

Mr Bagla's Baggage: Commodity Controls, Marwari Firms and the Making of Administrative Law in India

How do traders, belonging to a vilified minority, engage with a regime of criminal law in a democracy? Drawing upon a series of legal challenges by Marwari traders to a system of commodity controls, this paper traces how the Indian constitution emerged as a site for contestations over market governance in the 1950s, between bureaucrats, economists and planners on the one side, and petty merchants, traders and retailers on the other.

The colonial government in India had instituted a system of commodity controls as a temporary measure during the Second World War. Despite their widespread unpopularity the government of independent India retained these controls and made them a permanent instrument to meet the needs of a developmentalist state. The commodity controls created a draconian regime of criminal law that governed the production, storage, sale and distribution of almost every major commodity. The commodity control system is an important site to examine how the economy emerges as an object of governance through law in postcolonial India.

Governmental propaganda, popular culture and law enforcement agencies marked the figure of the commodity trader, commonly a member of the Marwari community, as an economical criminal and brought to the forefront the fact that the *bazaar*, or the daily local circuits of production, consumption and retail, was a cause of anxiety to the postcolonial state. Petty traders and merchants who were denied political legitimacy, particularly indigenous business groups like the Marwaris, began operating through the language of administrative law. State control of the economy was contested not by political economy critiques but by attacking unregulated discretion enjoyed by low ranking bureaucrats.

Despite their centrality to both the economy and daily life, the operation of commodity controls has been largely neglected, except to the extent that they are identified as sites of corruption and rent seeking. In contrast, this paper argues that judicial review of administrative action in India, the hallmark of a 'rule of law' state, emerged from this culture of illegality and corruption. Administrative law became a mode through which vernacular merchant groups who had been marked as non-modern and deviant by the state could present themselves as rights bearing citizens.

Resume

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Rohit received his PhD in History from Princeton University in 2013. At Princeton, he was nominated to the Society of Woodrow Wilson Fellows, a fellowship for research with significant policy implications. He holds a B.A, LL.B (Hons) Degree from the National Law School of India University and an LL.M from the Yale Law School. In 2006-07 he was the Fox International Fellow at Sidney Sussex College, Cambridge