the licensing system largely continued to prevent smaller entrants from coming into a given industry and therefore offered “an almost textbook definition of the term ‘monopoly.’”<sup>825</sup>

As we saw in the Company era, however, there are certain observers in the License Raj era who, even as they associate monopoly with the license regime, did not necessarily see it as a problem but rather as something potentially helpful. This is the second point-of-view about monopoly-as-corruption in the License Raj, one which offers a retort to the first, albeit one still sympathetic to the critique of planning and the support of liberalization. In 1989 S.K. Goyal described this view in *Monopoly Capital and Public Policy*. While earlier government committees were surprised and took note of the increased concentration of economic power despite efforts to counter it, “the view

<sup>817</sup> Dhar, *Evolution of Economic Policy in India*, 137–38.

<sup>818</sup> Monopoly Inquiries Commission, 141.

<sup>819</sup> Ibid.

<sup>820</sup> Hazari, *Essays in Industrial Policy*, xxv.

<sup>821</sup> Ibid.

<sup>822</sup> Kochanek, “Briefcase Politics in India,” 1289.

<sup>823</sup> Dhar, *Evolution of Economic Policy in India*, 92–93.

<sup>824</sup> Dhar, *Evolution of Economic Policy in India*, 93.

<sup>825</sup> Ibid.

held,” Goyal writes, “was that on balance the furtherance of business concentration might not necessarily be undesirable.”<sup>826</sup> Neither the critics of planning nor the critics of big business (whom we shall consider later) would claim this concentration as their economic ideal, but there are defenses for it. One section in the Monopoly Report, for example, contends that whatever development India had managed to achieve was owed:

to the adventure and skill of a few men who have in the process, succeeded also in becoming “big business” thus concentrating in their hands a great portion of the economic power...to push forward development of further industries, which has been to the advantage of the country.<sup>827</sup>

“Huge profits” that left behind “good surpluses,” in the view of the Report, were used to increase industrial capital either as bonus shares issued, reserves, or investment in new enterprises.<sup>828</sup>

At times, the Report even reads as an apologia for big business. For example, to those who hold big business responsible for “the great disparity” between those with wealth and those in “abysmal poverty,” the Report retorts that “[b]ig business has done much for the country’s economic betterment and as a consequence, for the alleviation of the poor man’s misery.”<sup>829</sup> The Report goes on to characterize the criticism against big business as marked by “antipathy” and “suspicion.”<sup>830</sup> Not only do the authors suggest that the preference for big business in the license regime may be inbuilt or structural, but they also further go on to naturalize this preference as desirable. For example, we read that big business would obviously be at an advantage in securing licenses since they “were in a better position to raise the large amounts of capital required for modern plants in most industries,” an argument closely related to the Report’s reference to the efficient economies of scale big business could deploy. As a result, licensing authorities would be “naturally inclined”—that is to suggest, *justifiably* inclined—to those with proven success.<sup>831</sup> None of these attributes seem to imply corruption or malintent on the part of big business. Rather, the association with corruption and big business where monopoly and the license regime are concerned is the main focus of the *second* view which we shall now examine.

## 5. Big Business as Instigator

There are two major sets of allegations under this umbrella. The first set deems corrupt the ‘tactics’ which big business deployed to secure a monopoly. We will consider the illegal methods that appear in the literature as well as the methods that critics deem corrupt but legal. The second set also considers tactics but focuses in on matters of definition: here writers broaden the notion of what constitutes ‘corruption’ by paying close attention to the meaning of certain words, legal and otherwise.

To begin, this view is marked primarily by its portrayal of big business—rather than, say, the premodern, politicized, inefficient or indeed simply ‘corrupt’ bureaucrat—as the instigator for the

<sup>826</sup> S.K. Goyal, *Monopoly Capital and Public Policy* (New Delhi: Allied, 1979), 104–05.

<sup>827</sup> Monopoly Inquiries Commission, 136.

<sup>828</sup> Ibid.

<sup>829</sup> Monopoly Inquiries Commission, 135.

<sup>830</sup> Ibid.

<sup>831</sup> Monopoly Inquiries Commission, 3–7.

monopolistic outcomes of the license regime. The particular language deployed in these accounts is highly suggestive—the use of active verbs, big business as the grammatical subject, the public official nowhere in sight but in faint, implicit glimpses—not to mention the flat-out direction of the claims. For example, we read of businesses' attempt at foreclosure of plan capacity as a “tactic,” suggesting, as do related views, that when big business applied for licenses, it was in full knowledge that it would cultivate a monopolistic position—not an accidental but rather a deliberate decision on their part. “Businessmen in India were not without influence and power,” Kochanek tells us, rather “[t]hey commanded large resources in the form of money, jobs and productive assets and they used these resources very effectively in the distributive realm of regulatory politics.”<sup>832</sup>

In these accounts, big business not only misuses the license regime but has a vested interest in the regime's continuation. For example, we read that “the very system of the government regulations and controls which has been severely criticized by big business has been used by these critics to obtain patronage, protection, and promotion of their self-interest.”<sup>833</sup> Furthermore, when initial steps towards liberalization were finally underway during the government led by Rajiv Gandhi in the 1980s, we read of resistance from private sector entities. Political scientist Stanley Kochanek makes reference to an illustrative quote on the matter when he cites that “for every businessman who welcomes a move to liberalize, there is at least one to lobby against it.”<sup>834</sup> Elsewhere too we read, at first “[u]nable to escape the heavy hand of the state, businesses found a way to manipulate it.”<sup>835</sup> Moreover, “[t]hey learned to thrive in the protected market, extend bribes and get around the rules, gain licenses and secure quotas that provided them with a captive market.”<sup>836</sup> “In fact,” this writer concludes, “for a large number of corporations and businesses a protected market became important for survival...”<sup>837</sup> In some cases, we find that the checkered behavior of big business goes back further in history. During World War Two, for example, Goyal tells us the large business firms “did not pay [...] taxes and adopted a variety of malpractices to conceal incomes and defraud public exchequer.”<sup>838</sup> Indeed, in these accounts, “bribes” are but one part of the corrupt means that large businesses are alleged to have used to try and achieve monopoly—in the License Raj but also more broadly.

Where the public official or government is explicitly mentioned in this set of claims, it is sometimes as a kind of passive victim of big business. Even the writers of the Monopoly Report—who are otherwise supportive of big business—remark that they “cannot also ignore the unfortunate reality that some big businessmen do not hesitate to use their ‘deep pocket’ to try to corrupt public officials, in the attempt to continue and increase their industrial domain.”<sup>839</sup> When government attempts to curb monopoly and economic concentration, we read in another work from 1974 that “the power and influence of Big Business over the machinery for implementation has been so great as to dilute its purposes and emasculate the operational effectiveness.”<sup>840</sup>

<sup>832</sup> Kochanek, “Liberalization and Business Lobbying in India,” 159.

<sup>833</sup> Goyal, *Monopoly Capital and Public Policy*, 105.

<sup>834</sup> Kochanek, “Briefcase Politics in India,” 1301.

<sup>835</sup> Chadda, “India: Between Majesty and Modernity,” 112.

<sup>836</sup> Ibid.

<sup>837</sup> Ibid.

<sup>838</sup> Goyal, *Monopoly Capital and Public Policy*, 43.

<sup>839</sup> Monopoly Inquiries Commission, 136.

<sup>840</sup> Meena Gupta and M.J.K. Thavaraj, “Indian Industrial Policy and Economic Power Concentration,” *Social Scientist* 3(4) (1974): 64.

Characterizing similar views from earlier decades, scholar A.H. Hanson writes that critics of big business came to believe “that ‘vested interests’ held all the important strings.”<sup>841</sup> “Business,” Hanson concludes of such critics, “has replaced imperialism as the villain of the piece.”<sup>842</sup> Goyal too warns politicians not to underestimate “the strength and the nature of the all-pervading character of the economic power enjoyed and exercised by business Houses in India.”<sup>843</sup> Where big business is represented in such antagonistic terms, we read that the central question for addressing economic concentration “is how to insulate Government decision-making from the influence of big business houses.”<sup>844</sup>

With big business in the spotlight in these accounts, the first set of corruption allegations we might consider are those where corruption refers not only to the concentration of economic power in the hands of big business but again, as in the case of the Company, to the methods deployed. ‘Bribery’ is, of course, one word with which the literature outrightly describes what it sees as the corrupt methods of big business. We see this also in the aforementioned reference to the euphemism of “deep pockets” in the Monopoly Report. But the illicit use of money to bribe public officials is far from the only method suggested as corrupt in critics’ allegations. After all, writers refer to a whole range of legal “tactics.” “Multiple licences for the same product, foreclosure and pre-emption of industrial capacity and non-implementation of licences are,” we read, “only some of the means to forestall small entrepreneurs, achieve monopoly power and strengthen their grip over the economy.”<sup>845</sup>

In this focus on legal methods, critics who allege corruption in big business’s pursuit of monopoly also look to other practices deemed “restrictive of competition.”<sup>846</sup> For one, we read in the Monopoly Report about “hoarding”—most frequently of “consumer goods which can be kept in stock for some time without much risk of wastage and deterioration in quality and of which the demand is inelastic.”<sup>847</sup> Hoarding, we read, created “[a]rtificial scarcity” after which the business took advantage of customers’ “urgent demands” so as to reap “exorbitant profits.”<sup>848</sup> “The consumer left at the mercy of the unscrupulous traders,” the Report writes, “pays what he is asked to pay.”<sup>849</sup> Fearing the item may become entirely unavailable altogether, the customer might buy more than immediately necessary, thereby creating greater scarcity and inadvertently “strengthening the position of the hoarders.”<sup>850</sup>

The Report also goes on to mention “horizontal fixation of prices,” “vertical fixation of price and resale price maintenance,” “allocation of markets between producers,” “discrimination between purchasers,” “boycott,” “exclusive dealing contracts,” and “tie-up arrangements.”<sup>851</sup> These practices are not portrayed as the rational and innocuous calculation of an entrepreneur. In the case of exclusive dealing, for example, whereby a manufacturer informs a dealer not to deal in a

<sup>841</sup> Hanson, *The Process of Planning*, 236.

<sup>842</sup> Hanson, *The Process of Planning*, 237.

<sup>843</sup> Goyal, *Monopoly Capital and Public Policy*, 41.

<sup>844</sup> A.N. Oza, “Monopoly and Public Policy,” *Economic and Political Weekly* 5(15) (1970): 645.

<sup>845</sup> Gupta and Thavaraj, “Indian Industrial Policy,” 57.

<sup>846</sup> Monopoly Inquiries Commission, 129.

<sup>847</sup> Ibid.

<sup>848</sup> Ibid.

<sup>849</sup> Ibid.

<sup>850</sup> Ibid.

<sup>851</sup> Monopoly Inquiries Commission, 126–27.

competitor's goods (for if he does, he will not be supplied), the Report says: "Sometimes such a term is embodied in a written agreement but more often, we are convinced, a manufacturer holding a dominant position enforces exclusive dealings, by verbal instructions or threats."<sup>852</sup> These are some of the practices that critics allege as corrupt albeit legal when they target big business.

Tactics which may be legal yet are nevertheless deemed corrupt open up the terrain for how broadly writers conceptualize corruption vis-à-vis big business and the License Raj. In the second set of allegations that we will now consider, critics of big business dig a bit deeper with questions of definition. In an attempt to clarify, even broaden, the meaning of 'concentration of economic power,' these writers explore the terms 'business house,' 'corporate control,' 'influence,' and 'socialization.' For writers critical of big business, the meaning of these terms has a bearing on measuring concentration of economic power, and therefore they may offer us expanded insight into what constitutes corruption where big business's abuse of the license regime is concerned.

We might begin with 'business house,' which is often the basic unit under consideration in the licensing policy or in discussions of concentration of economic power. Writer A.N. Oza in 1973 tells us that some years earlier in 1969, the government-commissioned Dutt Committee—appointed to evaluate the industrial licensing policy—"defined a business house (or group) as consisting of 'those business concerns over which a common authority holds sway.'"<sup>853</sup> This definition represented a departure from a legal one where "common management" was the operative notion.<sup>854</sup> For Oza, what was distinctive about the Dutt criteria was that they focused on "the actual mechanics of corporate control"<sup>855</sup> which, he conceded, "may not be amenable to tests of legal proof."<sup>856</sup> But for him, this qualification ought not be of concern. After all, he writes, even those somewhat familiar with the way business houses operate in India will know that the legal definition's focus on common management "is too narrow and legalistic to even partially envelop the concept of a business house as it actually operates in India."<sup>857</sup> Oza then proceeds to discuss not the definition of what a business house should be, but rather what the "actual mechanics of corporate control," or what he will term "influence," look like. We will now consider how he describes the problem of "corporate control," particularly as it plays out in joint enterprises, and then his remarks on "influence" more generally.

On corporate control, Oza writes that a business need not "pack the boards" of various companies with directors it chooses to effectively control these companies. Indeed, he writes, there are not many large companies that are controlled by one of the major business houses "by virtue of the same individual or the same company holding more than one-third of the company's total equity."<sup>858</sup> Rather, Oza suggests, the crucial factor is "control of the largest block-vote"—even if that may be less than a third of total equity or held via several seemingly independent companies or nominees, for these stakeholders may in actuality be operating "in cohesion, protecting the

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<sup>852</sup> Monopoly Inquiries Commission, 130.

<sup>853</sup> A.N. Oza, "Curbing Concentration of Economic Power: A Critique of the New Licensing Policy," *Economic and Political Weekly* 8(16) (1973): 761.

<sup>854</sup> Ibid.

<sup>855</sup> Ibid.

<sup>856</sup> Oza, "Curbing Concentration of Economic Power," 762.

<sup>857</sup> Ibid.

<sup>858</sup> Ibid.

common interest of the business house.”<sup>859</sup> Moreover, Oza writes, because state financial institutions hold a significant share of the equity proportion in many large companies, a private business house need only maintain control over “effective” equity, not total equity.

Oza has much else to say about these joint-sector enterprises which involve both public and private equity. For him, they represent an important example of the larger, corrupting influence that big business can play. Firstly, if they do not pay attention full-time to the workings of the enterprise, government directors on boards may be “easily persuaded to acquiesce” to the views of directors from the private sector.<sup>860</sup> Secondly, Oza contends that the directors that represent the private sector on a given board “would use Government directors to smoothen their path in dealings with Government.”<sup>861</sup> As such, rather than governmental board presence serving as a check on unbridled control by the private sector, joint sector enterprises, in Oza’s view, “would actually increase the economic power of the large business groups by making it possible for them to wield greater influence on decision-making processes of Government.”<sup>862</sup>

Thirdly, Oza portrays a “conflict of loyalties” for the government representative whenever an issue “within the purview of Government controls” would arise. In this “conflict,” government directors would be caught between “the narrow interest” of the joint enterprise’s profitability versus the responsibility of “ensuring that Government controls are enforced impartially and in the wider public interest.”<sup>863</sup> Therefore, if the working of a joint enterprise turns out to ever be “detrimental to public interests or the interests of consumers or competitors,” then, Oza writes, it is government rather than the private entrepreneur to whom one would “pass on the blame.”<sup>864</sup> The private entrepreneur, Oza concludes, welcomes public-private joint enterprises because he would “get the blessings of Government for his doings without losing any part of his effective control over the enterprise.”<sup>865</sup>

The word ‘corruption’ is not used in Oza’s three examples, but this “conflict” in the third is precisely the paradigmatic scenario to which many scholars of corruption refer. One twist, however, is that no overt or even implicit bribe is suggested in Oza’s analysis. Rather, it is “influence” which is the operative notion for Oza. As his text is an attempt “to clarify, if not specify, the concept of concentration of economic power,” Oza’s remarks on influence open up a new terrain to think about corruption in the License Raj, one in which apparently legal actions nevertheless amount to corruption in the eyes of certain critics. Oza writes that when “ownership and control of business become a source of power [that is] concentrated in the hands of a few large groups,” this power entails not just “power over allocation and use of means of production or over the public as consumers and/or competing businessmen,” but also the “power to influence decision-making processes in Government.”<sup>866</sup> Summarizing a seminar on the topic, Oza writes that

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<sup>859</sup> Ibid.

<sup>860</sup> Oza, “Monopoly and Public Policy,” 646.

<sup>861</sup> Ibid.

<sup>862</sup> Ibid.

<sup>863</sup> Ibid.

<sup>864</sup> Ibid.

<sup>865</sup> Ibid.

<sup>866</sup> Oza, “Monopoly and Public Policy,” 645.

in the context of democratic planning, it is power to influence governmental decision-making which is vital in an economy where investment, allocation of scarce resources of production, and distribution of scarce commodities are subject to governmental regulation.<sup>867</sup>

Through “influence,” Oza contends, “the big have become bigger.”<sup>868</sup> And when economic power is successfully used to influence the government’s decisions, he continues, “its use over the public, as consumers and competing businessmen, follows.”<sup>869</sup>

Oza is joined by other writers and texts that discuss the notion of influence as it relates to the concentration of economic power in the License Raj, with corruption closely associated. In the Dutt Committee Report also, for example, we read of the larger business houses’ having “liaison officers” in the national capital to “try to maintain contact at businesses and social levels with senior persons in Government and seek to influence the exercise of discretionary powers in their favour,” thereby disadvantaging smaller firms and entrepreneurs.<sup>870</sup> Goyal too has much to say on influence and its particular “techniques” in a way that links concentration of economic power to what is elsewhere called corrupt.<sup>871</sup> He speaks of the “public relations officer” who might help in expediting governmental approval.<sup>872</sup> In fact, he goes on to contend that in terms of measuring economic power, “the size of the annual publicity budget” would be relevant data.<sup>873</sup> “Publicity expenditure,” Goyal argues, “can be directly used to patronize the national and regional press, also to influence their editorials and news display.”<sup>874</sup> Furthermore, he writes, it is not “sheer coincidence” that the major business houses of India all “own newspaper or chains of newspapers.”<sup>875</sup> He cites that “Birlas own *Hindustan Times*, Jains *Times of India*, Goenka *Indian Express*, [and] *Statesman* is known to be jointly controlled by prominent industrialists, including Tatas.”<sup>876</sup>

Remarks about the media are a common motif in the consideration of what ‘influence’ means in the big business-license regime interface. “Through their lobby and influence over the press,” we read, “the large business groups have mounted severe attacks on the limited gains which were sought to be achieved through regulation and control.”<sup>877</sup> In doing so, these writers contend, business manages to ensure “relaxation of regulation and control as well as fiscal and other concessions” following any crisis.<sup>878</sup> The Monopoly Report too refers to “large scale efficient advertising” and media more broadly and remarks that large industrialists in India have been quick to appreciate “the strength of this weapon.”<sup>879</sup> And in his dissent to the Monopoly Report,

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<sup>867</sup> Ibid.

<sup>868</sup> Ibid.

<sup>869</sup> Ibid.

<sup>870</sup> Industrial Licensing Policy Inquiry Committee, Government of India, *Report of the Industrial Licensing Policy Inquiry Committee* (1967), 63.

<sup>871</sup> Goyal, *Monopoly Capital and Public Policy*, 37.

<sup>872</sup> Ibid.

<sup>873</sup> Goyal, *Monopoly Capital and Public Policy*, 36–37.

<sup>874</sup> Goyal, *Monopoly Capital and Public Policy*, 37.

<sup>875</sup> Ibid.

<sup>876</sup> Ibid.

<sup>877</sup> Gupta and Thavaraj, “Indian Industrial Policy,” 64.

<sup>878</sup> Ibid.

<sup>879</sup> Monopoly Inquiries Commission, 137.

economist R.C. Dutt (not to be confused with economic historian Romesh Chunder Dutt) also writes of big business's "predominance in the press" as a factor behind their influence of government more generally.<sup>880</sup> "In a democratic society Government must necessarily be responsive to public opinion," Dutt says in his dissent. "To the extent [...] that articulate public opinion can be influenced by big business," he concludes, "they can also influence the decisions of Government."<sup>881</sup>

Besides media issues, Goyal also goes on to describe influence at a more granular level, as a three-stage process. In making attempts to influence people that matter in government, the first stage, he says, is establishing "personal contacts" and getting "opportunities" to advance the business point-of-view.<sup>882</sup> The second stage in the process Goyal outlines is when stakeholders in government "are persuaded to accept small favours" from businesspeople.<sup>883</sup> Therein, the business representatives might "make a voluntary offer" of funds for party activities, offer their company's facilities, or so on.<sup>884</sup> The assumed motive behind all this, Goyal writes, is to get "closer" to political figures.<sup>885</sup> Once a business house has helped a party whose leaders begin to depend on their support for "quick resource mobilization," then, Goyal concludes, "the third stage in exercising influence on public policies can be said to have been reached."<sup>886</sup>

What Goyal is describing here has elsewhere been called 'lobbying.' Lobbying represents another sub-literature in the critique of big business in the License Raj where business-led activities to gain "influence" with the government may bleed into illegality and hence mirror what writers elsewhere deem corrupt. In "Liberalization and Business Lobbying," Kochanek in fact constructs a historical trajectory of lobbying over the course of the License Raj, writing that "lobbying grew gradually as the regulatory framework matured and became increasingly complex."<sup>887</sup> Beyond the stages of influence which Goyal outlines above, he also describes cases where bureaucrats are nominated to company boards "to safeguard public interest" but in practice fail to do so.<sup>888</sup> The requirement of senior civil servants to seek prior government approval to accept private employment after retiring, Goyal writes further, is "very often circumvented by taking up advisor or consulting designation with the House Trusts."<sup>889</sup>

Goyal has a rather exhaustive list of factors he believes are helpful to measure the capacity to influence. Crafting "a list of the retired civil servants or the immediate relations of the serving civil servants who are on the pay-rolls of the companies associated with business Houses" would offer one such measure. Beyond this, Goyal suggests a whole list of factors to identify:

the (i) nature of products produced and economic activity, (ii) locational spread of economic activity, (iii) character of market—fully, partially, or non-regulated, (iv) relationships with political parties and leadership, (v) associations and status with the

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<sup>880</sup> Monopoly Inquiries Commission, 194.

<sup>881</sup> Ibid.

<sup>882</sup> Goyal, *Monopoly Capital and Public Policy*, 37.

<sup>883</sup> Ibid.

<sup>884</sup> Ibid.

<sup>885</sup> Ibid.

<sup>886</sup> Goyal, *Monopoly Capital and Public Policy*, 37–38.

<sup>887</sup> Kochanek, "Liberalization and Business Lobbying in India," 159.

<sup>888</sup> Goyal, *Monopoly Capital and Public Policy*, 38.

<sup>889</sup> Ibid.

administrative system, (vi) size of the public relations set-up and the publicity budget, (vii) acceptability of the managements and their standing with trade and business associations, and positions held in banks and other financial institutions, (viii) nature of business associations with international business, business activities outside of India, (ix) broad and rough estimate of the size of ‘unaccounted money’ emanating each year from the House, (x) number of employees receiving high salaries, etc.<sup>890</sup>

To this list, he adds: “It is only too obvious to mention that company donations to political parties and number of employees with political and civil service background would also need to be examined if the significance of economic power is to be discovered.”<sup>891</sup> Economic power, Goyal concludes, cannot be considered “within the narrow framework of economics”: “It is a subject-matter of political economy.”<sup>892</sup>

When it comes to measuring and defining concentration of economic power, therefore, Goyal claims that equating “asset concentration” in the private sector with “economic power” is both “unrealistic” and “misleading.”<sup>893</sup> Capturing the nature and magnitude of big business’s economic power, Goyal argues, requires one to identify “all such factors which give power to influence and distribute patronage.”<sup>894</sup> In other words, the operations of big business should be considered “in terms of relative strength in extending patronage and causing material benefit to those who are in position of authority.”<sup>895</sup> We might say that for Goyal the capacity for big business lobbying to benefit government decision-makers—in a way that ultimately benefits big business itself—is a more effective measure of concentration of economic power.

Goyal’s claim—that “[p]ersonal contacts with civil servants, particularly the ones in economic ministries, prove to be a great asset to the business community”—not only broadens the association between influence and concentration of economic power, but it also involves the word ‘corruption’ itself.<sup>896</sup> “It would be wrong to describe ‘socialization’ as corruption,” Goyal tells us, “but it is hard to draw a clear distinction between the two.”<sup>897</sup> In Goyal’s claim about socialization and corruption, and in the claims broadening what ‘concentration of economic power’ means, we encounter a different conceptualization of corruption than seen in chapters prior. First, as we have already said, here it is larger business houses that are depicted as the instigators, beneficiaries, and targets of corruption allegations. Second, the focus on social relations between business and government suggest a new and markedly modern relationship—rather than premodern ties—under the scrutiny of corruption critics. Here we might recall our discussion at the conclusion of the previous chapter with the figures of Kochanek’s ‘business elite’ and Kaviraj’s ‘contractor.’ Finally, the influence literature suggests the diverse and granular *legal* ways in which monopolistic outcomes can be secured—with no apparent bribe in sight—and despite their legality, be nonetheless deemed corrupt.

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<sup>890</sup> Goyal, *Monopoly Capital and Public Policy*, 41.

<sup>891</sup> Ibid.

<sup>892</sup> Goyal, *Monopoly Capital and Public Policy*, 42.

<sup>893</sup> Goyal, *Monopoly Capital and Public Policy*, 41.

<sup>894</sup> Ibid.

<sup>895</sup> Goyal, *Monopoly Capital and Public Policy*, 39.

<sup>896</sup> Goyal, *Monopoly Capital and Public Policy*, 38.

<sup>897</sup> Ibid.

In its association of corruption with big business, what does this literature suggest about the License Raj? As we have seen, on the one hand, there are critics who hold planning responsible for the increased concentration of economic power which business houses accrued—whether through ‘influence’ or through the other means we have outlined. On the other hand, there are critics who do not critique planning as a root cause for big business’s increased power, but which instead hold big business itself responsible. These proponents or sympathizers of planning, however, do not always exculpate the government even if they see big business as an instigator or problematic party. In fact, there are some who also hold both business and government responsible for corruption in the License Raj but who simultaneously contend that corruption exists because planning can never represent a deep enough break from liberalization. It is to these accounts of corruption that we will now turn to close out our chapter.

## 6. The Limits of the Big Business Critique

In certain allegations that center “the power of big business to corrupt,” not only is the government mostly salvaged from reproach but so too is the notion of state planning.<sup>898</sup> Economist P.N. Dhar, for example, while recognizing the licensing system produced monopoly as a consequence, issues a critical reply to Pranab Bardhan. Dhar remarks that Bardhan interprets the pre-emptive applications for licenses by industrialists to make “oligopolistic profits” as though it were the licensing policy’s intention.<sup>899</sup> Rather, Dhar argues, “it was an instance of what Max Weber would have called unintended effects.”<sup>900</sup> Dhar concedes that licensing and state planning writ large “can be faulted on many grounds,” but argues that:

to interpret “the ostensibly adverse government policy” towards big industry as pro-rich is to ignore the social purpose of policy and to misread the consequences of policy as the motives of the policy-makers.<sup>901</sup>

Dutt concurs with Dhar in his dissent to the Monopoly Report, a Report which, as we have seen, is otherwise reluctant to criticize big business too harshly. In his dissent, Dutt begins by disagreeing with a claim in the Report that in the absence of planning, “new entrepreneurs would have entered the industrial arena, competed with the established entrepreneurs and prevented at least to some extent further growth of concentration.”<sup>902</sup> “The classical theory of Economics,” Dutt writes, “certainly assumed that in an economy which was completely free, the forces of competition would ensure the maximum advantage to the public.”<sup>903</sup> “Our experience in the modern world,” he counters, “has shown that this is no longer true, if it ever was.”<sup>904</sup> As such, for Dutt, the absence of planning does not assure that big business would have conceded to the arrival of new entrants.<sup>905</sup>

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<sup>898</sup> Monopoly Inquiries Commission, 194.

<sup>899</sup> Dhar, *Evolution of Economic Policy in India*, 104–05.

<sup>900</sup> Ibid.

<sup>901</sup> Ibid.

<sup>902</sup> Monopoly Inquiries Commission, 192.

<sup>903</sup> Ibid.

<sup>904</sup> Ibid.

<sup>905</sup> Ibid.

In fact, Dutt goes on to contend that “planning and controls...are by themselves neutral”: they can be used both “to increase concentration” as well as “reduce or prevent further concentration.”<sup>906</sup> Against the Report’s argument that the concentration of economic power in big business has developed India, Dutt counters that just because big business “may have contributed to the process of development,” the fact of concentration as such cannot be regarded as responsible for such development.”<sup>907</sup> He raises an analogy of a benevolent dictator and writes that just because while doing good, some may have become dictators and continue to benefit a country afterwards does not mean that dictatorship is therefore beneficial or that a similar outcome would not be achieved through another type of government.<sup>908</sup>

But not all share Dutt’s larger view about planning, and among them, those who we shall consider now are *not* the proponents of liberalization critical of planning—whom we would otherwise expect to put forward a rebuttal (and, as we have seen earlier, indeed do). Rather, the critics whom we will now consider allege not only the culpability of big business in corruption but also hold both the government and state planning responsible to varying extents. These writers often characterize this shared culpability in the form of a nexus between big business and government. As for government’s role in the nexus, political parties—in particular the Indian National Congress (and therein Prime Minister Indira Gandhi)—are held to account. Even some critics who mainly focus their charge of corruption on big business will admit to such a nexus, describing it occasionally in historical terms.

Goyal is one such critic. He writes that the closeness of big business in India to political leadership is not a new phenomenon. Rather, its “seeds...were sown” during the independence movement. Therein, he cites in a footnote some senior leaders in the independence movement who were supported by major business houses: Nehru and Purshottamdas Tandon with the Singhaniyas, Gandhi and the Birlas, and Jamnalal Bajaj and the Tatas with the Congress at large, among the examples.<sup>909</sup> From post-independence history, Goyal not only cites businesspeople who were “actively associated” in fundraising for Indira Gandhi from 1975–77 but also specifies “the connections” of major business houses to both the Swatantra Party and the Janata Party whereby certain party members were themselves former industrialists.<sup>910</sup> In this vein, Goyal also goes on to mention former employees of the Birla and Tata firms who have held cabinet portfolios.<sup>911</sup>

Kochanek too seems to concur when he writes that the relations which were forged during the independence movement—“when Indian businessmen supplied Congress leaders with money, hospitality and political support”—constituted the “basis of a well-established system of particularistic lobbying designed to secure individual benefits.”<sup>912</sup> Kochanek then goes on to offer a tripartite trajectory of the development of corporate lobbying in India. He begins by marking 1951 to 1969 as “the golden age of private sector development in India.”<sup>913</sup> The second stage, the years 1969 to 1979, Kochanek describes as “the period of briefcase politics based on a mutual

<sup>906</sup> Monopoly Inquiries Commission, 192–93.

<sup>907</sup> Monopoly Inquiries Commission, 194.

<sup>908</sup> Monopoly Inquiries Commission, 194–95.

<sup>909</sup> Goyal, *Monopoly Capital and Public Policy*, 39.

<sup>910</sup> Ibid.

<sup>911</sup> Goyal, *Monopoly Capital and Public Policy*, 40.

<sup>912</sup> Kochanek, “Liberalization and Business Lobbying in India,” 159.

<sup>913</sup> Ibid.

exchange of benefits among an iron triangle of businessmen, bureaucrats and politicians.” (The third stage, he writes, involves “an increasing externalisation of corruption in the 1980s and 1990s, based on defence and infrastructure contracting with foreign suppliers.”) If we accept Kochanek’s view of this “iron triangle,” we might describe the second stage, “the period of briefcase politics,” as the height of the business–government nexus and the peak of entanglement between government and business through the License Raj. Perhaps it is precisely for this reason that critics in this context and elsewhere attribute Indira Gandhi’s reign in this period with the height of corruption in the planning regime. In any case, this period was also the moment when the issue of monopoly was raised most loudly.

In Kochanek’s and others’ appraisals, the apparent complicity of government in this nexus is central to their problematization of lobbying and corruption. While it is largely the political parties whose close relationship to big business is depicted, we can see in Kochanek and elsewhere that the bureaucracy too is brought into the picture. In one text we read that in 1979, on the one hand, a few major business houses have become “the major loci of private economic power in the Indian mixed economy,” while, on the other, “the central bureaucracy has emerged as the major locus of political power in the Indian political system.”<sup>914</sup> “Of particular concern,” the text continues, “is the relationship between bureaucratic and entrepreneurial class power.”<sup>915</sup> Here too we read of “a symbiotic nexus” whereby “the central bureaucracy has aided and abetted the growth and concentration of economic power in the hands of a few large-scale industrialists.”<sup>916</sup> In the most sweeping assessment, Barbara Harriss-White writes of the “[s]ymbiotic economic relations” that were formed “between business, the administration and the ruling political party.”<sup>917</sup> In her account, the “apparently widely ramified skeins of corruption satisfies a broad set of interests so effectively that the consequences of incompetent law making are indistinguishable from that of a conspiracy.”<sup>918</sup> Yet while a whole range of government actors and institutions are alleged as part of the problem in these texts, many critics opt to highlight the political party (in this case, the Congress) as the key culprit in the nexus.<sup>919</sup>

If the ruling party is at the root of the government’s complicity in the lobbying nexus, what accounts for its avowed commitment to planning throughout all three stages of Kochanek’s trajectory? In the views of the critics we shall consider in this section, the Congress Party’s commitment to planning reflects merely “socialistic pretensions.”<sup>920</sup> Planning’s real purpose, in these views, was as an electoral strategy. The passage of anti-monopoly legislation of 1969, for example, is depicted as being “part of the populist movement that accompanied the split in the Congress and Indira Gandhi’s struggle for control of the party.”<sup>921</sup> Some observers characterize the industrial policy of that whole period—1969–79 or Kochanek’s period of “briefcase politics”—as a function of Indira’s electoral calculations.

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<sup>914</sup> D.R. Encarnation, “The Indian Central Bureaucracy: Responsive to Whom?” *Asian Survey* 19(11) (1979): 1127.

<sup>915</sup> Ibid.

<sup>916</sup> Ibid.

<sup>917</sup> Harriss-White, “Liberalization and Corruption,” 35.

<sup>918</sup> Ibid.

<sup>919</sup> See, for example, Gurharpal Singh, “Understanding Political Corruption in Contemporary Indian Politics,” *Political Studies* 45(3) (1997): 626–38.

<sup>920</sup> Goyal, *Monopoly Capital and Public Policy*, 40.

<sup>921</sup> Stanley A. Kochanek, “Regulation and Liberalization Theology in India,” *Asian Survey* 26(12) (1986): 1290.

Critic H.K. Paranjape writing in 1988 has a particular account as to how the era of “briefcase politics” arose, and it puts planning’s socialist rhetoric at the forefront. As Paranjape describes the problem, “those in power at Delhi have been caught in a trap of their own making.”<sup>922</sup> “Wanting to cash in on the legacy of Jawaharlal Nehru, and also under the impression—right or wrong is really uncertain—that a leftist, anti-capitalist stance pays electoral dividends,” he writes, “they have wanted to keep up an anti-big-business posture.”<sup>923</sup> Paranjape suggests that although Indira Gandhi or her advisers may have wanted to radically restructure private ownership of big business, nevertheless she was either persuaded by—or herself held—the view that industrial development would not be possible without an active role of big business. Yet, Paranjape crucially adds, Indira simultaneously saw that her “radical façade” of 1969 paid dividends in the elections of 1970–71. Therefore, in Paranjape’s view, she held the “two-faced policy” of maintaining anti-monopoly legislation and publicly criticizing big business while she assisted their gradual growth and avoided action that would adversely affect their major interests. By 1980, however, when Paranjape suggests that Indira did not see the same electoral interest in anti-monopoly legislation, she made greater efforts at liberalization.<sup>924</sup>

This general view is shared by other observers writing about the period. Oza describes, for example, the political utility for Indira of the Dutt Committee’s report (which was released at the time of the Congress split) and whose recommendations “came in handy for...building up her radical image.”<sup>925</sup> The thrust of such claims suggests that Indira prioritized “political expediency” over “ideology.”<sup>926</sup> In fact, in Kochanek’s assessment, this strategy far exceeded just the use of the MRTP Act. He writes that bank nationalization, banning corporate contributions to parties, and other “regulatory legislation” were all part of Indira’s “populist appeal designed to attract the votes of the poor” and “undercut the Congress old guard’s links with business.”<sup>927</sup> Yet through these moves, in Kochanek’s view, Indira encouraged business to accumulate “black money” through “tax evasion, black-market operations and a whole array of mechanisms used to bypass and profit from government controls.”<sup>928</sup> Furthermore, “black money” became the key source of political party funds, and, according to Kochanek, it forged the nexus we have been describing.<sup>929</sup> Here, the allegation of corruption in the License Raj targets *both* business and government rather than simply one or the other.

Some observers read the era’s contradiction between anti-business rhetoric and business appeasement in the very details of the monopoly legislation itself. Oza, for example, looks to a provision in section 2(g) of the Act which seeks “to define inter-connected undertakings to define inter-connected undertakings on the basis of the company law concept of ‘companies under the same management.’” Oza deems that this definition would not even qualify a tenth of the companies which the large business houses control. Although one of the criteria looks beyond subsidiaries to bring into legislative oversight the control one company may have over another “in any other manner,” it does not specify what this means. As such, Oza contends the law implies it

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<sup>922</sup> Paranjape, “Indian ‘Liberalisation’,” 2357.

<sup>923</sup> Ibid.

<sup>924</sup> Ibid.

<sup>925</sup> Oza, “Curbing Concentration of Economic Power,” 760.

<sup>926</sup> Ibid.

<sup>927</sup> Kochanek, “Liberalization and Business Lobbying in India,” 160.

<sup>928</sup> Ibid.

<sup>929</sup> Ibid.

would be up to the Company Affairs Department which administers the Act “to evolve, by building up case law, the criteria by which one company, which is not a holding company and does not fall within the ‘same management’ definition, can be considered as ‘controlling’ another company...[sic].”<sup>930</sup>

Ultimately, Oza continues, by the Act’s adoption of an inadequate definition of “a business house” with such open-endedness about what constitutes “control,” “existing large houses will on paper, and legally, be sub-divided and fragmented into apparently independent clusters of ‘inter-connected’ enterprises though in fact these clusters operate as part of a group.”<sup>931</sup> Oza contends that the government is not blind to these deficiencies nor does it want to amend the legislation because it would lose the “maneuverability and scope for discretionary action” when processing applications for licenses from the large business houses.<sup>932</sup> That the government prefers to use such “unworkable legal contraptions like Section 2(g) of the MRTP Act,” according to Oza, makes clear its “real purpose”: namely, to give up the aim of curbing big business.<sup>933</sup> When he accounts for the reason behind this “unmistakable change in the government’s attitude,” he looks to what was then the slow growth rate of industry and the Fifth Five-Year Plan’s strategy to develop “core, heavy investment, industries.”<sup>934</sup> The aim of reducing poverty in this Plan, for Oza, is mere “lip-service,” presumably for (as we glean from other writers) electoral considerations.

This view—that planning as a means of poverty reduction was reduced to a “lip service” and obscured a thriving government–business lobbying nexus—is shared by many of the aforementioned writers who appear to have in mind a desired ideal of what state planning ought to have looked like. Against this ideal, various actors (the government at large, political parties more specifically, the Congress especially, and perhaps Indira Gandhi most of all) all fall short by only half-heartedly following—if at all—state planning’s aims. There are other critics who share this view but hold neither planning nor liberalization as the ideal against which they formulate their criticism. While proponents of liberalization criticize state planning, and while the critics we have considered thus far believe state planning should have been implemented better, the critics we shall now consider take a different approach to criticizing state planning. As a result, they conceptualize the relationship between the ‘nexus’ and corruption in the License Raj far differently than what we have so far examined.

Partha Chatterjee and Ashok Sen’s 1988 essay “Planning and the Political Process in India: Duality and Differentiation” exemplifies this point of view. They begin by characterizing the Indian economy under state planning not as socialist but rather as a “mixed capitalist system.”<sup>935</sup> Further, they oppose the notion that the state is separate from the economy and functions primarily “as the latter’s watch and ward.” Instead, they contend that the function of the state under the License Raj

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<sup>930</sup> Oza, “Curbing Concentration of Economic Power,” 762–63.

<sup>931</sup> Oza, “Curbing Concentration of Economic Power,” 763.

<sup>932</sup> Ibid.

<sup>933</sup> Oza, “Curbing Concentration of Economic Power,” 764.

<sup>934</sup> Ibid.

<sup>935</sup> Partha Chatterjee and Ashok Sen, “Planning and the Political Process in India: Duality and Differentiation,” in *Economy, Society and Polity: Essays in Honour of Professor Bhabatosh Datta*, ed. Amiya Kumar Bagchi (Calcutta: Oxford University Press, 1988), 199.

was to “directly monitor the supremacy of economic goals appropriate to the interests of the dominant classes.”<sup>936</sup>

“That we now have a travesty of the ‘socialistic role’ of the public sector in India,” they go on to write, “is neither because the public sector is inefficient nor because the Indian state is powerless in imposing the necessary controls and discipline.”<sup>937</sup> It is here where the crux of the argument emerges. The travesty in question is due to the fact that the public sector in the process of planning “was never meant to act as an instrument of socialism.”<sup>938</sup> Rather, in Chatterjee and Sen’s thesis, the state serves a “mediating role” whereby it is “a crucial instrument for muting or pre-empting the conflicts between sections of the exploiting classes.”<sup>939</sup> As such, the state is part of “the forms and the instruments by which capitalism can consolidate its dominance...”<sup>940</sup>

For Chatterjee and Sen, this is a problem that precedes the reign of Indira Gandhi: they write that “the slogans for the welfare of the poor which formed a part of the Nehru variety of ‘socialism’” were the result of a “brand of nationalist politics” as early as the 1930s whereby “the urge for technological progress” coincided with “the requirements of finding legitimacy for the new national state by means of popular mobilization.”<sup>941</sup> ‘Socialism,’ in air quotes in Chatterjee and Sen, was apparently always a rhetorical-political rather than economic device.

In fact, it seems difficult in their argument to find the expression of an economic policy in India that they would contend is *not* reducible to sloganeering and, moreover, sloganeering for covert class domination. For example, they go on to write that India’s “political process” is marked by “the search for consensual instruments of legitimate exercise of power.” It is in this context that policies on “‘development’ or ‘welfare’ or ‘poverty-eradication’”—all terms are in scare quotes in Chatterjee and Sen—reveal their real meaning. Such policies or the slogans behind them are not indicators about economic life but instead “the political-ideological instruments of manufacturing consent.”<sup>942</sup> Not just the License Raj but rather:

[a]ll development projects, public works projects, poverty-eradication programmes, public sector employment policies, the operation of nationalized banks—all of these economic institutions are an integral part of this political process of manufacturing consent for a regime of domination and inequality.<sup>943</sup>

So when the Nehruvian era’s planning policies are praised for their “‘progressive’ content”—the term is also in scare quotes—and contrasted with “the ‘retrograde’ phase of import liberalization and relaxation of state controls,” Chatterjee and Sen argue that “[t]he *innate* political consistency of the logic of state supervision of the economy in the entire period is thus missed.”<sup>944</sup> In other words, state planning and liberalization, otherwise conceptualized by proponents on both sides of the debate as binary opposites, are here seen as a continuous project of class domination by the

<sup>936</sup> Ibid.

<sup>937</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 201.

<sup>938</sup> Ibid.

<sup>939</sup> Ibid.

<sup>940</sup> Ibid.

<sup>941</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 203.

<sup>942</sup> Ibid.

<sup>943</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 215–16.

<sup>944</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 216.

state whether it dons the cloak (and for Chatterjee and Sen, it truly is a cloak, i.e. something which disguises) of the benevolent interventionist or neoclassical night-watchman.

Corruption figures into their argument. Specifically, Chatterjee and Sen allude to the critique of corruption made both by planning's critics—who deem it inefficient—and planning's supporters, who problematize the non-economic aspects of corruption. “A diverse system of ‘leakages’ in the entire structure of public expenditure,” they write, “is not simply a matter of bureaucratic inefficiency or corruption.”<sup>945</sup> Rather, Chatterjee and Sen argue, it is:

an elaborate mechanism of marginal transfers from the core to the periphery—fragmented, molecular, politically supervised, designed to create opportunities for conceding selective sectional demands and yet producing the ideological effect of a regime of power which is responsive to the ‘popular’ will.<sup>946</sup>

Chatterjee and Sen's conceptualization of corruption in the License Raj—and the relationship between government and business which it presumes—is noteworthy in several ways. Firstly, though the duo would not at all be considered proponents of liberalization, their perspective nevertheless shares with the rent-seeking critique the belief that state planning writ larger, rather than ‘corruption’ itself, is the real problem. In the rent-seeking critique, what appears as the problem of corruption is misleading because it is in fact *all* rents which are the issue, but in Chatterjee and Sen, corruption misleads differently. Because—secondly—as they see it, corruption is indeed functional. This is a word we have used before in our examination of patronage in Chapter 2, though for Chatterjee and Sen corruption is far from admirably functional or a second-best, derivative ideal.

Indeed, those in Chapter 2 who claimed that corruption as ‘patronage’ can serve the function of holding together a heterogeneous democracy, Chatterjee and Sen would say are under a mystification. The democratic populace which patronage might represent for another writer is, for this duo, an “ideological effect” masking parochial demands to which the state acquiesces—not in its role of neutral arbiter but as a supervisor of class politics biased in favor of the capitalist class. Chatterjee and Sen detail further what other critics have described at length as corruption when they:

[a]dd to these publicly accounted “leakages,” the vast amounts of money going to feed political jobbery, private armies, the mafia bases of political power itself, the smuggling networks, the manifold disbursements through ever-growing religious or cultural institutions of dubious nature—all in the sector called the “black” economy not accounted for in the public estimates of income and expenditure.<sup>947</sup>

All these things deemed as corrupt—and indeed the notion of corruption itself, so often elsewhere decried passionately as a danger to all that society ought to hold dear—seem to pale in comparison to the inherent exploitation by the state which Chatterjee and Sen contend.

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<sup>945</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 215.

<sup>946</sup> Ibid.

<sup>947</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 215–16.

The nature of corruption in Chatterjee and Sen is a *systemic* symptom. In a different context earlier, we have seen Harriss-White use the term ‘conspiracy’ because of the wide array of interests which practices deemed corrupt apparently so effectively satisfy. For Chatterjee and Sen, corruption appears to satisfy a structural need. It misleads those who deem it a problem precisely because its existence is not accidental: rather, it purposefully exists to satisfy a wider, systemic purpose, those of the concessions necessary to covertly further capitalist domination.

In fact, thirdly, Chatterjee and Sen offer a rebuke to planning’s critics in India whom the duo characterize as “often succumb[ing] to the ideological seduction of the very regime that they set out to criticize.”<sup>948</sup> “For every so often,” Chatterjee and Sen write about these critics, “they employ the tools of ‘rational’ economic analysis to conclude that these ‘leakages’ or ‘inefficiencies’ are evidences of an impurity, a deviation from the norm.”<sup>949</sup> While corruption *is* a misleading symptom of a larger root issue, according to the duo, neoclassical critics of licensing delude themselves when they believe this root issue is the inefficiency of state planning. Indeed, by focusing “on the ‘inefficiency’ of the public sector or the ‘corruption’ of a bureaucracy,” these critics of planning miss the crucial supervisory role of the state in the project of class domination that the License Raj plays.<sup>950</sup> We may even assume that for Chatterjee and Sen, planning’s supporters—who focus on corruption, in the form of the government–business nexus, as proof of the government’s insincere ‘lip service’ to the (fallen) ideal of socialism—fall prey to the same delusion. Because in the duo’s view, the rhetorical commitment to socialism is not merely for an electoral victory or indeed any sort of one-off strategic maneuver. Rather, it goes deeper and seems to be for—to repeat the phrase, for in this article at least, Chatterjee and Sen offer no other terms to understand the ‘true’ role of the state—capitalist domination and exploitation.

## 7. Conclusion

We have so far seen the various ways in which big business’s monopolistic concentration of economic power is depicted as a problem of corruption in the License Raj. Sometimes this is a narrow problem of their pre-emptive license applications which block other entrants. Other times this is a broader problem of influence and socialization. For some writers, the government is a victim of big business’s proclivity to corrupt. For others, the government is more or less complicit in what is an all too intimate nexus of business–government relations. Those who hold this last view may either lament the fall from a socialist ideal that “briefcase politics” represents or they may argue that ‘socialism’ was never so distinct from ‘capitalist domination’ to begin with.

On this last view, there is a third posture with which we can conclude this chapter. Here, Hanson offers the representative account. In his assessment of government–business relations, the “situation [...] is extremely complex.” On the portrayal of businesspeople, he asserts they do not all behave the same way. “Rather than issue a general condemnation or a general certificate of approval,” Hanson argues therefore, “one has to ask in each case whether the state is likely to do better or worse.”<sup>951</sup> “Upon one’s answer, if honestly given,” he continues, “depends the optimum

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<sup>948</sup> Chatterjee and Sen, “Planning and the Political Process in India,” 216.

<sup>949</sup> Ibid.

<sup>950</sup> Ibid.

<sup>951</sup> Hanson, *The Process of Planning*, 239.

balance between the public and the private sectors of the mixed economy.”<sup>952</sup> But then again, he concludes: “The honesty of the answer, of course, may constitute the crux of the problem.”<sup>953</sup>

Hanson’s triangulated view may be a function of his publishing *The Process of Planning* in 1966. His studied composure may have been difficult to maintain as the debate over the License Raj intensified in the following years, indeed as “briefcase politics” itself apparently intensified in the following years (as Kochanek’s tripartite temporal classification suggested earlier), only finally yielding in 1991, if even then, according to some. But Hanson’s remarks are nonetheless useful as we try to construct a third position set against both the critique of big business and the critique of the state.

With regards to viewpoint that Chatterjee and Sen represent, Hanson offers two somewhat differing sentiments. On the one hand, he writes, “Indian business displays all the characteristics of a period of transition from the merely exploitative to the genuinely capitalist mentality.”<sup>954</sup> Contrastingly, Hanson paints a sympathetic portrait of a government once it embarks on a mixed economy. He writes:

the government cannot successfully run a mixed economy by treating the businessman as a pariah, yet as soon as it treats him as something more respectable it is accused of toadying to capitalists, neglecting the masses, abandoning socialism, etc.<sup>955</sup>

It also cannot avoid such accusations by focusing on public sector initiatives in major industries because these would amplify opportunities available to the private sector by expanding “external economies” at their disposal. Such a situation might be likened, in Hanson’s view, “to the promotion of capitalism by a capitalist-dominated government.”<sup>956</sup> Indeed, for Chatterjee and Sen, the embarking on a mixed economy represents precisely this. Against such a characterization, Hansen retorts: “Without a revolution, or at least a change of heart on the part of the politicians and bureaucrats, the masses can never win. The Marxist circle is complete.”<sup>957</sup>

On the other hand, Hanson’s position is not entirely opposed to that of Chatterjee and Sen, for he does not aim to suppose that business never wins in “deflecting” policies that go against its interests or “that there is no danger of ‘capitalist dictatorship.’”<sup>958</sup> After all, he points to the “right wing” (he puts the term in scare quotes) in the Congress and the Congress–business nexus as two sources of threat to this end.<sup>959</sup> Yet, for Hanson, “[t]he real-life situation is much more complicated.”<sup>960</sup> Indeed, in Hanson’s portrayal of the License Raj:

[a] government, consisting predominantly of middle-class intellectuals, has conceived certain economic policies which it holds to be in the national interest, and is constantly

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<sup>952</sup> Ibid.

<sup>953</sup> Ibid.

<sup>954</sup> Ibid.

<sup>955</sup> Hanson, *The Process of Planning*, 240.

<sup>956</sup> Ibid.

<sup>957</sup> Ibid.

<sup>958</sup> Ibid.

<sup>959</sup> Hanson, *The Process of Planning*, 241.

<sup>960</sup> Ibid.

adjusting them both in the light of experience and in response to the different pressures to which it is subject.<sup>961</sup>

Ultimately, Hanson no doubt recognizes the importance of those “pressures” which come from private industry but argues that they are not the sole pressures “nor invariably the most effective.” Hanson’s view here represents a qualified divergence from that of Chatterjee and Sen, but it offers a space of mutual recognition to critics of big business as well as those more specifically who see the government’s complicity in the concentration of private economic power.

Indeed, once we read the literature on the License Raj to look past the prominence of the rent-seeking critique, there emerge competing portrayals of the Indian government and its policy of state planning. Some of these portrayals overlap, sometimes in unexpected ways. Readers of the License Raj literature will find both a depiction of political parties using planning as mere rhetoric to cover up its insidious relationship with big business as well as a depiction which sees the Congress as utterly misguided to have embarked on state planning to begin with or at least dogmatically gripped by planning as an ideology for far too long when liberalization clearly, rationally beckoned. Moreover, in the License Raj literature, we encounter a shade of views that are ‘in-between’ as it were. These ‘in-between’ views sometimes appear tentative and partial and therefore have to be reconstructed out of the fragments to be presented as a discernible position, but they nonetheless demonstrate a spectrum of perspectives, each nevertheless still not fully distinct and with their own occasional inconsistencies. Once the literature and all its internal narratives are opened up, it turns out that the meaning of the License Raj is contested and therefore contestable.

The role of a notion like ‘corruption’ in these competing narratives is often as a rhetorical handmaiden to the larger aim of the particular narrative in question. To the extent that a given narrative involves an argument about the appropriate role of business and of government in an economy, corruption is an accessory to the argument, figuring into the picture in as diverse and contradictory ways as (1) the inefficient rent of illegal bribes that overly discretionary bureaucrats receive, (2) the entirely legal process of socialization that big business undertakes with government officials to try to influence state policy, or (3) the symptom that reveals a deeper problem of the socialist state which actually operates in collusion with business. What is ‘corruption’ in this literature? It turns out that one may first need to take a view on the License Raj, on state planning.

Ultimately, both in the Company era as well as during the License Raj era, the matter of monopoly is suspect. Where monopoly is alleged as corrupt, something apparently fundamental about the relationship between government and market is implicated. For the critic, this relationship is also a systemic question. That is, monopoly is an important matter in each era’s major economic debate: whether on mercantilism versus free trade or planning versus liberalization.

Looking side-by-side at the depiction of monopoly in both eras, we see that the foundation which Adam Smith laid around monopoly has had remarkable staying power. The many critiques of big business in the License Raj also are largely based on his premises about the proper role of government vis-à-vis the market—even though many of these critiques did not call for liberalization in the way that Smith called for free trade. In other words, the rise of monopolistic

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<sup>961</sup> Hanson, *The Process of Planning*, 241.

business houses—which writers in the License Raj era criticized as enabling big business to influence government policy—is a problem that is still Smithian in nature. It represents business overstepping into a domain that should be reserved for the government or vice versa.

Nevertheless, just as the Company's monopoly was eventually revoked, the License Raj too was eventually liberalized. But in neither case should we assume that the threat of monopolistic power is diminished—at least not if we take seriously some of the critiques of big business during the License Raj. The concern in that era over what Goyal called 'socialization' suggests that monopolistic power does not require a company to have something akin to the Company's chartered monopoly right to produce the corruption writers have associated with monopoly. Rather, even under conditions of liberalization, a company may legally pursue activities which give it monopolistic power to influence the government against the public interest. In this chapter, therefore, we have seen the staying power of Smith's conceptualization of the problem of monopoly as much as we have seen the widening of what counts as 'corruption' to secure monopoly.

## Conclusion

### 1. Introduction

What ought the trajectory we have traced of the word ‘corruption’ in the last five chapters tell us about the term? For one, as we said at the conclusion of Chapter 1, ‘corruption’ is a word. That is, it has a meaning, and its meaning can change over time, as happens with all words. Like certain words, ‘corruption’ can also mean contradictory things over time or even in a given moment. Its references are multiple, they can overlap, and they can be associated with words elsewhere assumed to be distinct from ‘corruption.’ For example, ‘patrimonialism,’ ‘clientelism,’ ‘patronage’—such terms are sometimes pejoratives deemed to be coterminous with ‘corruption,’ but in other moments, they are believed to retain positive elements and therefore stand in stark contrast to ‘corruption,’ a word for which it is rare to find a proponent. There is a similar confusion between the causes of corruption and the meaning of corruption: rent-seeking or premodern loyalties are sometimes suggested to produce corruption, but in other cases, they are treated as stand-ins for corruption itself. Part of what the trajectory we have traced suggests, therefore, is that the word ‘corruption’ has been subject to a persistent terminological slippage. It is used in ways that sometimes broaden and sometimes retract its meaning. In fact, writers never seem to be really and finally sure whether ‘corruption’ has a fixed meaning. The literature is at once mired in debate over whether it is possible to define it while also being convinced that ‘corruption’ nevertheless exists.

There is a particular conceptualization of ‘corruption’ which appears prevalent in this literature, one which has steadied the gaze of the critic on a certain set of associations. One such association is that of corruption with the public sector. Corruption “is most intense in those sectors where the regulatory footprint of the state is the greatest,” a claim we encountered in this study’s introduction.<sup>962</sup> Other associations which we read about are that of corruption with “newly independent States,”<sup>963</sup> “poor econom[ies],”<sup>964</sup> and indeed with India, where we are told corruption is “pervasive and omnipresent.”<sup>965</sup> Across this dissertation, we have seen how India’s state planning regime is an exemplar site where many of these associations are condensed: its alleged corruption has been attributed to public officials, government bureaucracy, and a premodern society. Something about these associations, we have tried to suggest, appears obvious to critics who allege corruption in the License Raj.

This obviousness, however, is an effect. For what we have also seen over the course of this study is that these associations of the word ‘corruption’ are neither self-evident nor timeless: they have a history. Only over time have certain associations come together and consolidated such that the word ‘corruption’ could today assume the semblance of a factual definition as opposed to that of an argument. In tracing this arc of consolidation, we have seen the hardening into commonsense of what could otherwise be described as a loose cluster of tenets: certain ideas about modernization, about culture, about bureaucracy, about the right economic policies for industrial development, about efficiency, about the appropriate relationship between state and market. These ideas have

<sup>962</sup> Sukhtankar and Vaishnav, “Corruption in India: Bridging Research Evidence and Policy Options.”

<sup>963</sup> Wraith and Simpkins, *Corruption in Developing Countries*, 11.

<sup>964</sup> Hager, “Bureaucratic Corruption in India,” 197.

<sup>965</sup> Ram, *Why Scams Are Here to Stay*, 4.

aligned in such a way that the particular notion of corruption they eventually constituted could then be applied to something like the License Raj. In other words, that the critic of state planning can appear so confident to characterize the License Raj as a premodern, overly bureaucratic and rent-seeking enterprise of corruption is owed to this history.

This history is more recent than is sometimes suggested. Despite efforts to establish the ancient roots of the notion, the ‘corruption’ alleged in the License Raj is not the word which Aristotle or Kautilya or Machiavelli had in mind. Rather, as we have seen in this study, the allegation of ‘corruption’ in India’s state planning regime—the way it has come to be defined, the associations which this meaning carries—has a much more intimate relationship with the colonial era than it does with, say, the Mauryan. Indeed, the era of the License Raj occupies a unique place in the trajectory of the word ‘corruption’ in India. It straddles both the colonial encounter—given the legacies from that period which are held to have persisted past India’s independence—and the ‘modern’ or post-independence era, when it was believed that state planning would modernize India. Across this study, we have juxtaposed certain motifs related to the word ‘corruption’ in these two eras. In doing so, we have found both continuities and legacies as well as dynamism and contradiction. We may first turn to these legacies to understand the weight of a colonial history behind the allegation of corruption in the License Raj. It is the weight of these legacies which may help to explain the prevalence of this allegation, its semblance of common sense, and perhaps even its aura of timelessness.

## 2. Legacies

One legacy from the British-Indian colonial encounter that has persisted in contemporary discussions of India concerns corruption’s association with unfair commercial rules. Corruption has not always been deemed to be an economic problem, certainly not one whose distributive outcomes are foregrounded as illegitimate. Yet this was precisely what was at stake: both in the Company’s encounter of Mughal commercial practices and in British debates over the Company’s monopoly. Corruption served as a rhetorical device for both the Company era and the License Raj era while a fundamental economic policy was being contested: mercantilism in the former or state planning in the latter. This notion of corruption helped advance certain economic arguments—and discredit others—without appearing to have any in-built policy preferences. The critique of corruption as inefficient in the License Raj may seem to be a far cry from the Company era, but it is the nevertheless the Company era in which corruption was first attributed, upon the perception of unfair distributional consequences, to rules governing commerce. The charge of the inefficient rent-seeker may be the rough contemporary heir to the Company’s allegation of the gift- or toll-extorting Mughal ruler.

A second legacy from the colonial encounter that we find in the License Raj is a concern over inefficiency and the boundaries between government and the market. When the Company’s monopoly was deemed corrupt by its contemporaries, it inaugurated an association of corruption with inefficiency. Adam Smith argued that the Company’s monopoly raised the price of goods and lowered the overall wealth which could be generated for Britain. Furthermore, he claimed, the Company’s status as both sovereign and merchant meant it had little incentive to resolve this inefficiency. Years later in the License Raj era, it was state control over industrial development that was held to be the cause of inefficiency and corruption. Here too, a proposed solution was to

assert a particular boundary between government and commerce: one in which government officials have far less power to regulate economic activity. This market liberalization was assumed to reduce opportunities for not only bribery but all forms of inefficient ‘rent-seeking’ and thereby unleash economic growth.

Indeed, across the Company and License Raj eras, the conceptualization of corruption as an economic problem has helped carve out certain boundaries such as the one between government and market. This boundary concerns who can legitimately profit from commercial activity and how. In Chapter 5, our reading of Smith told us that the motive of self-interest which he understood as the rightful beating heart of commerce is one which only those in the market should pursue. The corresponding role of the government, we read in Smith, is to promote this self-interest in the market and not let any one interest prevent others from flourishing. Smith’s era saw allegations of corruption against practices like sinecures or notions like that of public office as the ‘property’ of the officeholder. These allegations of ‘Old Corruption’ are the predecessor to what appear as the generic allegations of corruption today because they prefigure the idea that public officials ought only to uphold (but never themselves participate in) the private pursuit of economic self-interest—which is instead sanctified only in the market. Many contemporary allegations of corruption, certainly those against the License Raj, are built upon this idea of who is allowed to personally profit. Herein, it is not the pursuit of economic self-interest itself which is suspect for critics of corruption: it is rather *which* actor pursues it. As one writer puts it, “what defines an act as corrupt is not that it is income maximising, but that it is income maximising in a context where prior concepts of public office and the principles for its conduct define income-maximising [sic] as corrupt.”<sup>966</sup>

The fact that it was India in which these divisions were carved out suggests a third legacy. As the terrain on which a notion of corruption was conceptualized, India remains associated with corruption well throughout the License Raj and afterwards. Furthermore, its pre-colonial history has been retroactively cast as the site of corruption’s timelessness. If India’s corruption has an origin, it is not in its own ancient past but rather in the imaginations of the nineteenth-century British elite. As conceived by them, ‘India’ was a place where people went to make fortunes. And it was a place whose fortunes—when brought back home in perceived excess—could threaten the presumed stability of the British order. Certain practices whereby these fortunes were made were part of this era’s critique of corruption, and they have since stayed with us. In other words, prior to the Company era, a gift may have been ‘just a gift,’ but at the close of the Company era, gift-giving was thoroughly tainted as corrupt. It was because of the British-Indian colonial encounter that we might now think of gifts in this light, and furthermore, as Hastings said in his defense of receiving gifts, we might assume India ‘made him do it.’ It was not only his reputation or gift-giving which was ultimately discredited: it is in this era in which a place called ‘India’ too first became tarred with the stain of corruption. It was a land where the British came to believe they had to protect themselves from corruption, where they could be tempted by corruption, and where they could curb corruption but only so long as they themselves were the rulers—because in India, “as under most uncivilised governments,” John Mill wrote, “there was nothing regular and fixed.” Except perhaps that “a wide avenue was always open for the extortion of the collectors.”<sup>967</sup> A

<sup>966</sup> Philp, “Conceptualizing Political Corruption,” 50.

<sup>967</sup> John Mill, *History of British India: Volume II*, 193–94 as qtd. in Shah, *History of Indian Tariffs*, 19.

legacy which was inaugurated in the colonial era, therefore, is the association of corruption in India—and perhaps corruption more generally—with cultural ‘backwardness.’

Of course, the notion of legacy always stared us in the face with a pejorative like the License Raj. It alludes, however thinly, to the sense of remaining stuck—if not under colonial rule, then under a form of rule equally stagnating and suppressing of India’s developmental potential. The thinness of the allusion seems to serve an end. It conjures a widespread opposition to colonial underdevelopment without ever fully revealing how intimately the colonial era associated ‘corruption’ with India. After all, numerous claims which critics reproduce today have their proximate origin in the British-Indian encounter: corruption in India as the symptom of an overbearing government, of premodern loyalties, of irrational economic policies, or of backwardness writ large. At times it seems that the more these critics have internalized these claims, the less apt they are to foreground India’s successes post-independence. When critics talk of corruption as a lingering thorn in independent India’s development, and when they are reticent to commend what *has* been achieved since 1947, their suspicion about a ruling class is palpable. Political elites, it is alleged here, may have prioritized the wrong economic policy or mishandled its implementation. They may have made this mistake on purpose, critics suggest: for their own private gain or that of their kin. It is often in this line of thinking that the allegation of corruption enters most sharply. Perhaps, then, the real hold which the colonial era has over India lies not in the fact that corruption’s critics are tethered to the belief that India remains backwards, but rather in the subtle implication that its rulers remain unfit to govern: a fourth legacy, one which requires further exploration.

It is not only India but also Britain that is characterized in a certain way because of colonial legacies vis-à-vis corruption. We have seen in Chapter 3 how the British elite convinced themselves that they had reformed corruption at home. Not only did this narrative serve to consolidate corruption as a matter particular to India (where it was believed to be ongoing) instead of as a problem of Britain (where it was believed to have been eradicated). It also came to cast India as the origin of colonial corruption, if not also of ‘Old Corruption’ itself: both to the extent that new allegations could be attributed to the colony and to the extent that previous allegations could retroactively be rewritten as having been triggered by the colony. The narrative of reform, in other words, managed to separate India from Britain as the ‘true’ cause of corruption. ‘Reform’ is not the only notion that served—and seems to continue to serve—to demarcate a certain set of countries apart from others. The notion of the modern also plays such a role. In fact, both then and now, part of what seems to make a country ‘modern’ in the eyes of the critic is precisely that it has reformed its corruption, a corruption that is seen as ‘premodern.’ In the case of India, undergirding the claim that corruption is premodern is a belief that what is modern about India began with the colonial encounter. The colonial era is therefore seen as the point from which it becomes possible for critics to distinguish not only the modern from the premodern, but also the reformed from the unreformed, the progressive from the backwards, and ultimately the developed from the developing country. Altogether, this has had the effect of projecting ‘corruption’ away from the Global North onto the Global South. At times, it appears that ‘corruption’ has become one of the constitutive features of how the Global South is imagined. This represents a fifth and powerful legacy of corruption as the notion emerged in the Company era. Both in setting the terms of the definition and in bringing together a set of associations which has cast India and other developing countries in a suspicious light, the British-Indian encounter set a framework for the contemporary conversation on

corruption that seems difficult to escape. The colonial experience of India may therefore be relevant not just for how corruption has been depicted in the License Raj, or in India more generally, but also for how corruption is conceptualized the world over.

### 3. Innovations

The License Raj era's dominant notion of corruption builds upon certain colonial legacies, but it also performs a series of innovations. In some cases, these innovations represent breaks from the Company era. For one, no longer is the bureaucracy seen as the catalyst for modernization and, therefore, for the eradication of corruption. Instead, bureaucracy's perceived excess is now a problem that causes corruption, its functionaries a symptom of the premodern, and their discretion something to curb or even do away with altogether. Though there are moments in Smith's critique of the Company where corruption is associated with administrative 'waste,' the main preoccupation with government administration during the later colonial period involves the Indian Civil Service, which overwhelmingly had positive connotations. An earlier (Company) bureaucracy was replaced by a superior (Crown) bureaucracy, but bureaucracy as such was not seen to be the problem. Not until after India's independence, that is.

Other innovations in the critique of License Raj corruption do not break from the Company era critique but rather update dimensions of the colonial argument. The key innovation here perhaps is how the License Raj era critique codes corruption as an inefficient 'rent.' This conceptualization does not entail a new target to discredit (it is still the public official), but it is a new way to express the apparent problem of an economic practice. This new expression also renders what is normative about unfairness into something discreet to hide in the analytic of neoclassical efficiency, which appears as an exclusively technical matter for some critics. The way efficiency is a social good and how it is ultimately intertwined with something called the 'political,' a realm that critics otherwise imagine as being distinct from and superior to the 'economic'—all this is something which has to be drawn out, as we did in Chapter 2. In fact, perhaps it is *this* effect which is the real innovation behind the allegation of corruption in the License Raj era: rent-seeking's deflection of moral issues, imagined as too ethereal to be grasped in the seemingly tight grid of neoclassical economics but nevertheless always already tucked in there. Indeed, as we may recall, the exemplary neoclassical economist would not characterize rent-seeking as corrupt, nor would they be interested in distinguishing the legitimate from the illegitimate—these are deemed to be questions of normative value. Their avowed preoccupation is instead between the efficient and the inefficient. And it is this very preoccupation which hides the moral critique of corruption. Furthermore, that many critics of the License Raj era have depicted corruption in technical-economic terms obscures the term's history and any policy preferences which it may betray.

Indeed, the success of the rent-seeking analytic deployed to characterize corruption in the License Raj appears to have made it harder for the critic to consider history. Or at least a certain version of history. "As economists, we cannot provide an in-depth analysis of the role of culture and history in the development of corruption," corruption scholars Susan Rose-Ackerman and Bonnie J. Palifka write, "but we can point out when the legacy of the past no longer fits modern conditions."<sup>968</sup> But which legacy are we talking about? If the problem of corruption is state planning, then it is a narrative about India's pre-colonial history and post-independence history

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<sup>968</sup> Rose-Ackerman and Palifka, *Corruption and Government*, 37.

which the critic shores up. When this history is evoked, it is used to advance the larger claims of the License Raj allegation: that corruption is a matter of bribe-taking public officials who are stuck in a premodern culture of parochial loyalties. But in this thesis, we have demonstrated that there is *another* history which is relevant to understanding the conceptualization of corruption in the License Raj: that of the colonial encounter, from the Company era to the ICS reforms. Though often unconscious of it, it is *this* history of corruption to which critics of the License Raj are indebted when they make their economically oriented allegations. For as much as the pejorative label ‘License Raj’ points to the colonial period, it is precisely the colonial period which remains unproblematised in License Raj allegation of corruption.

In other words, when this critic alleges the License Raj as corrupt, they are indeed pointing to a corruption that predates the License Raj. But it is not corruption as such. Rather, it is a *particular notion* of corruption which has a longer arc, not so long as to be timeless or dating back to antiquity but as long as the arrival of the British. Corruption, we might even say, was invented in the British-Indian colonial encounter. That is, ‘corruption’ as we know the term today: with its assumptions about boundaries between the government versus the market, with its various associations that we have explored in this study (efficiency, modernity, loyalty, monopoly). If this prevalent idea about ‘corruption’ was invented in the colonial encounter in India, then critics of the License Raj elaborated it further. In both eras—the colonial and that of the License Raj—India presented a problem for economic administration. Corruption was viewed as a symptom of that problem. The specifics of its conceptualization in each period relate to the respective debates over economic policy. In the Company era, Adam Smith’s economic critique of corruption served to discredit mercantilism in favor of free trade. In the License Raj era, the allegation which characterized corruption as rent-seeking served to discredit state planning in favor of economic liberalization. The ongoing desire for liberalizing the India economy appears to have kept alive—while innovating—a colonial-era notion of corruption as a handmaiden to pro-market sentiments.

But this notion of corruption reflects only a partial history. For across the threads we have traced in this study, there have been those who saw ‘corruption’ to mean something other than what today’s usage of the term would suggest. In the loosely held together cluster of tenets that comprise the contemporary notion of ‘corruption,’ we may detect the shadow of these other voices. The arc of these shadow voices is the mirror-image of the arc of the hardening of ‘corruption’ into self-evidence. These voices and subcurrents unsettle this self-evidence, but they have been rendered in today’s corruption debate in India as minor motifs. What is required, therefore, is not exactly another history of corruption, but rather the rendering of ‘corruption’ as a problem *for* history—that is, for the particular history that License Raj critics like to conjure up, a story in which India remains economically stagnant, its developmental potential unrealized, even thwarted, due to corrupt public officials.

#### 4. Subcurrents

At one level, the literature on corruption, especially as alleged in the License Raj, presents the impression of consensus—at least when it coheres around a series of assumptions: that corruption is largely a matter of disloyal, bribe-taking public officials in premodern countries with extensive bureaucracies. At another level, however, this prevalent conceptualization does not hold, for the meaning of corruption appears contested. Here, subcurrents in the literature bring to the fore

neglected referents or conceptualizations. These are discarded remnants of the trajectory of corruption which we have traced in this study. Taken together, they do not quite add up to a coherent view on par with the semblance of consolidation represented by the prevalent conceptualization of corruption. That is, these remnants suggest but do not actually form an inverse view that one can deploy with the same apparent ease with which critics point to the License Raj as corrupt. Instead, what the subcurrents collectively perform is the slow but steady chipping away at the prevailing view's self-evidence.

Take, for example, the characterization of the modern vis-à-vis corruption. We saw in Chapter 4 that, not unlike 'corruption,' the notion of the 'modern' too is flexible. Not only does it come in various inflections ('modernity,' 'modernization,' 'modernism'), but also its relation to 'corruption' is multiple. Unlike most corruption critics who associate the premodern with the corrupt, we found writers who argued that modernization could entail a doubling down on premodern corruption or itself could spur altogether new types of corruption. The corresponding depictions of loyalty and bureaucracy in Chapter 4 followed suit. For example, we explored the claim that public officials' premodern loyalties are a cause of corruption. Juxtaposed to law, loyalty seemed fickle, irrational, and unable to guarantee bureaucratic obedience to rules—rules which critics took for granted as enabling the collective good. Considering the case of conflicting loyalties in the late colonial era, however, we saw the otherwise admired bureaucracy of the Indian Civil Service come under scrutiny. Not only was a patchwork of 'premodern' loyalties the precondition for the stitching-together of the 'modern' Indian Empire, but also imperial suppression of the independence movement was (at best) an ambiguous measure of administrative integrity. In other words, the colonial bureaucracy against which subsequent critics—including Indian writers post-independence—compared the License Raj fell short once we saw that the ICS also drew upon loyalties and practices elsewhere deemed premodern and corrupt—and that too in the service of an imperial rule that could not be considered to represent the public interest.

The question of monopoly is another one where subcurrents challenged the depiction of corrupt License Raj officials. As we saw briefly in Chapter 3 and at length in Chapter 5, monopoly was a major part of the story whereby the British elite discredited the Company and undertook reform of 'Old Corruption.' Critics had contended that the Company's monopoly was secured through corrupt means, 'bribes'—rather than 'loans' or 'gifts' as others claimed—to the Crown and Mughal rulers. Moreover, the sheer fact of the Company's monopoly was believed to produce inefficiency by stifling competition, and therefore it was an exemplar of the economic problem of corruption. We saw similar concerns in the License Raj era where critics alleged that the license regime effectively created state-backed private monopolies. Subcurrents in that era, however, turned the spotlight away from public officials (as the source of corruption) towards big business. Indeed, they cast big business as the instigator for the unequal concentration of economic power under the License Raj. Other writers charged the License Raj bureaucracy as part of the problem but only to contend it did not go far enough in challenging a corrupt business—government nexus. This view was altogether opposed to the critics of rent-seeking who sought to liberalize the economy and do away with excessive bureaucracy. Monopoly, in these subcurrent claims, may have been seen either as an inadvertent or structurally intentional consequence of the License Raj, but the blame therein does not fall squarely on the public official. Rather, it is the large private firm which was the central figure in these corruption allegations. Instead of the public sector or the policy of state planning, it was the presumed self-interested motives of private firms—

elsewhere naturalized as the key to commercial prosperity—which were associated with the problem of corruption.

Finally, where corruption is referred to as a political problem, we have seen subcurrents challenge claims of its negative impact on a polity. Normally, writers use terms like ‘briefcase politics’ or ‘patronage’ to discredit how corruption might advance party politics. But ‘patronage,’ one of the most associated terms with ‘corruption,’ sometimes a stand-in for it, is not always a pejorative. Indeed, as we saw in Chapter 2, writers even attribute positive facets to patronage, in particular its ability to negotiate and incorporate the diverse demands of a heterogeneous polity like India. ‘Corruption’ only ever seems to be considered the negative part of ‘patronage,’ but to the extent that the latter is porous, it is the closest we get to seeing ‘corruption’ serve functional, even laudable ends. For ‘corruption,’ albeit at a certain distance from its cognate ‘patronage,’ to be something which aids democracy and thereby facilitates economic growth is a far cry from its conceptualization by most critics as something that by its very nature debilitates politics and the economy.

These are in broad sketches some minor arguments made across a trajectory that the word ‘corruption’ has traversed when alleged in India and in its erstwhile regime of state planning. In any given moment where certain aspects of today’s popular notion of corruption came to prominence—corruption as premodern, as inevitable in state planning, as a problem of public officials—there were always other conversations going on which proposed alternative, indeed even inverse views: of corruption as modern, as a function of liberalization, as a problem that the private sector instigates. These subcurrents never quite amass enough strength to overturn the process whereby the word ‘corruption’ came to settle into a matter of bribe-taking public officials in developing countries. But our study suggests that close attention to minor motifs in the literature can unsettle the taken-for-granted preconceptions which we bring to bear when we speak of corruption.

At the same time, however, the course of the last five chapters should also suggest the sheer force by which the word ‘corruption’ has assumed self-evidence in staking out its targets. The idea that ‘corruption’ could mean something modern people do in a liberalized market economy with a lean bureaucracy is less prominent in the literature. Perhaps it is the force of certain legacies, many from the colonial era, that account for why a dominant notion of corruption has hardened into commonsense—so much so, in fact, that any capacity for subcurrents to challenge this notion is overcome by these legacies’ sheer weight. These legacies retroactively cast upon India a history whose pressure, critics say, keeps the country mired in corruption, a history in which morally suspect public officials are projected as far back as antiquity, allegedly seeped into the very fabric of the subcontinent’s culture. A history, in other words, whose function is to lend credence to the claim that corruption always was something premodern, something which necessarily implicates government (and exonerates private firms), and something which is a long-lasting affliction of India. The history which *is* relevant, however, is much more recent than this longer arc of the premodern would like to claim, and it reveals voices who had something other to say about corruption but were rendered mute or irrelevant along the way. This study has been a survey of some of these voices and a register of the pressures that ultimately silenced them.

## 5. Openings

If corruption need not be premodern, implicate government, or entail state planning, does it still necessarily need to be illegal, even unlawful, inefficient, or found only in developing countries? How far can the term ‘corruption’ go without breaking apart? The terrain most critics conjure up with the word is a circumscribed one; to allege corruption outside of this space is to approach the unthinkable. Associating the ‘free market’ or private property with corruption, for example, might not make sense to many of the writers we have considered. To do so might be considered a normative or politically charged claim. Corruption certainly has a normative ideal in mind—even the writers covered in Chapter 1 admit as much—but it is an ideal believed to be widely shared: that public office should not be abused for private gain. Critics contend that it is not an ideological or politically biased claim to allege corruption when a public official accepts or demands money to break the law or simply do their job. The rules of the game are fair, they tell us, and the legal boundaries separating what government versus the private sector can do are legitimate. What counts as ‘corruption’ is apparently what happens *after* we accept these rules and boundaries as valid. Corruption represents the violation of these very rules and boundaries. Although the subcurrents we have drawn out do not propose an altogether different terrain, one with its own set of rules and boundaries, and its own counter-notion of corruption, these subcurrents nevertheless point to certain openings within the terrain we are given, openings which may start to undo this terrain from within.

One such opening begins with the notion of undue influence, a subcurrent writers critical of big business in the License Raj considered corrupt. Influence was not exactly illegal and sometimes it could be perfectly lawful. Indeed, elsewhere it is deemed to be a sort of “legal greyzone,” a notion that writers discussing lobbying have picked up.<sup>969</sup> But even with lobbying, there are those who take great pains to distinguish it from corruption, arguing, for example, that it benefits an industry rather than a particular firm and therefore is not corrupt.<sup>970</sup> Yet difficulties emerge in the drawing of stable boundaries in how firms should achieve market power, and they point back to the definitional questions which haunted the literature that we explored in Chapter 1. “Although there are important reasons for distinguishing between firms’ legal and illegal ways of obtaining market advantage,” we read, “they may be difficult to categorize in practice.”<sup>971</sup> It is especially hard, we are told, to draw a “price demarcation line” between “illegitimate influence through money or other forms of power” versus “legitimate political mobilization.” Indeed, there are many commercial practices which we read are “legitimate under some circumstances, while being criminal in others.”<sup>972</sup> One writer ultimately asks about the behavior of private firms: “How can we tell the difference between corruption and what’s legal?”<sup>973</sup> It is this question which represents an opening within the narrow terrain of corruption from which critics rarely stray. The question points towards legal practices which a conceptualization of corruption may systematically ignore and perhaps even sanctify as legitimate.

<sup>969</sup> Tina Søreide, “Competition and Corruption. What Can the Donor Community Do?” (Bergen: Chr. Michelsen Institute, U4 Brief 8, Anticorruption Resource Centre), 1.

<sup>970</sup> Jakob Svensson, “Eight Questions About Corruption,” *The Journal of Economic Perspectives* 19(3) (2005): 21.

<sup>971</sup> Søreide, “Competition and Corruption,” 3–4.

<sup>972</sup> Søreide, “Competition and Corruption,” 2.

<sup>973</sup> Tina Søreide, “Corruption and Competition: Fair Markets as an Anticorruption Device,” *Nagoya Journal of Law and Politics* 258 (2014): 240.

Economist Bhabatosh Datta helps us think about this question. Specifically, in one instance of his writing on the License Raj, he pushes us to rethink the boundary between the corrupt and the lawful. Datta first describes the “so-called market forces” as “those of monopolies and monopoloid operators,” and he paints a hypothetical picture of India were the government to let these forces freely operate.<sup>974</sup> If all demands of industrialists were agreed to, Datta claims, eventually “[t]here would be no black money, for the simple reason that, with the removal of controls and reduction of taxes, all transactions would be legitimate and all money white.”<sup>975</sup> Datta argues that India has deviated from “taking planning seriously” because of the excessively wide interpretation of the right to property and freedom to practice any job.<sup>976</sup> This has allowed “the unscrupulous” to earn riches “by any means.”<sup>977</sup> “The laws cannot often touch them,” Datta writes of the unscrupulously rich, “and the implementation of the laws is itself vitiated by the freedom of the law-enforcers to supplement their own incomes.”<sup>978</sup> “If the unscrupulous can earn large gains and retain them,” he concludes, “others are encouraged and the result is a moral decay in all fields.”<sup>979</sup>

Datta here offers a unique portrait of what is elsewhere called ‘corruption,’ referring to many of the literature’s standard tropes but turning them on their head. The free market, for example, devolves into monopoly—or rather, its tendency to monopoly is inherent. The problem of state planning is not the inherent government regulation of the economy but rather a deviation from its spirit due to “excessively wide interpretation” of property rights and contract. As a result, the “unscrupulous” earn money “by any means” with the law sanctifying this behavior as a “freedom” or a right. Those who could stop them are effectively in on the scheme, but for once this does not necessarily mean illegal bribes. After all, to “supplement” one’s income is portrayed here as yet another legal “freedom,” this time of “the law-enforcers.” Perhaps we could even take it to mean the freedom to be lobbied. Without any of the controls of the License Raj, black money has turned white, and formerly corrupt “transactions” become “legitimate.” The industrialists get all their demands, but “decay”—one of corruption’s oldest associations, as we saw in Chapter 1—is nevertheless pervasive. In Datta’s formulation, the whole picture of the standard scenario of corruption is turned upside-down. Here, in a society free of state planning, it is nevertheless what is legal—and what we mistake for legitimate—that represents the problem of corruption, though it is not deemed corrupt, for corruption itself has become legalized.

Datta’s portrayal is striking because literature on corruption is not rife with examples where the practices or outcomes of a well-functioning legal market are deemed corrupt. Indeed, there is something about the way ‘corruption’ has been defined that makes it harder to see the market in this light. The weight of the trajectory we traced in this study represents one such obstacle. So too might the conceptualization of the ideal private firm—the constituent unit of the free market—set in contrast to the ideal government official. These two entities seem imagined in direct relation to one another, each the other’s mirror opposite. While the firm should pursue its self-interest, the government official should serve the public interest. Such notions harken back to Adam Smith’s time. After all, just as Smith discredited the Company’s combining of commerce and rulership, so

<sup>974</sup> Bhabatosh Datta, *Indian Planning at the Crossroads* (Oxford: Oxford University Press, 1992), 19.

<sup>975</sup> Ibid.

<sup>976</sup> Datta, *Indian Planning at the Crossroads*, 20.

<sup>977</sup> Ibid.

<sup>978</sup> Datta, *Indian Planning at the Crossroads*, 20–21.

<sup>979</sup> Datta, *Indian Planning at the Crossroads*, 21.

too is it deemed illegitimate for the function of the private firm to be interchangeable with that of the government official. Indeed, it is precisely the self-interested pursuit of the private firm towards its own profitability that is said to create the greater good of the efficient free market. Meanwhile, when the government official puts their own self-interest above the public's, it is the very scene of corruption for many critics. The individualistic, utility-maximizing nature of the private firm is apparently only appropriate in the sphere of the market; indeed, in aggregate it is said to constitute the free market.

With this starkly opposed set of expectations in mind for the government official vis-à-vis the private firm, the argument for reduced bureaucratic discretion as part of a project of liberalization to curb corruption may now appear in a different light. Is it that the bureaucrat must reflect an obedient and selfless vision of administrative integrity so as to legitimate the firm to pursue profit self-interestedly? Is the purpose of administrative probity to sanctify the self-interest, however venal, of the private entrepreneur? If critics believe that self-interest is what the modern firm *par excellence* ought to pursue, how might they narrow the terrain of what counts as 'business-related corruption'? How might this belief delink the behavior of the firm from associations which the term 'corruption' conjures up? Is this why we see references to "temptation"<sup>980</sup> or "greed"<sup>981</sup> on the part of the government figure in corruption literature more than we do about their private sector counterpart? How much of the notion of the corrupt government figure is a negative projection of attributes otherwise cherished in the private entrepreneur? How much of the call for liberalization is a call to reassert the boundaries whereby corruption is only ever the public official's burden to bear? What would it mean to conceptualize corruption, as one writer suggests, as "the illegitimate remainder of the values of the market place [sic]"<sup>982</sup>? What would it mean to refer to 'corruption' as "capitalism in excess,"<sup>983</sup> "the 'excessive' or shocking aspect of 'normal' practice"?<sup>984</sup>

Associating practices or outcomes of the 'free market' with corruption—a rare and minor opening in the literature—gives way to another opening that challenges the conventional wisdom on corruption. If well-functioning 'free markets' are one of the major distinguishing features of a developed economy vis-à-vis developing economies, then what might we say of corruption in the Global North? When corruption is alleged in the Global North, it can often resemble the forms it takes in the Global South, an exemplar being the illegal bribe. As such, the frequency or scale of illegal bribe-taking is compared, making developing countries like India always more corrupt in contrast to their Western counterparts. But to the extent that practices and outcomes that promote private gain at the expense of public interest are institutionalized into the legal rules of the free market, the Global North may no longer shine in comparison.

We might recall here Harling's remark about 'Old Corruption' in England: namely, that the reform undertaken by elites largely maintained their position in society by the time the process was complete. Changes to the recruitment of civil servants, restructuring the Company, the Crown take-over of East Indies rulership, the ending of sinecures, and more—all these changes produced the

<sup>980</sup> Schefer, "Corruption and the WTO Legal System," 742–43.

<sup>981</sup> Mushtaq Husain Khan, "Governance and Anti-Corruption Reforms in Developing Countries: Policies, Evidence and Ways Forward," Research papers for the Intergovernmental Group of Twenty-Four on International Monetary Affairs and Development UNCTAD/GDS/MDPB/G24/2006/4, United Nations, 2006, 12.

<sup>982</sup> John Girling, *Corruption, Capitalism, and Democracy* (London: Routledge, 1997), vii.

<sup>983</sup> Girling, *Corruption, Capitalism, and Democracy*, viii.

<sup>984</sup> Girling, *Corruption, Capitalism, and Democracy*, 22.

effect that elites could no longer use ‘Old Corruption’ to advance themselves, yet their position was not diminished with the eradication of ‘Old Corruption.’ Either ‘Old Corruption’ had been a phantasmagoric creation all along or—perhaps concurrently true—elites’ continued hold on power had to do with other legal structures. Perhaps ‘Old Corruption’ had been too narrow as a notion or perhaps the system of ‘Old Corruption’ had accommodated its critics (like the emerging industrialist class) into the fold of power. In any case, reforms had produced the effect that ‘Old Corruption’ was gone and that the illegitimate ways in which elites held on to power were now illegal. But what about what remained legal or what was created as part of the reform? The verb ‘reform,’ we ought to remember, does not only mean to end malpractices or to rid institutions of defects and abuses: it, or its homonym, also means “[t]o form, shape, or mould a second time; to form over again; to reshape.”<sup>985</sup>

What, then, of what was formerly deemed corrupt has been re-formed, re-shaped into a corruption that goes unseen, unthought of as corrupt because our vision is too blinded by its lawfulness? Might there be a moment in the future when observers looking back will see everyday, taken-for-granted practices in today’s Global North or free-market economies on par with the sinecures and borough-mongering of eighteenth-century England? If so, it is the definition of corruption, and the very particular taxonomy of the legitimate versus illegitimate which it enables, that renders invisible the possibility of seeing legal rules anew. Along the trajectory we have traced in this study, we have watched the setting up of this taxonomy, and we have seen subcurrents bubble along, never quite powerful enough to tear this taxonomy down. Only certain openings which these subcurrents create—within an otherwise seemingly stable edifice—gesture towards a corruption that is as yet unnamed, that which gets looked over precisely because it is legal, the very foundation of the reformed, modern society.

Ultimately, the problem of corruption as it is depicted in the License Raj may not exhaust what is deemed problematic about corruption more generally, whether in India or the world over. But the problem of corruption as it is depicted in the License Raj obscures the foundational impact of the British-Indian encounter on conceptualizing corruption as a generic term. As such, it remains a crucial metaphor to understand the rhetorical workings of ‘corruption’ more generally. Furthermore, the problem of corruption as depicted in the License Raj is powerful for what it elides. Those who draw attention to this depiction as an *exemplar* of corruption render legitimate that which is outside its scope, that which they idealize as its other. And it may not always be the case that what a depiction of ‘corruption’ legitimates should in fact be idealized.

So, while the allegation of corruption in the License Raj may draw our sight to, say, 1970s India, undergirding this critique is a powerful colonial history, with proximate origins not necessarily in India, but rather in the imaginary of the nineteenth-century elite in Britain. Driving and reproducing this allegation is the present policy atmosphere in India, with its thirst for liberalization. This thirst casts the post-independence period as a trajectory of stagnation, of betrayed promises, of fallen ideals. Talk of corruption is a register of this trajectory; in fact, it constitutes it.

<sup>985</sup> “reform, v.1.” *OED Online*. September 2021. Oxford University Press.

<https://www.oed.com/view/Entry/160988?rskey=8hIEev&result=3> (accessed November 09, 2021) and “re-form, v.2.” *OED Online*. September 2021. Oxford University Press.

<https://www.oed.com/view/Entry/160989?rskey=8hIEev&result=4> (accessed November 09, 2021).

Indeed, talk of corruption, as Prime Minister Modi said in this study's introduction, is everywhere today in India. "Corruption in India," we read, "is a huge beast that everyone talks about, feels strongly about, and imagines he or she knows a lot about."<sup>986</sup> This study has not sought to answer what 'corruption' means—though it has explored what seems to many like an obvious answer to this question. Rather, we have aimed to ask: what have we missed when we confidently claim that we know what 'corruption' is? What has all this talk of corruption silenced? How might talk of corruption, rather than just 'corruption' itself, be the problem? Who benefits from how 'corruption' is defined, and who suffers? These are but some questions which the study of 'corruption' can suggest. It is due time to examine them.

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<sup>986</sup> Ram, *Why Scams Are Here to Stay*, 3.

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