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The Political Necessity of the Licence-Permit Raj

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Industrial licencing established a framework through which newly independent India could spearhead development, and was not necessarily tied to socialism. This explains why it was generally accepted, even by businesses.

In contemporary popular imagination, the 'license-permit-quota raj' symbolises everything wrong with state regulation and intervention in 'socialist' India. Many, like Arvind Panagriya, an economist and former boss of the NITI Ayog, have linked it to the country's "meagre progress for almost four decades" and dismiss it as as bad economics based on socialism.

While the logic of market reforms is repeated often to justify the disbandment of licencing in the wake of the 1991 reforms, much of the commentary overlooks the rationale and history of licencing. Industrial licencing emerged out of the nationalist discourse on development, and was one of the key instruments in establishing and legitimising the sovereignty of the post-colonial Indian state. It was not initiated to give effect to any one coherent political ideology, but rather, to consolidate the eminent domain of the state in matters of industrial governance so that the state could pursue any political and economic goal it identified.

Fundamentally a political project, industrial licencing cannot be analysed only in economic terms. It must be contextualised in the wider political and legal imagination of a post-colonial India.

'A landmark'

The 'infamous' licence raj was established through the enactment of the Industries (Development and Regulation) Act, 1951 (IDRA). In the early years of India's independence, the IDRA applied to a wide range of industrial activity and impacted all significant aspects of the Indian economy. (The act has never been repealed and continues to be in force, albeit limited in scope.)

The idea of state-regulated industrialisation predated Independence. The Statement of Industrial Policy of 1945 had, in principle, agreed that the colonial government should support the development of key industries through a system of licencing. But the process of drafting a law that would empower the Indian state to regulate and channel industrial growth began only in 1949. It took three drafts, two select committees, two central ministers and more than two years before the IRDA was finally adopted by Parliament on 12 October 1951.

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Harekrsuhna Mahtab, the minister of commerce and industry, called the law "a landmark in the industrial legislation of India. It marks the beginning of planning for the industrial development of this country." Unlike colonial laws and policies that were either enacted to bring indigenous capital into a capitalist fold or largely to serve the purposes of a colonial government, the IDRA was enacted by the post-colonial state to put India on the path to industrial modernity and 'catch up' with the West. For the first time the government identified 'key industries' for national development, and brought them under central control.

This was a break from the colonial period, where 'development of industries' was largely the domain of the provinces. The colonial government never brought any industries under central control despite having the powers to do so. The IRDA, on the other hand, according to its Statement of Object and Reasons, aimed to bring "under Central control the development and regulation of a number of important industries, the activities of which affect the country as a whole and the development of which must be governed by economic factors of all-India import".

Under the IDRA, one required a licence to establish any new industrial undertaking or substantially expand existing ones. This requirement applied to only 'scheduled industries' listed in the Act. The licence stipulated conditions related to the capacity of the industrial undertaking, capitation, and location. Amongst other things, the act allowed the central government to take over the management of any industrial undertaking in case of breach of licence conditions or if it was of the view that the undertaking was not being run efficiently or in public interest.

Borrowing from a UK model, the IDRA established Development Councils as an institutional mechanism for the state to collaborate with industries. The council comprised members appointed by the central government capable of representing the interest of industrialists, employees, and consumers, and those having special technical knowledge. Its functions included making recommendations for production targets, standardisation of products and of accounting methods, technical training and research, and improved marketing and labour productivity.

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It is pertinent to remember that industrial regulation and control was not intended as an attack on private industries or an attempt to keep their growth in check. Quite to the contrary, the purpose of industrial control was justified as industrial growth and development. Its stated objective was to ensure that such development occurred in accordance with Plan priorities, prevent the concentration of wealth, protect small-scale industries from unfair competition, promote new industries, ensure regional distribution of industries, and advance technological and economic improvements (Hazari 1986:340). The overall impact of the IDRA was that it centralised the process of industrialisation and established a framework through which 'state-led industrialisation' could be implemented.

Necessary politics

Contrary to popular perception, industries grew under the 'licence-permit raj'. The economic historian Chirashree Dasgupta (2016) shows there was both growth and deepening of old industries such as cement, paper and sugar, as well as diversification of capital into new sectors such as diesel engines, bicycles, sewing machines, and soda ash. Of the 1,440 applications for licences made under the act between 1951 and 1955, 1,142 were granted.

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For industrialists, partnering with the state in planned development and regulated industrialisation made good political and economic sense. In capital-scarce independent India, industrial growth was contingent on state support - and state support was accompanied with regulation (Chibber 2003). It was better for industry to actively design and participate in the regulatory process than be unwillingly subjected to one. Being in the thick of things was also insurance against the possibility that socialists and communists could be successful in moving the state machinery in 'undesirable' directions.

Partnering with the state also consolidated the nationalist credentials of the capitalist class and justified their accumulation in post-colonial India (Chandra 1979).

The Bombay Plan is usually cited as evidence that capital was a willing participant in the independent Indian state's planning process. Indian nationalists and industrialists had charged the colonial state as having failed to provide state support to domestic industries (Lockwood 2013). Dadabhai Naoroji, M. G.Ranade and R. C. Dutt theorised and demonstrated that colonial policies had caused the 'de-industrialisation' of India and had drained away her wealth to Britain. Businessmen like Homi Modi, associated with the Tatas, solidified the criticism that a colonial government, beholden to British interests, could never ensure the economic development of India: "Unless India is politically free she cannot be economically healthy, and she cannot build up her trade and industries as she would want to" (Lockwood 2013: 142). Similarly, Ghanshyamdas Birla told fellow industrialists in 1930 that "The prosperity of the country depends entirely on the amount of political freedom which we get and I think that not only in the interest of country but in the interests of the capitalists, the employers and the industrialists we should try to fight and strengthen the hands of those who are fighting for Swaraj" (Chandra 1979:169).

Licencing was a key part of how post-colonial industrial development was imagined, apart from other measures such as tariffs, infant industry protection, and price controls. The Congress' Karachi Resolution of 1931 is perhaps one of the earliest instances where the control of industries was formally endorsed as official state policy of future independent India. A few years later, the National Planning Committee (NPC), set up in 1938 by Subhash Chandra Bose, posited that 'development' could only take place with careful coordination and allocation of national resources based on societal needs. This required some form of central planning. Industrialisation, in particular state controlled and regulated industrialisation, was a key component of this post-colonial 'development' and was integral to the nationalist economic discourse. (NPC 1938).

State discretion was woven into the very fabric of industrial policy and the licencing regime in independent India. The IDRA gave the central government almost unfettered power in determining which industries would be brought under its control. (The Industrial Policy Resolution of 1948 had made a distinction between those sectors where private sectors would be operational and those which would be reserved for the public sector.) The state enjoyed almost full discretion to issue, modify or revoke licences, and even to take over the management of any industrial undertaking on the grounds of public interest. Regarding development of industries, the state had full discretion in establishing Development Councils and in determining their composition. It was also left to the central government to act upon the recommendation of the councils. It is no surprise therefore, that the councils as an institution did not evoke much enthusiasm amongst industrialists and ultimately failed to play a significant role in the industrial management of India (Chibber 2003: 173-178).

A flexible policy

For the postcolonial Nehruvian state, industrial control and regulation was the only politically and economically viable path for development. But licencing, or more broadly, state intervention, was hardly tethered to a particular ideology. Everyone, from capitalists to communists, looked towards licencing and other forms of control to spur industrial growth. As Homi Modi put it: "if planning were to become something more effective than merely an idea on paper, that the Centre should acquire a general control over industries"

> Licencing allowed the state to strategically intervene in any industrial undertaking or sector in 'public interest'

'Socialism' was never offered as the justification for the IDRA. Rather, it was scarcity of resources. "That is the very reason for introducing licencing. We are lacking in resources. If more urgent needs are ignored and less urgent needs are satisfied, it is a very severe blow and a very severe loss for the whole economy of the country," said Mahtab, the commerce minister. Licencing allowed the state to strategically intervene in any industrial undertaking or sector in 'public interest'. Through licencing and other forms of control, law makers hoped to steer industrial development, allocate resources, and exercise control, without undertaking the Herculean task of acquiring and running private industries or making large-scale public investments immediately.

Industrial regulation in the form of licencing was hardly an authoritarian imposition of a state on an unwilling industrial class. "Industrialists in this country are in general agreement with the principle of the bill," Modi said. While capital did have differences with state managers, it is relevant to point out that the IDRA was drafted with active participation of Indian industries (Modi himself was consulted). Industrialists were represented in both select committees appointed by Parliament to draft the legislation and industry bodies were consulted regularly in the process. (Select Committee 1950, 1951; Chenoy 2015). While legislators, especially those who represented or were sympathetic to industrial interests, critiqued the wide scope and application of the bill, there was no in-principle objection to the need for licencing and industrial control.

> The state neither possessed the administrative and technical wherewithal nor did it have the financial resources to nationalise industries at a large scale.

Licencing was seen as a middle - and ideal - path between laissez faire and state-monopoly. "Regulated economy is considered to be the best alternative to both free economy which has been proved all over the world as injurious to national interests and also to nationalisation which is full of difficulties in the circumstances prevailing in the country today," Mahtab argued. Nationalisation was economically and politically inconvenient, as it would entail significant disruption and dislocation of the economy (Kaviraj 1988; Chatterjee 1993: 200-219). The state neither possessed the administrative and technical wherewithal nor did it have the financial resources to nationalise industries at a large scale since it would have had to pay compensation for such acquisition under Article 31 of the Constitution.

Conclusion

When introducing the IDRA, Gulzarilal Nanda, the minister for planning, confidently declared that "regarding licencing, there should be absolutely no apprehension that it will lead to anything but good."

Very few would agree with him today. Licencing is now thought of as a 'rigid' system that was a product of Nehruvian 'socialism', which, at best, might have started with good intentions but soon paved the road to economic hell. However, a regulated economy or dirigisme was not a coherent political and economic idea - it was flexible enough to incorporate any number of interventions and strategies within itself. Rather than being a policy of socialism, licencing was an ideologically agnostic legal tool that was meant to

serve the interest of the state. Its legal powers and discretion were circumscribed neither by policy nor by ideology. Socialism was often just political rhetoric that was used to justify many of the state's developmental decisions but one which neither gave its policies coherence nor guidance.

This flexibility in law is what enabled Mahtab and Nanda - in spite of the state's wide-ranging powers under the act - to assure capital that the IDRA would not be used to unnecessarily interfere with the working of private industry, and that it would be used only against erring industries. Simultaneously - and after repeatedly distancing themselves from nationalisation - they confidently responded to legislators who demanded greater nationalisation of industry that nothing in the policy or the law prevented the state from taking over industries if necessary. The fact that IDRA continues to be in operation is testament to its ability to flow with the economic winds of the time.

Licencing was, above all, a political project that was instrumental in establishing the sovereignty and jurisdiction of the post-colonial state over the economy. We often take the sovereignty of the post-colonial state as a given - as if it automatically came into existence, without contestation or deliberate action, as soon as the clock struck midnight on 15 August 1947. However, it is important to recall that at the time of India's independence, the state form was contested. There were over 500 princely states, some regions wanted to establish their own independent states, and the cohesion of the people of India as a 'nation' was seriously under question in the backdrop of Partition. The promise of economic development, which included the development of large-scale industries, made the nation-state necessary and desirable, and legitimised its sovereignty and authority over the Indian economy.

Laws like the IDRA were critical in establishing the post-colonial state and in legitimising its exercise of power over economic actors within the territory of India. Irrespective of its economic rationality and soundness, industrial regulation in India was a political necessity - the means through which the post-colonial state established its power and jurisdiction over 'the nation' and 'the economy'.

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