CAMBRIDGE

Cambridge University Press
978-1-316-51726-0 — Debt, Trust, and Reputation
Sebastian Schwecke
Excerpt
More Information

1

Introduction

'Can you imagine that I am handing out interest-free loans right now?' I was asked in December 2016 by a moneylender in Banaras (Varanasi)[1] who normally charged a rate of 30 per cent per month. A few weeks earlier the Indian government overnight had withdrawn banknotes of 500- and 1,000-rupee denominations, the vast majority of all cash in circulation – certainly one of the biggest policy misadventures in recent history. Since the 'demonetization' misadventure had not included any apparent planning for a re-monetization, trade in the city's 'bazaar' had collapsed, by some local estimates upwards of 80 per cent. While many extra-legal lenders were simultaneously engaged in commerce, and therefore affected by the policy, it also constituted a business opportunity. Old denominations could be exchanged for new ones only with significant difficulties, in an endless-seeming array of fresh regulations restricted to very low amounts. For richer Indians, exchanging old banknotes that had become practically worthless depended considerably on finding poorer people who would exchange them in their stead. The market value of the 'old' banknotes in Banaras, as elsewhere, dropped drastically. They became available to buyers within days of the policy announcement for 75 per cent of their nominal value. By early December this value had dropped to 60 per cent, and to 40 per cent around mid-December. One way of getting the devalued banknotes into the banking system hinged on loans by moneylenders. The depositors – frequently depicted obnoxiously as 'money mules' or *chotu*s (lit. little ones) in the parlance of India's upper-middle classes – made deposits consisting of (frequently interest-free) loans given to them by moneylenders. Consisting of devalued banknotes, these loans thus entered the banking system, and could be withdrawn in legal tender a few months later to repay the moneylenders. For the depositors, this practice brought about a significant respite from economic distress.

When I asked the lender why he did not charge interest, he proceeded to outline an argument that I had already become familiar with in my fieldwork. The agreed-upon interest rates for a transaction mostly served as a guideline. Eventually, given their exceedingly exploitative character, almost all debtors

Cambridge University Press
978-1-316-51726-0 — Debt, Trust, and Reputation
Sebastian Schwecke
Excerpt
More Information

would default. For the lenders, anticipated returns on investment were rarely fixed by the contractual agreement. Instead, repayment remained flexible as long as the lender ultimately considered the returns to be sufficient or – more precisely according to the treatment of credit in economic anthropology – they were commensurate with the lender's expectations. Having obtained profits of 40–60 per cent, there was no reason to insist on interest payments, and not charging them made people eager to enter into transactions, thus maximizing overall profits. And, as the lender confided over cups of tea afterwards, it felt good to enter a transaction without acrimony, one that helped both sides.

Petty money lending of this sort constitutes a criminal offence in the state of Uttar Pradesh, which includes Banaras. Other forms of extra-legal finance relating to either credit or speculation are not technically illegal but typically comprise practices that are semi-legal at best. This book depicts the evolution of financial markets operating without recourse to legal practices, predominantly in an urban north Indian setting, centring on the city of Banaras. The study straddles the divide between social and economic history, and economic anthropology, and is based on archival and ethnographic research conducted between 2011 and 2019. It is informed by an understanding of socio-economic relations and their cultural embeddedness that emphasizes the engagement of market participants in various overlapping economic segments following different functional logics than Indian capitalism, and intersecting with it.[2] This book weaves together histories of market framing and market responses that led to the coalescence of a comprehensively extra-legal economic segment. It explores the anchoring of diverse financial practices – from petty money lending and extra-legal 'trade credit' flows to forms of financial speculation – in a reputational economy that allows these financial markets to flourish in the absence of state-centred enforcement mechanisms for contractual obligations in spite of their (increasingly) exploitative character.

The book is based on two intertwined approaches – the historical analysis of market-framing processes and market responses leading to the emergence of a comprehensively extra-legal segment of the Indian economy, and an anthropological analysis of these developments combining historical anthropology with ethnographic research. The starting point of the analysis is a discussion of the ambiguities of the credit–debt relationship, especially the reputational underpinnings of the extra-legal credit contract in colonial India.

Taking issue primarily with the argument of disrupted moral economies of debt, the analysis commences with a study of the ambiguities of the credit contract in the nineteenth-century Indian economy. Drawing on the history of usury, the history and anthropology of the bazaar, and the anthropology of credit–debt, it demonstrates how European and Indian conceptions of the credit contract differed in their handling of pervasive uncertainty anchored in the enhanced future orientation of the credit contract as opposed to other contractual forms (Peebles 2010). It is argued that the conception of a 'moral economy' disrupted by 'capitalism' rests on a faulty application of European historical experiences of credit. In the early modern European credit contract, the conception of shared uncertainty between creditor and debtor prevalent in the medieval conception of credit was overcome by fixing the creditor's risks at the time of contractual agreement. Instead, the management of enhanced future uncertainty in the Indian case rested primarily on permitting the renegotiation of obligations within the limits set by communicating reputational fallouts of default.[3] The increased penetration of liberal contractual law disrupted the reputational mechanisms for renegotiating obligations, rooted in patterns of ethical emulation and loose forms of status-related arbitration, rather than a moral economy based on conceptions of generalized equity. Essentially, the concept of the credit contract in India since the mid-nineteenth century was brought in accordance with its European equivalent, in which the risks of the creditor were contained through the legal form while the uncertainties faced by the debtor were unaddressed, extending the common intelligibility of 'capitalist' credit to Indian financial markets.

Faced with growing perceptions of a crisis of indebtedness primarily in rural India, and growing nationalist sentiments that contributed to the emergence of a narrative on the disruption of moral economies, the colonial state incipiently started to address the fallout of the abolition of the usury laws in the last decades of the nineteenth century, but without showing any willingness to undermine the common intelligibility of 'capitalist' credit. By the mid-1890s, and based on the historical experience of legislation and the cooperative movement in Germany and Austria,[4] a broad consensus had emerged among the colonial administration that 'indigenous' credit practices needed to be contained. Based on continental European models and recent legal innovations in British law, the predominant argument sought the withdrawal of liberal contractual law (and the state's role in enforcing transactional obligations) from credit markets targeting poorer strata and the petty bourgeoisie in the Indian hinterland. The direction of market-framing policies shifted from the utilitarian assumption that laissez-faire approaches would facilitate credit flows and reduce borrowing costs to an admission of failure that necessitated the removal of state assistance in accumulation through its regulatory apparatus. Market-framing policies shifted towards state regulation at the same time as state assistance was expanded in the 'modern' segment of financial markets. While the numerous critics of this policy shift pointed out that this would lead to increased exploitation by lenders forced to operate in an extra-legal manner – although having the advantage of obscuring state complicity in exploitation – its proponents highlighted the anticipated successes of alleviating measures such as cooperation, and the final aim of forcing debtors to shift to the 'modern' banking sector through the deterioration of 'indigenous' credit conditions. Policy debates centred on the need to provide British Indian courts with comprehensive discretionary powers to remove contractually stipulated obligations from all credit contracts outside the small spectrum of 'organized' banks, a policy eventually enacted in the Usurious Loans Act, 1918.

Colonial legislation obstructed the gradual shift of credit relations in India towards the common intelligibility of the 'capitalist' credit contract, and reinforced tendencies of lenders to shift towards extra-legal modes of operation. Combined with broader economic developments, however, the separation of financial markets into a state-supported banking system and the mass of extra-legal financial transactions gradually undermined the higher spectrum of 'traditional' Indian finance. As the practices that marked 'indigenous' banking and the social ties between these financiers and lower-level lenders provided key elements for the governance of enforcement mechanisms, the gradual demise of the apex of 'traditional' financial markets had significant impacts on the ability of creditors to enforce contractual obligations in extra-legal ways. By the 1920s, colonial sources studying the 'bazaar economy' of India commonly identified a process of 'amateurization' (see Yang 1998), a widespread decline of sophisticated business forms and their replacement by practices of a more limited transactional scale. Credit relationships within the extra-legal economy of debt relying on reputational means for stabilizing the market were strongly affected, gradually shifting from modes of operation relying on 'bazaar' models of enforcing obligations through mercantile ethics and social ties to models reminiscent of the operation of trust and association depicted by Keith Hart for west African slum economies (Hart 1973, 1988). Similar to the guiding question posed by Hart – of what replaced contractual law in the governance of market relations – extra-legal credit markets in India bereft of both enforcement mechanisms created new but significantly limited transactional grammars depending crucially on long-term interpersonal relations of trust, and their extension at need through communication flows centring on an impoverished form of reputation. The latter became depicted locally as *vishvaas*, a Hindi term contextually denoting both trust and reputation, as opposed to the elaborate system of mercantile ethics depicted by C. A. Bayly (1983) as a conception of merchant's 'credit' (*sakh*). The reputational economy of debt in Banaras gradually shifted to an 'impoverished' (or rather, adjusted) system of information flows on reliability primarily through neighbourhood and 'bazaar' gossip.

Once the initial optimism over the anticipated success of legislative measures in the colonial administration (and subsequently in independent India) started to dissipate, the Indian state reacted to the continued crisis of indebtedness by a flurry of interventions that by and large failed to alleviate credit conditions for the mass of the Indian population. The various measures remained stringently tied to the common intelligibility of 'capitalist' credit relations, and thus tended to reinforce the separation of the extra-legal economy from a state-supported 'capitalist' credit market with functioning enforcement mechanisms that permitted the facilitation of credit flows for prosperous social segments and large-scale businesses, and where regulation allowed for the lowering of borrowing costs. The dissection of the two market segments in Banaras – sporadic interaction notwithstanding – became fully established by the late 1960s, roughly corresponding in time with the nationalization of India's banks, which marked the final stage in the decline of 'indigenous' banking in the city. By the late 1930s, the Reserve Bank of India openly argued that the aim of facilitating credit flows to lower the costs of borrowing for the poorer social segments needed to be substituted for a policy that restricted the access of these strata to credit to contain indebtedness. Late colonial as well as postcolonial Indian policies – despite being couched in idioms of 'financial inclusion' – have tended to follow the latter's prescriptions, imposing restrictions on debtors that impeded a shift from reputational to the juridical-procedural parameters of 'capitalist' finance, and insulated the 'modern' banking sector from the need to address the riskier credit demands of a major part of the population.

The extra-legal financial markets that emerged in Banaras in the process remained 'amateurish', based on interpersonal relations of trust and association that, in turn, created a reputational system communicated primarily through gossip, and allowed its participants to establish wider market relations. This system stabilized an economic segment following an operational logic that was fundamentally detached from the dominant capitalist segment of the economy, and which became significantly more exploitative than colonial credit markets, despite the continued ability of the debtors to renegotiate transactional obligations through reputational means. At the same time, the inherent limitations of market relations based on trust resulted in mechanisms by which lenders and debtors sought to create enclaves of 'sophistication' in order to stabilize riskier transactional patterns. While the regulatory processes for the 'capitalist' financial market segment tended to reinforce its juridical-procedural underpinnings, processes of 'sophistication' within the extra-legal market segment conversely buttressed its reputational dimensions, thus strengthening the divide between the operational logics of the two markets. For the petty bourgeoisie that dominated much of the 'bazaar' in Banaras – whether as lenders or borrowers – this divide imposed a need to navigate two contradictory logics of credit, although skilled market participants managed to use this profitably. For the mass of the poorer population – primarily, though not exclusively, as debtors – it restricted credit access to the most exploitative segment of Indian finance.

Outline of the book

This book is divided into two parts. Part I emphasizes the role of the Indian state in shaping credit markets, and creating the division between a juridically-procedurally defined 'capitalist' and a reputationally defined extra-legal financial market. Part II highlights the reactions by market participants to the disappearance of both the legal and the 'traditional' enforcement mechanisms for contractual obligations, and the resulting emergence of a reputational economy dependent almost comprehensively on trust.

Chapter 2 (Contract) serves a threefold purpose: (*a*) It outlines the argument on the credit contract, and the divergence between juridical-procedural and reputational mechanisms of enforcing obligations inherent in the credit relationship; (*b*) it engages with the historical literature on the emergence of capitalism in India, the bazaar economy, and finance (including money lending), thus outlining the historical background of the market-framing processes that commenced in the 1890s; (*c*) it introduces the historical background of the case study on Banaras, particularly its considerable importance for the financing of the inland trade in India in the eighteenth and nineteenth centuries, and the characteristics of its bazaar economy. Accordingly, the chapter intertwines a historical anthropology of credit, the bazaar, and contractual law with a historical outline of major developments in India, including the abolition of the usury laws in 1855 and the Deccan Riots in 1875.

Chapter 3 (Discretion) focuses on advancing the historical narrative, primarily studying the debates that led to the withdrawal of contractual law from extra-legal financial markets. The narrative starts by setting out the complex (and often conflicting) stances taken by British Indian courts on issues concerning credit obligations, detailing the extent to which the abolition of the usury laws remained contested legally in the 1870s and 1880s. Its main part, in turn, focuses on policy discourses in India and Britain between 1895 and 1918. The chapter provides a detailed reading of the various arguments for state interference in 'indigenous' finance, and the criticism thereof, eventually coalescing into the predominance of the legal doctrine of unconscionable bargains that lay at the heart of legislation against money lending in both Britain and India, and facilitated the removal of contractual law from much of Indian finance.

Chapter 4 (Containment), first, depicts the flurry of legislative efforts, especially in the United Provinces (present-day Uttar Pradesh), after the realization that the effects of the Usurious Loans Act had not had a significant impact on the extent of indebtedness. Second, it establishes that while the exploitative character of money lending was not changing considerably, its reliance on reputational means of governance significantly increased, outlining incipient changes in the governance structure of this reputational economy that coalesced into the demise of 'indigenous' banking. It provides a detailed reading of the main socio-economic characteristics of this market and its increasing 'amateurization', the complex intertwining of extra-legal practices in lending, and state attempts to legislate against money lending as well as to provide alleviative measures. Demonstrating the failure of these attempts, the chapter, third, emphasizes how policy debates gradually shifted – from an optimistic assessment of state capacities to provide relief towards the realization that the state's efforts could only succeed in containing debt by restricting access to credit.

Chapter 5 (Trust) advances the historical narrative into the 1960s, but its main emphasis is on historical anthropology. Historically, it demonstrates the increasingly exploitative character of extra-legal finance, on the one hand, and engages with the gradual formalization of 'organized' banking, on the other. It outlines the collapse of reputational mechanisms on 'modern' financial markets in the 1950s and 1960s, and the growing reliance on an 'impoverished' reputational mechanism for stabilizing debt relationships in extra-legal finance. Anthropologically, the main purpose of the chapter lies in demonstrating the operation of trust in financial markets, and its links to a reputational economy operating in parallel to the monetary economy.

In Chapter 6 (Obligation), the historical anthropology focus of the previous chapter is taken up again and brought to its conclusion. The main purpose of this chapter is to depict the collapse of the reputational mechanisms of enforcing obligations through strong social ties, especially in Banaras. For this purpose, the primary focus of the chapter remains on the demise of 'indigenous' banking that is used to depict the workings of Bayly's concept of mercantile ethics, and the importance of reputational standing even in times of monetary decline. The chapter proceeds to outline the rapid collapse of an entire market segment, and the corresponding undermining of structures of obligation that depended primarily on emulation and on the existence of an elevated segment within the credit economy capable of arbitration. Conversely, it also demonstrates the partial resilience of reputational systems of enforcing obligations through strong social ties in parts of rural India.

Chapter 7 (Disappearance) brings the narrative into the present. The chapter complements the historical narrative of money lending, supplementing the arguments in Chapters 5 and 6, which emphasized 'organized' and 'indigenous' banking. Persistent efforts by the Indian state to enforce the juridical-procedural elements of the credit contract reinforced responses by extra-legal entrepreneurs to find viable modes of operation based on trust and reputation. In the process, credit and exploitation through debt became increasingly invisible to the Indian state and media discourses, notwithstanding intermittent periods of attention to specific aspects of a more or less ubiquitous, everyday experience for vast sections of the Indian population.

Finally, Chapter 8 (Reputation) supplements the historical narrative and the historical anthropology approach of the preceding chapters by adding an ethnographic study of extra-legal finance in Banaras. The ethnographic approach highlights the complexity of the market and its reputational underpinnings. Observing the characteristics of extra-legal finance, the chapter establishes the considerable increase in exploitation that accompanied the withdrawal of contractual law. The main emphasis, however, is on depicting the functioning of the emergent reputational economy in the absence of mechanisms for enforcing obligations. The chapter highlights the operational modes of an 'amateurish' reputational economy, and their anchoring in communication flows centring on gossip. It demonstrates the importance of reputational information centring on trust in facilitating the renegotiation of obligations without viable enforcement mechanisms, and studies the differences across segments of extra-legal finance. The chapter also analyses the emergence of enclaves of sophistication within a largely 'amateurized' market, and the ways in which an 'impoverished' concept of reputation has been employed in highly sophisticated ways for determining trust and stabilizing credit relations.

A brief note on transliterations and translations

For the sake of simplicity, I have used a highly simplified system of transliterating terms in Indian languages other than English that omits diacritical signs. Long vowels instead are marked by a doubling of the Latin character, except where these terms are generally used in the literature without indications of vowel length. All translations from Hindi in this book are by me, unless marked otherwise.

Notes

1. The north Indian city of Banaras has had several names throughout its long history and is presently named 'Varanasi' in official discourse. In colonial times, it was known officially as 'Benares', an anglicized spelling of its name during its heyday as a commercial and financial centre of India. In its religious role, it is often depicted as Kashi, although from a strictly religious point of view the area known as Kashi covers only a part of the present city. While the name Varanasi is commonly used nowadays, a major part of the local population continues to refer to it as Banaras, according to the Hindi transcription of its earlier name. Among many scholars, it has become an unspoken convention to refer to the city in the latter way, too, as a way of highlighting its heritage without directly using the name used by the colonial rulers of India.
2. See Polanyi (2001 [1944]) and Granovetter (2011a).
3. It is noteworthy here to revisit Arjun Appadurai's depiction of the contract – not merely the credit contract but stated in the context of futures trade that combines elements of the credit and the commodity contracts – as a promise about an uncertain future, signifying the need to engage more deeply with the language involved in contract-making (Appadurai 2016). On the language of credit contracts in India, see Rawal (2015).
4. See, for instance, Suter (2017).