

Building on sand?¹ Criminal markets and politics in TamilNadu

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‘Crime is the register through which societies think out loud.’ (John L. Comaroff 2018).

Introduction

For criminal anthropologists Jean and John Comaroff deploying evidence from South Africa, the USA and Europe, criminality is the new normal, the ‘master signifier’, fully neo-liberally modern (Comaroff and Comaroff 2016, p52). Across the globe, the management of the consequences of crime has become an idiom for social life. This essay seeks to use Indian field glasses to examine the scope of their intervention, to question whether criminality and criminal markets have Indian characteristics and, if so, to pursue their implications for democratic politics.

When the commodification of public services allows market forces to enter and construe the state, the workforce providing such services is forced out to become profit-making employees or to be displaced by them, social needs become demand (in the UK for instance, taxpayers are now addressed as customers) and services are transformed into supply. The state mostly bears the risks of this transformation, in the course of which collective values atrophy and regulative law drags behind the penetration of market values and behaviour (Leys 2001). One of the outcomes is criminal activity. (CHPI 2017 gives a British example in the relatively poorly-regulated private segment of the partially-marketised health system where a surgeon working for private profit performed unnecessary breast surgery on over 500 women). When in times gone by citizens and subjects had trust, now they have to be on their guard.

¹ From the Biblical parable of the houses built on rock and on sand: Book of Matthew 7:24–27

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The Comaroffs (2016) have pushed our understanding of the privatisation of the state into the sphere of law and order, finding not just crime, but also commodified punishment and protection. In their bleak optic, the petty criminal has become a ubiquitous part of routine social life and of its imagination. When market ideology, privatisation and the corporate capture of the state have contrived to cause the social experience and awareness of crime to increase, to be vernacularized, and to blur the boundary between the legal and the transgressive, sovereignty is then pluralised. The dual commodification and pluralisation of the executive reduces states to franchising authorities, 'protection rackets in need of legitimation', side by side with privatised, subcontracted – and increasingly criminalised – institutions of discipline and enforcement. When the public interest of commodified states is no more than the sum total of private interests, the state's failure to ensure the protection of private property raises insecurity and the spectre of crime up the agenda of social preoccupations. With the guarantee of sovereignty threatened, facsimiles of the state and democracy develop. John Comaroff (2018) called them 'lateralised sovereignties'. They are similar to the 'contested jurisdictions' of our book's introduction. The citizen/consumer is no longer formed within an ecosystem of institutions but is required to engage with these sovereignties as an unsupported individual. In conditions of partial or lateralised sovereignty the guardians of law and order, the police, 'break the law they make and make the law they break' ... 'You cannot tell who is a cop. A fake cop. A bent cop. A secret cop. A private cop.' (ibid; cf Comaroffs 2016 p 101-24). As the ecology of citizenship changes form, revenue is redistributed via private hands and even 'the business of welfare becomes the welfare of businesses' (of criminal businesses as the British example of medical business shows).

The Comaroffs' Scenario and Indian Conditions.

The Comaroffs's general proposition is not built on Indian foundations. How does India relate to it? The Indian field of criminal anthropology has not approached economic crime through the Comaroff's critical lenses of statistical 'quantifacts' and popular culture. But eleven case studies of criminal economy built up by a team of field economists and anthropologists between 2012-16 can shed light on the extent to which their depiction is recognisable in Indian conditions (Harriss-White and Michelutti 2019). Here we distinguish features in common with the Comaroffs' model from outliers that might be distinctively Indian. We then see how the case of river-bed sand can contribute to rethinking markets and politics.

Crime as normal and ubiquitous:

While the case study is no match for the random sample generated from population data – or population data themselves - as bases for generalisation (Flyvbjerg 2006) and while there

is no body of systematic evidence from which we could extrapolate the degree to which crime is a routine part of everyday life in India, 'how important' it is, the eleven case studies are suggestive. Wherever supply supply chains for the 'four elements' – earth (coal and sand), fire, water and air - and for other parts of the economic base of urban societies – land, timber, fuel-energy, construction, property and municipal procurement - have been studied through ethnography, criminal activity is found to be pervasive, systemic and durable. Yet it is also fluid, fragmented and opportunist. Michelutti (2019) conjures the term 'assemblage' to capture the combinations of contingency, instability and hierarchy, of legality and illegality, market and non-market institutions through which the criminal economy is construed. It resembles the 'ensemble' of our book's introduction. While individuals may fall or disappear, these assemblages appear to be remarkably persistent.

Petty and grand business:

In a criminal assemblage, mighty portfolios co-exist with a pediment of petty – even subsistence- activity. In Jharkhand for example, *coal-cycle-wallahs* scavenge illegally from abandoned mines and tailings and use fortified bikes to distribute the raw material for heat. This petty trade forms part of a system at the apex of which are 24 coal mafia dynasties, able openly to command rakes⁴ from Indian Railways, which invest in productive and unproductive activity, legal and illegal. One such portfolio, revealed in a rare court case, included coal, iron, media, tourism, hotels, liquor, real estate, education, and fleets of lorries (Singh and Harriss-White 2019). Another criminal organisation accumulated control over illegal arms, illegal timber, illegal alcohol, quarries, construction and control over a network of petrol pumps (Picherit 2019). In these types of portfolio, illegal commodities (drugs, arms, types of liquor, ancient artworks, sports betting, trafficked women, children and body parts) are traded alongside legal ones. A multitude of other activities is also required to co-ordinate these economic and the political transactions: fixers, protectors, middlemen, contractors and subcontractors, money managers, lawyers, forgers and vigilantes. At all scales of business, the criminal assemblage requires armies of wage workers: more often than not found to be low caste or tribal, precarious, migrant, debt-bonded and unfree, ignorant of other stages of the system in which they toil, working in exacting conditions and controlled under intense physical discipline.

The case studies also reveal how normalised is the criminal seizing not so much of private property but of common property. This wage-workforce and their families are then deprived of access to resources like fuel-wood, fodder and water on which they have relied to reproduce their households (Jodha 1990), substitutes for which are then in turn commodified and have to be purchased for cash.

⁴ A rake is a length of coupled wagons.

Cultures of crime: The case of Red Sanders timber, smuggled from Andhra Pradesh to the Middle East and China, shows how the criminal may be transformed into a polysemic figure in popular myth, in movies, and even in commodity brands. Veerappan, a sandalwood and ivory smuggler, killing elephants and operating out of South Indian forests, a serial killer himself killed by police in Operation Cocoon in 2004, is still regarded by local tribal people as a 'social bandit', a Robin Hood figure. Subsequently, 'his' forests have also been branded for the high skills in timber-handling of labour originating there. By contrast, peoples' allegiance to the memory of Veerappan is deployed by police to legitimise their murder in encounters with suspected smugglers, often in fact migrant wage labourers (Picherit 2019).

Crime and the pluralisation of sovereignty:

There is quite a discursive Tower of Babel resulting from attempts by scholars of India to capture the prevalent co-existence of state-like authority alongside that of the state. Some have invented terms such as shadow state and parallel state. Others have pointed to the interpenetration of state and non-state authority, conjuring neologisms like hybrid state, informal or vernacular governance and 'intreccio' (entanglement). It is another matter when criminal organisations have comprehensive countervailing power to the state and when concepts like 'Mafia Raj' and 'Mastan Raj' are summoned into use (Harriss-White and Michelutti 2019 b).

Most non-state forms of authority regulating criminal markets are grounded in pre-existing customary and collective action. Patriarchy constrains the assets and occupational choices of (inferior) men as well as women; caste and ethnicity supply a corporatist ideology to market exchange, they structure access and define insiders and outsiders with whom the terms of transactions may vary; religious communities supply collective identity and institutions to regulate distributive activity as well as accumulation. Business associations consolidate socially corporatist economies (Basile and Harriss-White 2010). And while law-making institutions and the protection of property and people - even those uninvolved in criminal activity - are being privatised, and sites of economic authority (and sovereignty) multiply, the case studies indicate that wherever they operate the mafia have developed paramount regulatory authority. In an era of rampant nationalism, the unit of moral accountability of the criminal economy - clan, caste, dynasty - is far removed from the banner of the nation.

Not all law-breaking involves violence but in the eleven case studies the only one that did not feature episodes of physical violence was of spectrum for telecom at the apex of the national economy (Bhatia 2019). The 'criminal life of legal commodities', epitomised by economic crime, is regarded as 'soft' behaviour when contrasted with violent predations on the state (Ruud 2019). Yet even the labour, commodity and money markets comprising the

soft criminal order are policed by threats, extortion and intimidation and by violent abusive enforcement frequently involving private armies, militias and goons. Over half the eleven case studies reported murder as a weapon of regulation. Evidently, as Marx once wrote, force itself 'is an economic power' (1887, Chapter 31).

Criminal violence takes other forms. The seizure of private property by armed robbery is one. Vandalism of, and theft from, state/public property – infrastructure such as pipelines - is another. Trafficking in endangered species, the destruction of water courses and tables, of soils and slopes, and wanton air pollution are crimes against society perpetrated through nature. When property is held in common pool, as open access or in public hands it is far less easy to protect physically than is property held privately (Gadgil 2011).

Meanwhile the justice system is implicated in the criminal economy in context-specific ways. For every instance of the courts' marshalling expert evidence, nailing crime and meting out enforceable punishment, there is other evidence of the courts being avoided entirely (so quasi-legal settlements are made elsewhere or illegal ones are forced) – or judgements ignored. Irregular investments are made to delay or suspend hearings, to determine judgements, and their outcomes. Yet the power of money may yield to that of organised interests. Party political pressure can also force legally unjustified interpretations of procedure and evidence, the non-appearance of witnesses, threats to witnesses in court, etc. (Harriss-White 2019).

Law breaking is not confined to criminal organisations with the complicity of the police, judiciary and politicians. Many state agencies are found to be extensively involved in law breaking activity: failing to raise revenue, diverting state resources to private uses, and failing to regulate the economy. Bribery and corruption, extensively invoked in economic models of state failure (Bardhan and Mookherjee 2007), are very crude proxies for the diversity of practices involved.

The Indian cases reveal systematic institutional preconditions for criminal activity. Prime among these is the regulative law. Every sector in the case studied is found festooned in a complexity of law likely to have been publicly debated only at its inception. Criminal assemblages cut through great swathes of law which lawyers themselves strain to master. At the same time, law can clash with custom. Customary norms and law regulate the joint family – the real building block of the Indian economy. The increasingly frequent violation of customary norms of violation (which govern socially irregular access to much common property) may go unpunished due to lack of institutional precedent and practice. Lack of punishment may then be routinized as a norm. Fear which generates self-censorship and silent complicity also regulates criminal economic activity.

Certain kinds of modern regulative law are even revealed as crime-friendly: first, deliberately or through incompetence drafted with loopholes and incentives for crime; second, law for which punishment is so disproportionate that it incentivises criminal evasion; third, law where evidence is stipulated in forms so difficult to provide that evasion is easier: riskier but cheaper. Manifestly socially unjust law is also asking to be broken. And law whose amendments shift faster than arrangements for its enforcement will also facilitate its social disregard.⁵ Pervasive cultures of non-compliance then mean that, as the Tamil proverb has it, 'an honest man is he who does not know how to live'. The socially deviant is actually the legally compliant.

From case studies which have amassed evidence different in kind from that used by the Comaroffs, we see that many features they outline are present in the Indian context. Even the substitution in the Indian cases of caste, ethnicity, religion and gender for the Comaroffs' characterisation of modern crime as racialized is a minor mutation in the genetic sequencing of crime.

The Indian cases, however, are distinctive insofar as it is not possible to avoid the distinctive fusing of the criminal economy with democratic politics.

Criminal economy and democratic politics

India's recent history has been used to generate a model comparable in sweep to that of the Comaroffs' while not claiming the same global relevance. Instead of exploring the role played by crime in the social imagination, P.S. Jha's account mobilises evidence to address processes criminalising politics and politicising crime, following their joint impact on the economy (2013). Using Occam's Razor, Jha's argument starts from the huge size of India's constituencies, in terms of both territory and population. These are costly to contest through electoral democracy. Election costs and between-election fixed costs of party political maintenance have always exceeded the Election Commission's ceilings for allowances, hence they have to be untraceable. With the possible exception of AAP and of rare wealthy individuals, the subsequent voracious appetite for funds has had major impacts upon the internal democratic politics of all parties. When in the late 1960s Indira Gandhi, then Prime Minister, banned company donations so as to hobble competition from

⁵ Examples are respectively: environmental law for dam sites; the Antiquities and Treasures Act; compensation valuations; negligent R and R from threats from subterranean fires; and the Essential Commodities Act.

right-wing parties, fundraising for these costly political spasms had to slip below the radar, to spill out into India's states and to involve ever expanding operational scales and fractions of capital. Black fund-raising bureaucracies developed to channel elastic exchanges of money for illegal favours, protection and exemptions; and illegal physical security forces developed to secure the safety of the untraceable party funds which reflected these political-financial markets, those handling them and those representing their interests (see also Vaishnav 2017).

Parties based on identity/aspiration/region emerged not only as a result of national parties' neglecting the factors used for mobilising newer parties (such as caste, ethnicity, regional neglect and under-development) but also as a reaction to the political spaces created by criminalisation. Jha argues, however, that the newer parties must suffer similar pressures and negotiate – and embody – political forces contradictory to their social aspirations. The exclusive nature of information and contacts, safes and allocative practices through which such financial–political assemblages have been maintained, have encouraged path-dependent relations of clientelism. These eventually solidified into dynasties because these transactions could be reproduced most efficiently and securely through political families. However when political protection was experienced as incomplete, old-style criminal political clients and new-style members and leaders of criminal organisations started to enter party politics directly.

Once installed, the abuse of discretionary budgets for legislators supplemented quid pro quo financial exchanges between funders and politicians with the latter benefiting from immunity. India's vast informal economy – agriculture plus non-agricultural production, trade and services in tiny firms below the deliberately imposed size thresholds for regulation⁶ – has become seamlessly interwoven with the black economy, a component of which funds democratic party politics and navigates changes in ruling parties in the Centre and states.⁷

The stream of corporate tribute has major implications for capitalism with Indian characteristics. Reciprocal political–economic exchanges privilege crony capitalism. Where competence yields to political connections, inefficiencies are hard-wired into the 'formal' economy. Jha provides evidence for the inflation of capital costs, inflated-cost benchmarks for future projects, the 'gold-plating' of future investments with necessary subsidies to enable them to compete, the institutionalising of extremely costly delays and forfeited benefits, the chopping up of projects into components in the name of competition so as to multiply kickbacks, shoddy work, and irrationalities that result from the politically-driven shattering of megaprojects. The state is put up for sale through informal and criminal

⁶ See Dietrich Wielenga 2019 for the roles of state and business in the early post-war creation of the informal economy

⁷ See Kar 2010 for evidence for its role in capital flight.

bureaucratic practices which complicate Leys' model of market-driven politics. According to Jha (2013), *Outlook* reported in 2009 that, between 1990 and 2008, 33 scams cost the public exchequer \$100 billion per year. In consequence, the neglect of re-distributivist development makes a mockery of much progressive development discourse.

During the reform period, company donations to parties have been rehabilitated but such donations are unable to meet more than 10 per cent of election costs, so it is rational to finance individual powerful candidates. The mature clientelist state, Jha concludes, is one where power is exercised by a congeries of relations among business, career politicians, gangland Mafiosi and the police. India has not only succeeded in criminalising politics but also in politicising crime.

Jha's conclusion disturbs political science interpretations of the character of state politics. When the roles of the coal-fire mafia are stirred into Jharkhand's politics of tribal neglect and of homeland aspiration, when private hydro-criminal plunder is added to Arunachal's politics of tribal competition, of centre-state dependence and of Himalayan frontier militarisation, politics in both states is seen as consistent with domination by predatory criminal interests (Gupta 2019; Mishra 2019). In the rest of this chapter, we turn to a case in Tamil Nadu using field material from its interlocked markets for river-bed sand and democratic politics.

Though ignored in mainstream economics, the print media's business pages routinely celebrate the fact that every commodity has quiddity. The concept of quiddity combines the essential physical attributes and cultural meanings of a given commodity; together they are able to shape the structure and functioning of their markets. Tomatoes are a pretty indispensable item of food, a fruit known as a vegetable, red and juicy, but bulky and very perishable. Before cold-stores and refrigerated transport, markets for tomatoes had to use cash and spot contracts (Harriss-White 2003). What is the quiddity of sand? A non-perishable granular silica, sand is the easily processed, but not-easily substituted, invisible mineral component of cement and concrete, through which the entire physical fabric of urban and rural India, real estate and infrastructure, is constructed. Sand is also a common property resource, the geological product of deposition over millennia, on a continuum between silt and gravel. River-bed sand is also one among many natural resources (including granite and beach sand), and manufactured commodities (including liquor and real estate) developed to be structured as markets to supply political funds in a state whose Dravidian politics is widely understood as populist.

Be it ‘protection populism’, ‘empowerment populism’, ‘assertive populism’, ‘paternalist’-, ‘technocratic’-, ‘people-centred’ or ‘crony- populism’, peoples’ welfare is put at its political core (Jeyaranjan 2019). However while the widely assumed link between welfarist interventions⁸ and party political outcomes is hard to substantiate factually, that between targeted cash handouts (piloted through the ‘Thirumangalam formula’ in 2009 and estimated as needing some Rs 5 crores⁹ per constituency in 2011) and election success is increasingly strong. While both populist and pork barrel politics require considerable public finance, that of the pork barrel must be prepared through the appropriation and intertwining of both public and illicit private funds. What role do sand markets perform?

To answer this question, we must trace the history of development of markets for sand from the 1980s onward. This will be done through a series of interviews carried out between 2014-16 with politicians, bureaucrats, contractors, journalists, law officers and middle-men who shared evidence on condition of anonymity. While mainstream analyses of markets focus on the firms constituting market structure, their sizes, costs, returns and price behaviour, the analysis of this criminal market has to place relations of regulation centre stage. Except for court cases, the evidence in this chapter is therefore not attributed and has to be taken on trust.

The commodification and politicisation of sand in Tamil Nadu

When Tamil Nadu’s urban and infrastructural boom was in its infancy, in the 1970s and 80s, sand was a free good filling the wide, mostly dry beds of the great river courses that traverse the state. It was appropriated by the low-caste owners of otherwise idle bullocks and carts on payment of a paltry fee to the littoral panchayat. Even when small, ‘half-body’ lorries and manual labour were hired by builders to collect sand nearby Tamil Nadu’s cities, profits covered costs and little else. From oral accounts, sand was distributed through locally territorialised competitive markets. The supplementary markets of part-time and petty open-cast miners originated unregulated by the state, remaining below political and administrative radar screens until in the mid-late 1980s petty scale supplies proved unable to match demand. At this point, sand started to acquire value as a commodity. And sand mining turned fulltime and regular. Mining demanded the skills and energy of fit youngsters. Dedicated fleets emerged along with labour gangs to mine and transport sand. Round the clock operations became the new normal. The price of sand had to cover the costs of labour,

⁸ Subsidised rice, noon meals for school children, loan waivers, television sets, LPG stoves, health insurance and social security for the rural poor, housing programmes and so on.

⁹ Note on currency and exchange. A crore is 10 million; a lakh is 100,000. In 2016, when this narrative ends, the exchange rate was Rs 91 per £, Rs 67 per \$ and Rs 74.4 per Euro.

transport, agents' commissions, fees to the local panchayat, bribes to the police and revenue administrators plus profit for the operator. Prices and net margins rose due to increased demand. Rough competition then became visible to local politicians who, busy accumulating portfolios in arrack shops, bars and local real estate, began investing in the extraction of sand. Higher level politician-traders then co-opted smaller, local ones in partnerships to mine and trade sand. From being completely unregulated, scaled-up sand transactions evaded both the village administrative officials, custodians of local revenue and responsible for regulations, and the police, law enforcers acting in part on complaints from the revenue administration. Sensing its profitability, both local wings of state authority started testing its resilience through demands for bribes.

Enter a third branch of the state in the form of the Public Works Department (PWD) tasked with the unhindered flow of water in river-beds. Since natural sand deposits could and did obstruct flows, the PWD set up regulations for mining them. These were observed in the breach.¹⁰ Vigilance was undeveloped. Strips were not marked out; maximum depths not observed and overladen lorries carved deep ruts in the beds, ruts which could be deepened by monsoon water erosion. The silent routinisation of such practices heralded an era of terrible environmental damage.

Meanwhile, bi-partisan cartels formed from politician-miners in both the DMK and the AIDMK. This structure of cartels contrived to capture the bidding process for sand contracts in each river valley and to share profits both individually, through the two parties at the district level and between local politician-miners and political patrons higher up the parties. In these cartels competition took place in order to prevent competition. If competition for PWD contracts ever broke out, it would be regulated through shows of threat and/or physical violence from the two parties. Petty scale business was eased out and mechanisation enabled the scale of individual sand quarries to increase vastly.

Enter individual agency and a moment of concatenation in the social relations regulating sand. During the first tenure of Jayalithaa as supremo of the AIDMK party and Chief Minister, in 1991-3, a *Dalit* fleet owner, X, supplier of sand to Chennai and part of a cartel paying the district administration regularly for Palar river sand negotiated a deal mediated through the district collector which ensured his monopoly control of a major stretch of the river basin's sand in return for Rs 1 crore per week tribute to be paid in cash to the CM's confidante. Cover was provided by the Tamil Nadu Minor Mineral Concession Rules (39) which had been enacted to conserve mineral wealth in the public interest, and provided for the state to exercise rights over deposits, waive auctions and lease plots. The supply chain that developed was not complicated. People needing sand contacted fleet owners or their commission agents.¹¹ Meanwhile X brazenly collected a fixed fee for each load of river-bed

¹⁰ Indeed one understanding of the purpose of these regulations is that they could be brandished in court as a defence against litigants' accusations of gross negligence on the part of the state and of state failure to protect against environmental devastation.

¹¹ These agents were also arranging bricks from the kilns for a commission.

sand excavated, transported and retailed by 'his' subcontractors. Accumulating at an unprecedented pace, X achieved notoriety by rapidly buying a symbol of feudal wealth in the form of a local landlord's much filmed opulent bungalow. Given the evident mutual benefit of this contract, the same model was rapidly diffused to other river basins, deals for which were captured by criminal trader Y.

Control of, and returns to, sand mining were shifting to the CM's office in Fort St. George. The state government machinery experienced a translation of roles, from being an employer resourced from legal revenue to being a set of employees paid from illegal tribute to regulate and secure the vast stream of politically-legitimised criminal money against capture or sabotage by others. The government's principal duty was thus to check 'illicit' sand mining while protecting their contractor Y's 'legal' mining.

In the 1996 elections, the AIADMK government fell to the DMK. Control over sand crossed parties, initiating a phase of musical chairs in politics and market structure. A DMK cartel seized the Northern Palar contract and worked it using Y, who was in turn outsmarted in his original Kaveri river basin quarries by a new criminal Z who seized control in the South. In violation of all rules, sand mining expanded in scale; sand started to be traded throughout the Southern states and massive revenue streams were privatised and politicised. With the firm hold of the top political boss of the day, a single-window system for cash flows increased the efficiency with which money was extracted from sand contractors.

These arrangements were challenged between 1997 and 2001 by a leading lawyer and social activist filing a writ petition in the Madras High Court. Records were summoned to court, on the basis of which the government's behaviour was condemned as 'whimsical'. After a list of violations emerged, and when income from a single quarry, estimated at Rs 1 crore per week, was set against its rental payments or 'consideration' to the state of Rs 1 lakh per year, the scale of the plunder at last became public knowledge. Quashing a total of 36 leases and grants made under Rule 39, the judge concluded 'that the exercise of power is not *bona fide* but it had been born out of corrupt motive, and (that) corrupt obligation had advanced the cause of individual to the detriment of the state exchequer'¹²

In the wake of a second High Court condemnation of political corruption, the absence of enforcement and well entrenched collusion between the civil administration and illicit sand extraction in the Kosathali river bed north of Chennai city, an expert committee of scientists was appointed in 2002 at the court's behest to evaluate the environmental impacts of the criminal markets in sand. A year later this committee reported serious damage to river ecology, geomorphology and hydrology. In response, the state, now governed by the AIADMK, issued an order containing the strict regulations for sand mining suggested by the

¹² W.P. No.16010/97 and 6712, 6713 of 1998 p 50 of the Judgment dated 30.4.2001 in the High Court Judicature at Madras.

expert committee. It cancelled leases, and amended the law to confer a state monopoly over sand and its revenue – in perpetuity.¹³ In effect, the government regularised huge cash flows to the state that were hitherto the domain of the party and private coffers and selected the PWD to manage sand.¹⁴ This lasted 3 months during which sand supplies declined by 90% and prices rocketed from Rs 1,000 per lorry to Rs 3-4,000.¹⁵ Whether the root cause was bureaucratic incompetence or sabotage by ousted smugglers was debated – until the contractors were restored through a new system of ‘second sales’. A process of tendering with *benami*¹⁶ contracts rapidly fell into the hands of ‘lifting contractor’/trader Y, who became *de facto* owner of the entire state’s sand, its related market logistics and riverbed infrastructure, paying the salaries of PWD officials directly and now supplying Rs 25 crores of cash tribute per month to the CM. Careful estimates for 2015-16 indicate an annual turnover of Rs 19,163 crores.¹⁷ Annual proceeds from sand sales remitted to the state’s treasury account were recorded as Rs 200 crores (Ilangovan Rajasekaran 2015). The residue, some Rs 19,000 crores gross, was shared between Y, his contractors, politicians, the bureaucracy, police and derived markets of fixers. By 2018, while three major lifting contractors were jostling for the state’s market shares in sand, one in an open business partnership with a minister, the tribute was reported to involve them in paying the CM Rs10 crores in cash daily.

And this was only at the apex. In the political territories of sand mines, village councillors are reported to receive Rs 10,000 monthly, Panchayat presidents Rs 1,00,000 and MLAs Rs 5,00,000. Meanwhile the lifting contractors pay representatives who pay retainers to panchayat union secretaries at the base of the ruling party hierarchy. The sub-district level, union secretaries of the main Dravidian opposition party, other useful politicians and strategically useful members of the state’s civil administration, police are also paid – plus local media executives, to silence the information industry. So institutions of state and market have been systemically intertwined in order to maximise the supply of one of the principal raw materials for civilised social life.

¹³ G.O. M.S. No 95 Dated 1.10.2003; Tamil Nadu Minor Mineral Concession Rules 1959, new clause, 38A, 2003.

¹⁴ These cash flows were not spent entirely on elections. Massive properties were acquired over time and because of such accumulation both CM Jayalalithaa and her confidante Sasikala were sentenced to four years of imprisonment by the Supreme Court of India. At the time of writing, 2019, Sasikala is serving her prison sentence, while Jayalalithaa died in 2016. See Subbramanian 2017 for an attempt to unravel the wealth accumulated by Jayalalithaa and Sasikala.

¹⁵ See

<https://www.thehindu.com/news/national/tamil-nadu/sand-at-affordable-price-remains-a-mirage/article3851386.ece>

¹⁶ A contract in the name of a third party.

¹⁷ This estimate, detailed in Jeyaranjan 2019, is extrapolated from interviews in 2015-16 with former sand yard managers and employees in Tiruchirapalli district. It is consistent with that made by M.K. Stalin, grounded in his experience as Deputy Chief Minister from 2006–11, when the same arrangement was functioning during DMK rule, *Dinakaran, Tamil*, 3 September 2015 Trichy edition p 5. For an All-India estimate, see Rege 2016.

Sand is regulated to saturation point through constraints on plot-sizes, on the planning of extraction, its depth, its work-shifts and duration, on the building of temporary roads in river beds, the scale of mechanised mining, the loads carried by lorries, the recording of quantities of sand mined and market transactions. This fine specification is un-enforced. Existing infrastructure, such as protective bunds, is vandalised. Wage-labour works illegally long and strenuous shifts for reputedly high returns. Local labour is assigned the lightest work to cement loyalty and silence.¹⁸ Externalities are unconceived, uncosted, ignored. These include erratic lowering of water tables affecting drinking water, the destruction of pathways, roads and ways across riverbeds, the accidents which result, especially at night. The flouting of laws protecting the environment fetch local protests, petitions, even hunger strikes.

In response, the lifting contractor has the power to organise a vast repertoire of market-protecting tactics which also both parody and distort the manifold objectives of the state administration: to mobilise private armies to terrorise and injure – even to murder – resisters, to force the police to fabricate cases against them, to initiate protracted litigation and to purchase lawyers, to whip up caste hatreds to divide opposition, to offer work, lend money, prioritise local vehicles for sand transport, allocate the regulation of lorry parks to local leaders, fund temples and village festivals, give educational scholarships to promising children and organise medical camps. On the very rare occasions when court cases have ruled against the sand mafia, judgements have been enforced temporarily or not at all. Instead of scrutinising the failure of the state machinery and the plethora of affidavits revealed as bogus by court committees, courts keep suggesting ever more regulation. They therefore assign more and more responsibilities to the very departments that are the principal violators of the law. No court in Tamil Nadu has ever demanded evidence of – or from - the beneficiaries of the commodification of sand. And this is how sand markets work to this day.

Conclusions and Reflections

In this book's introduction, models of markets from orthodox economics are criticised for their Eurocentrism and their fantastic over-simplification of actually existing markets. But we started with an example from private health showing how even actually existing European markets deviate from neoclassical models. And scenarios generated by western dissent and critique such as the Comaroffs' are found here to be as useful as is the Indian account of P. S. Jha in providing the yardsticks for what Fernand Braudel called good or bad models 'against which events can be interpreted' (1974, xi). Indeed when we set aside the tyrannical purity of neo-classical economic modelling of markets we cannot avoid the explosion of heterodox paradigms, subfields and discourses, sometimes individualised in the search for originality.

¹⁸ Violations of rules published in various Advocate Commissioners' court reports.

Our field moves analogically from Mondrian's stylised polders to the buffeted corn evoked by late van Gogh just as it might to Krishen Khanna's Tara Devi fields or the sprinkled poppies of impressionists like Monet. Even the act of simplifying terms of art, as we have tried to do here, does little to alleviate the problems of translation into the reader's more familiar scholarly languages and comfort zones.

Our essay has provided support for the concept of 'contested jurisdictions', even if in the case of sand the contest resulted in a private monopoly of regulative force. As for the Comaroff's 'lateralised sovereignty', the politically corrupt, mafianised sand market (and remember that similar arrangements are widely alleged for beach sand, granite, liquor and construction (Jeyaranjan 2019)) co-exists with fiscally distributive arrangements reputed to be so relatively well-run that the state remains widely characterised as developed. While India's vast informal economy is regulated through forms of social authority outside the state's, it would not be entirely correct to cast the criminal economy of sand as 'socially embedded', as though social institutions form a bed. The case of sand markets exemplifies the Italian concept of *intreccio*.¹⁹ an entanglement of entities conventionally regarded as separate: legislature, executive, judiciary, capital, labour and civil society. And while the fusion in Tamil Nadu of populist politics with that of the predatory pork barrel fully supports Jha's argument about the politicisation of crime and the criminalisation of politics, its economic outcomes are not inevitably inefficient in the way Jha predicts. Rapid technological change, increases in scale and in size, a transformation in structure from petty production and trade to spatially defined monopolies and vast accumulative power have not been hindered by the feedback relation between crime and politics.

The case of sand has further ideas to contribute to the understanding of actually existing markets. We see not only that a common property resource, poorly regulated as common property, is remarkably easy to commodify, but also that a regime of regulation has developed to control commodified sand while a vast number of markets have to proliferate to form the preconditions for sand to be commodified in defiance of this regulatory regime. While the book's introduction invokes the concept of 'elasticity', it is important to theories of commodification to recognise the 'derived' nature of these markets. For sand creates livelihoods, even as technological change in sand extraction will destroy them. After sand is mined, even after sand is retailed, productive activity like the provision of fuel/energy, transport, bulking and breaking of bulk creates labour market segments - as do services like repair, maintenance and the organisation of cash. In sand, a further range of markets, structured through political parties, bring criminal order to the encounter with the state; for

¹⁹ Michelutti 2019

instance through fixing contracts and bribes, the provision of cash flows, the maintenance of public silence and the organisation of private protection and regulative force.

The case of sand contributes to understanding institutional change, in particular how a given institution that persists – the cash transaction is an example - may contain contradictory social forces working for and against its change. Through the decades, the need for untraceability persists in balancing the costly bulkiness of cash as a mode of exchange. Sand has also revealed the rapidity of institutional change – from local to regional and national market scope, from petty production and trade to spatial monopoly and collusive oligopoly structures, from unregulated to criminally regulated markets. It has revealed many non-price causes of institutional change. It has also revealed new processes at work in established institutions. From the outset, the sand market was captured by the state through party political control rather than the classical process in which independent regulators are captured by the state and then the state is captured by politicians. Last but not least, the case of sand shows how complex processes of institutional change co-exist in which new institutions are created (the assemblage of sand; private police forces) while other institutions die (petty trade); but at the same time some institutions persist in form and function (the use of violence) while others persist in form but are reworked to serve the interests of accumulation (the political party and the assemblage).

A further reflection concerns the Indian-ness of criminal markets as revealed through sand. For the Comaroffs the phenomenon of criminality is global, while for Jha it is rooted in the particularities of Indian democratic election finance. While Jha's argument is undeniable, what else is Indian about the Indian case in general and the case of sand in particular? Some of the distinctive features of India's non-state regulated economy are missing from this account - the roles of authority grounded in caste, ethnicity religion, locality and gender are major omissions. But crime needs law to break and we have seen here how Indian law is, by accident or design, permeated with crime-friendliness. It is also so deeply complex that procedural literacy (how to work the police and justice system) exceeds legal literacy. The case of sand reveals an electoral democracy in which future returns from the politicised control of markets are such as to transcend party competition and to incentivise party collusion. It is only through party collusion that the criminal market structure can change political hands in periods when election outcomes, energised by pork barrel fraud, shift the ruling party. Sand also reveals a market structure of systemically interlocked political and economic contracts in which sales returns are dispersed in widely ramified ways: in the forms of retainers or rents, as profit to hierarchies of subcontractors in sand and its logistical and political derivatives, in wages to labour, in vast streams of political tribute in return for *laissez aller* and in vast and concentrated profits to the lifting contractor(s).

In ceding permission to non-state power to prevail, the state's capacities morph as a result. The state loses definition as well as legitimacy. Given that such vast resources are appropriated by parties and individuals its capacity to regulate in any kind of public interest, or to redistribute are compromised. Its capacity to resist the brake-failure of criminal commodification is compromised. Nor can the state act as an environmental steward. Nature is far from being an active Latourian agent, it is a vulnerable victim of rape with the state as prurient abettor.

Finally, the concept of the criminal market attracts the concept of primitive accumulation. In its classical formulation the German concept can also be translated as primary and as original. The 21st century is far from the original cradle of capitalism so it is primary accumulation that may be of analytical relevance to India. Primary accumulation has two roles, the amassing of capital prior to its productive investment while at the same time ensuring the material preconditions for labour to have nothing to sell but itself (Perelman 2001, after Marx). On this count, the labour force has already long been liberated for wage work, while the returns to sand are both productively invested in expanding sand mining and in supplying political conditions for social reproduction. Rather than exemplifying primitive accumulation, criminal sand markets represent capitalist accumulation with Indian characteristics.

Slippery grains of sand are used for rock-hard cement. As a metaphor, sand has potential. Unless and until the institutions of capital require viable state apparatuses and publicly funded political parties to control accumulation through criminal rents and to regulate the economy, and unless and until labouring people organise countervailing power, criminal markets will prevail like cement. Meanwhile it's for scholars to develop research into the roles of criminal markets and to mainstream their many and serious implications for the economy, politics and policy processes, in teaching and in public deliberation.

REFERENCES

- Bardhan P. and D. Mookherjee 2007, 'Decentralisation, corruption and government accountability; pp161-188 in (ed) S. Rose-Ackerman *International Handbook on the Economics of Corruption*, Cheltenham, Edward Elgar
- Basile E. and B. Harriss-White 2010, 'India's Informal Capitalism and its Regulation', *International Review of Sociology* (Special Issue). Vol. 20 No. 3:457–471.
- Bhatia J. 2019, 'Crime in the Air: Spectrum Markets and the Telecommunications Sector in India', Chapter 5 in (eds) Harriss-White and Michelutti
- Braudel, F. 1974, *Capitalism and Material Life, 1400-1800*, London: Harper and Row
- CHPI 2017, 'No safety without liability: reforming private hospitals in England after the Ian Paterson scandal',
<https://chpi.org.uk/papers/reports/no-safety-without-liability-reforming-private-hospitals-england-ian-paterson-scandal/>
- Dietrich Wielenga K. 2019, 'The emergence of the informal sector: labour legislation and politics in South India, 1940-1960', *Modern Asian Studies*
- Flyvbjerg B. 2006, 'Five Misunderstandings about Case-Study Research', *Qualitative Inquiry*, Vol. 12, No. 2 pp 219 –245.
- Comaroff J. and J. L. Comaroff. 2016. *The Truth About Crime: Sovereignty, Knowledge, Social Order*. Chicago: University of Chicago Press
- Comaroff J. and J. L. Comaroff 2018, '**Crime, Sovereignty and the State**', Lecture, 31-5-18, St Antony's College, Oxford
- Gadgil M. (Chair) 2011, *Report of the Western Ghats Ecology Expert Panel*, Ministry of Environment and Forests, New Delhi, GoI. Available at
<http://www.moef.nic.in/downloads/public-information/wg-23052012.pdf>
- Gupta S. 2019, 'Jharia's century-old fire kept ablaze by crime and politics', Chapter 2 in (eds) Harriss-White and Michelutti
- Harriss-White B. 2003, *India Working: Essays in Economy and Society*, Cambridge Cambridge University Press
- Harriss-White B. 2019, 'Epilogue' in (eds) Harriss-White and Michelutti

Harriss-White B. and L. Michelutti (eds) 2019 a, *The Wild East? Criminal Political Economies across South Asia*, London, UCL Press

Harriss-White B. and L. Michelutti 2019 b 'Introduction', in (eds) Harriss-White and Michelutti

Ilangovan Rajasekaran 2015, 'The Mother of All Loot', *Frontline*, Vol. 32, No. 14.

Kar D. 2010, *The Drivers and Dynamics of Illicit Financial Flows from India 1948-2008*, Washington, Global Financial Integrity.

Jeyaranjan J. 2019, 'Sand and the Politics of Plunder in Tamil Nadu, India' Chapter 3 in (eds) Harriss-White and Michelutti

Jodha, N. S. 1990, 'Rural common property resources, contributions and crisis'. *Economic and Political Weekly*, June, Review of Agriculture, pp A 65 –A 78

Jha P.S. 2013, *How did India become a predatory State?* Unpublished.

Leys C. 2001, *Market-Driven Politics: Neoliberal Democracy and the Public Interest*, London, Verso

Marx K. 1887, *Capital, A critique of political economy. Volume one. The process of production of capital*. Chapter 31. Available at <https://www.marxists.org/archive/marx/works/download/pdf/Capital-Volume-I.pdf> (Accessed on 28 May 2012).

Michelutti L. 2019, 'The inter-State criminal life of sand and oil in North'India, western Uttar Pradesh', Chapter 6 in (eds) Harriss-White and Michelutti

Mishra D. 2019, 'Himalayan 'Hydro-criminality'? Dams, Development and Politics in Arunachal Pradesh, India', Chapter4 in (eds) Harriss-White and Michelutt

Perelman, M. 2001. *The Invention of Capitalism: Classical Political Economy and the Secret History of Primitive Accumulation*, Durham, Duke University Press.

Picherit D. 2019, 'Red sanders mafia' in South India: Violence, electoral democracy and labour', Chapter 7 in (eds) Harriss-White and Michelutti

Rege A. 2016, 'Not biting the dust: using a tripartite model of organized crime to examine Indias Sand Mafia', *International Journal of Comparative and Applied Criminal Justice*, 40:2, 101-121.

Ruud A. 2019, 'The Politics of Contracting in Provincial Bangladesh', Chapter 10 in (eds) Harriss-White and Michelutti

Singh N. and B. Harriss-White 2019 'The criminal economics and politics of black coal in Jharkhand, 2014', chapter 1 in (eds) Harriss-White and Michelutti

Subbramanian L. 2017, 'The Hunt for Amma's Assets', *The Week*. June 4.

Vaishnav M. 2017, *When Crime Pays: Money and Muscle in Indian Politics*, New Delhi, Harper Collins.