#TheIndiaDialog Working Paper Series

Working Paper (WP–2023–003 May, 2023)[1]

Marketcraft for India

Steven K Vogel[2]

US Asia Technology Management Center
521, Memorial Way, Knight Building
Stanford University

Institute for Competitiveness
155, National Media Center
Gurgaon, Haryana, India

[1] The views presented here are those of the authors and do not necessarily represent the position of either Institute for Competitiveness or Stanford University. Working papers are in draft form. This working paper is distributed for purposes of comment and discussion only.

[2] Steven K. Vogel is Director of the Political Economy Program, the Il Han New Professor of Asian Studies, and a Professor of Political Science and Political Economy at the University of California, Berkeley.

Marketcraft for India

The ability of India to meet its most critical challenges – such as growth, equity, public health, and environmental sustainability – hinges on market governance, or "marketcraft." This refers to the government's development and maintenance of the infrastructure for modern markets, including corporate governance, financial regulation, labor market regulation, antitrust, and intellectual property protection.[3] Statecraft denotes the management of state affairs, especially foreign relations. So marketcraft is the new statecraft in the sense that marketcraft has emerged as a core function of government roughly comparable to statecraft. Marketcraft is also an instrument of statecraft, for governments can deploy it to enhance their economic and military security.

Market liberal ideology obscures the essential role of market governance by implying that markets could govern themselves if the government would only get out of the way. Market liberals such as Friedrich Hayek and Milton Friedman acknowledge that markets require some basic rules, such as the rule of law and the protection of private property. But they have a thin view of the institutions required to make markets work. And they reject the notion that governments should craft markets to pursue broader public welfare goals beyond efficiency.[4] Many policy makers and pundits continue to speak and act as if there were such a thing as a "free market" that thrives without governance. The very language of economic debates – such as the common juxtaposition of "government intervention" versus "market freedom" – betrays these assumptions, and this conceptual confusion can beget some rather serious policy errors.

In this essay, I contend that marketcraft is critical to the fortunes of modern economies, such as the United States and India. Before addressing these two country cases, let me briefly outline the argument.

The Marketcraft Thesis

The argument proceeds in five steps.

1. *There is no such thing as a free or perfect market*. Conceptually, we can imagine a perfectly competitive market in which buyers and sellers would be seamlessly matched. Economists sometimes assume a perfect market for analytical purposes, and they have made important theoretical and empirical advances by building on such simplifying assumptions. But this perfect market does not exist and it never has. Even primitive marketplaces required some basic rules, such as locations or hours of operation. And the institutions underpinning exchange grew more complex as societies introduced credit and money.[5] Douglass North illustrates this poignantly with his example of buying oranges from his favorite vendor. This simple exchange is governed by a personal relationship, market practices, and social norms, and underpinned by the rule of law.[6]

---

[3] This essay builds on Steven K. Vogel, *Marketcraft: How Governments Make Markets Work* (Oxford: Oxford University Press, 2018).
[4] Friedrich Hayek, *The Road to Serfdom* (Chicago: University of Chicago Press, 1944); Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962).
[5] On the history of credit, see David Graeber, *Debt: The First 5,000 Years* (Brooklyn: Melville House, 2011).
[6] Douglass C. North, *Structure and Change in Economic History* (New York: W.W. Norton & Company, 1981), 34-7.

2. *Markets have to be created*. If markets are institutions, then that means that people have to create them. As Karl Polanyi famously quipped, "laissez-faire was planned."[7] The architects of these institutions might be governments, firms, or individuals. And they might create markets deliberately or spontaneously, at one moment in time or over decades or centuries. I favor the language of *crafting* markets, as reflected in the term "marketcraft," because it highlights the artistry required for effective market governance; it recognizes this as a core government function comparable to statecraft; and it applies to both government and private sector market governance. But this does not mean that governments always get it right: just as real-world statecraft can be masterful or misguided – so it is with marketcraft.

3. *Market reform is primarily a constructive enterprise, not a destructive one*. If markets are institutions, then cultivating markets requires building institutions more than dismantling them. In short, liberalizing the economy does not mean liberating it. This simple observation has profound implications for how we understand market reform, and fundamentally challenges some of the most common perspectives on important issues of our day.[8]

Table 1 depicts contrasting analytical perspectives in italics, such as "privatization" versus market transition, and corresponding policy prescriptions below them, such as shock therapy versus gradualism. Market liberals have conceived of market reform as "liberalization" rather than institution building, and therefore they have advocated removing barriers ("privatization" and "liberalization") more than building capabilities (market transition and market development). Yet scholars have come to recognize that shifting from a planned economy to a market system requires building new institutions more than dismantling old ones, and promoting markets in developing countries requires cultivating the government's ability to sustain market institutions more than getting governments out of the way. They have been slower to grasp the implications for the study of market reform in developed economies. Yet even for these countries, making markets more competitive and expanding them into new realms requires not simply removing regulations that impede competition ("deregulation") but enhancing regulatory capacity and building market institutions, i.e. marketcraft.

Table 1
Market Reform:
Removing Barriers or Building Institutions?

	The Market-Liberal View: Removing Barriers	The Market-Institutionalist View: Building Institutions
Post-Communist Countries	*"Privatization"* Shock Therapy	*Market Transition* Gradualism

[7] Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Boston: Beacon Press, 1944), 141.
[8] On the debates over shock therapy, the Washington consensus, and deregulation, for example, see Steven K. Vogel, "Introduction," in Naazneen H. Barma and Steven K. Vogel, *The Political Economy Reader: Contending Perspectives and Contemporary Debates* (New York: Routledge, 2022), 10-14.

Developing Countries	*"Liberalization"* The Washington Consensus	*Market Development* Building Market Institutions
Advanced Industrial Countries	*"Deregulation"* Neoliberal Reform	*Market Reform* Marketcraft

4. *The government-versus-market dichotomy that animates most debates about economic policy is fundamentally misleading.* The assumption that there is a dichotomy between government and market impedes a more sophisticated understanding of this relationship. As we move from a thin definition of market institutions (the minimal rules of the game) to a thicker one (a broader range of laws, practices, and norms), the relationship between government and market becomes more complementary. Table 2 illustrates how the government-versus-market frame leads us to juxtapose government protection/ regulation versus free markets rather than underdeveloped versus more developed markets. In practice, government regulation defines and enables markets, so market reform often entails more government (the arrow moving from less developed to more developed markets), not less (the arrow moving from protection/regulation to "free markets"). Moreover, the government-versus-market framing obscures the fact that the government plays a substantial role in the marketplace beyond that of a referee. The government is the largest consumer, employer, lender, borrower, insurer, and property owner in modern market economies.[9]

[9] Charles E. Lindblom, *Politics and Markets The World's Political-Economic Systems* (New York: Basic Books, 1977), 107–14.

Table 2
Two Conceptions of Market Reform

	Less Market	More Market
More Government	Protected / Regulated Markets	More Developed Markets
Less Government	Less Developed Markets	"Free Markets"

5. *The regulation-versus-competition dichotomy that animates most debates about economic regulation is fundamentally misleading*. The very language of "deregulation" belies this misperception. In conventional discourse, the term refers to less regulation and more competition, as if the two were naturally associated. In fact, generating more competition usually requires more regulation, not less. Thus the dominant trend in advanced industrial countries over the past forty years has not been one of deregulation (less regulation), but rather market reform (more competition) through reregulation (more regulation): that is, freer markets and more rules.[10]

Deregulation in the literal sense of less regulation and more competition is possible, of course. Reducing or eliminating price and entry regulation, for example, should foster more competition. In practice, however, the relationship between regulation and competition tends to be more positive than negative. We can refine this point by noting that the relationship between regulation and competition varies across time and across sectors and subsectors. It may be more positive at an early stage of market development, when the government has to create the basic infrastructure to support market competition, and more negative at a later stage, when an incremental increase in the government's role may be more likely to impede than to enhance competition. And it may be more positive in sectors that are conducive to monopoly, such as network industries, and more negative in sectors where barriers to entry are low, such as retail.

[10] Steven K. Vogel, *Freer Markets, More Rules: Regulatory Reform in Advanced Industrial Countries* (Ithaca: Cornell University Press, 1996). Vlad Tarko has tested the "freer markets more rules" thesis for OECD countries and confirmed the pattern: a simultaneous increase (a) in the number, the budgets and the staffing of regulatory agencies, as well as the number of regulations, and (b) of economic liberalization, as measured by economic freedom and doing business indices: "Neoliberalism and Regulatory Capitalism: Understanding the Freer Markets More Rules Puzzle," Working Paper Series 2017–02, Dickinson College, Department of Economics; accessed at https://doi.org/10.2139/ssrn.3042734

The United States

To appreciate the stakes in marketcraft, consider the single greatest economic success story of recent history – the digital revolution, and the most debilitating failure – the global financial crisis. Both are rooted in U.S. marketcraft.

The digital revolution is a global phenomenon, yet it has distinctively American roots. The U.S. government "created" the Internet in the sense that the Defense Department's Advanced Research Projects Agency (DARPA) funded the development of the ARPANET, which provided the underlying architecture. The U.S. military, university, and corporate research systems fostered an exponential increase in computing power from semiconductors, plus key technical advances in transmission, networking, and applications. This propelled the digital revolution, whereby information became a commodity that could be expressed in binary form and transmitted at virtually no cost. The U.S. government funded the research that produced much of the relevant technology, and provided early-stage capital for many of the most successful high-tech firms.[11] U.S. institutions, and the Silicon Valley ecosystem in particular, fostered the innovative start-ups that played a key role in commercializing the Internet, with innovations in devices, computing, transmission, and services.

U.S. antitrust policy played a less obvious but nonetheless critical role by preventing vertically integrated firms like IBM and AT&T from dominating the emerging information technology sector. As Abraham Newman and John Zysman and colleagues at the Berkeley Roundtable on the International Economy (BRIE) have demonstrated, antitrust policy set the stage for the decomposition of the value chain, as software firms like Microsoft and component manufacturers like Intel gradually seized more control over their own link within the value chain. And this in turn enabled the open innovation characteristic of the digital economy. The breakup of AT&T and subsequent regulation also fostered competition in telecommunications. The Baby Bells that emerged out of the old AT&T emerged as one class of corporate users of information technology that propelled user-driven innovation. Moreover, regulatory reform brought lower communications costs, including flat-rate local service, which allowed startups to offer value-added services and household consumers to experiment with new applications at a reasonable cost. U.S. firms enjoyed a first mover advantage in this emerging sector, and benefitted from the fact that their business models meshed well with a new production paradigm that emerged from American institutions.[12]

But there is a darker side to the story, for the financial crisis is also a global phenomenon with roots in American marketcraft. The causes of the financial crisis are complex, multidimensional, and intertwined, yet the essence of the story boils down to a massive failure of marketcraft. The U.S. authorities gave financial institutions greater freedom to engage in risky behavior without strengthening regulation and oversight. They chose not to regulate derivatives in the late 1990s, partly because they viewed derivatives as instruments within an isolated market of sophisticated investors, and partly because they feared that regulation could destabilize the financial markets. They failed to appreciate the degree to which the U.S. mortgage-backed securities market had become plagued with misaligned incentives. And they put too much faith in the ability of market players to self-regulate. Former Federal Reserve Chairman Alan Greenspan made this case rather poignantly, if inadvertently,

---

11 Mariana Mazzucato, *The Entrepreneurial State: Debunking Public vs. Private Sector Myths* (London: Anthem Press, 2014).
12 Abraham Newman and John Zysman, "Transforming Politics in the Digital Era," in Zysman and Newman, eds., *How Revolutionary Was the Digital Revolution? National Responses, Market Transitions and Global Technology* (Stanford: Stanford University Press, 2006), 391-411.

with his famous recantation in testimony to Congress in 2008. "Those of us who have looked to the self-interest of lending institutions to protect shareholder's equity (myself especially)," he conceded, "are in a state of shocked disbelief." Pressed by Committee Chairman Henry Waxman on whether his laissez-faire ideology contributed to decisions that he now regrets, Greenspan replied, "What I am saying to you is, yes, I found a flaw . . ."[13]

These cases not only show that the United States can succeed admirably or fail miserably at marketcraft, but they offer important hints about what accounts for the difference. For while the U.S. government did not have a master strategy to produce the digital revolution, it exhibited two key features lacking in the finance case: state capacity and state autonomy. The U.S. government built up an impressive R&D machine, including government institutes and university research labs, especially in areas relevant to national security. Likewise, U.S. antitrust authorities had both the administrative capacity and the insulation from political pressures to make the key decisions – like the breakup of AT&T – that fostered the IT revolution. In financial regulation, in contrast, the authorities were captured by the very financial institutions they were supposed to be regulating. The regulatory agencies were fragmented, and reluctant to impose regulations that might spook the markets or irritate important market players. So we should not be too surprised that the outcome was different.

India

So how does the concept of marketcraft apply to the Indian case? It offers a distinctive way to evaluate Indian government programs and set priorities. It asks: Is the government striving to remove barriers or to enhance (state and firm) capabilities? And is it marshalling the potential of marketcraft to achieve its goals?

A market liberal might object that marketcraft constitutes government regulation, and regulation stifles economic dynamism. After all, they might insist, we know that India has been plagued by the legacy of the infamous license and permit raj. There are three problems with this story. First, regulations bestow benefits as well as costs. In fact, the U.S. Office of Information and Regulatory Affairs (OIRA) has consistently found that the net benefit of regulations overwhelmingly exceeds the costs. Second, it is just not true. Alex Tabarrok, a libertarian economist, designed a study to test whether rising regulations caused the decline in economic dynamism in the United States in recent decades – but he found that they did not. To his credit, he revised his stance on the relationship between regulation and economic dynamism and published his negative results.[14] Of course, India suffers from some excess regulation and inefficient enforcement procedures, and the government should strive to streamline these operations. The government has made some progress in leveraging the digital revolution in this effort. But third, and most importantly, cutting red tape alone will not deliver economic dynamism and societal sustainability. That requires a positive marketcraft agenda. And that includes boosting state capacity and enhancing market infrastructure.

---

[13] Alan Greenspan, Testimony to the Committee of Government Oversight and Reform of the United States House of Representatives, October 23, 2008.

[14] Nathan Goldschlag and Alex Tabarrok, "Is Regulation to Blame for the Decline in American Entrepreneurship?," *Economic Policy* 33 (January 2018): 5-44. Also see Rachel Cohen, "The Libertarian Who Accidentally Helped Make the Case for Regulation," *Washington Monthly*, April 8, 2018.

The government-vs-market frame even infiltrates the seemingly technical domain of statistical indexes. For example, indices of economic freedom code regulations almost exclusively as negative, ignoring the vast array of regulations that bolster markets. And even the World Bank's Ease of Doing Business Index, which is heavily cited in government and private sector reports on the Indian economy, tends to score regulation as a hindrance rather than a positive force. These more conventional indices contrast to broader measures, such as the Social Progress Index and the Quality of Life Index. The Indian economy has risen markedly in the Ease of Doing Business rankings, from 142nd in the world in 2014 to 63rd in 2020.[15] Yet it has dropped in ranking by the Social Progress Index from 101st in 2014 to 110th in 2022; and by the Quality of Life Index from 42nd in 2014 to 60th in 2022.[16] India also ranks at the very bottom (49th of 49 countries) in the Sustainable Shared-Prosperity Index (SSPI) SSPI, a unique index that measures policies (not outcomes) for sustainability, market structure, and public goods. And it ranks 48th of 49 in the market structure basket of measures within that index, which includes many marketcraft policies. It should be noted, however, that this index does not include most countries poorer than India due to the lack of high-quality data.[17]

How might we evaluate the government of Prime Minister Narendra Modi (2014 – present) with respect to marketcraft? I cannot do justice to this question in this short essay, but let me offer some preliminary observations. The Modi agenda offers an intriguing mix of strengths and weaknesses when viewed through the marketcraft lens. To its credit, the Modi government has set a broad marketcraft agenda. Yet sometimes it falls into the trap of aiming for less government rather than better government. The prime minister manifested this tension in a tweet on the occasion of passing the labor reform bill in 2020:

> Long due reforms and much awaited Labour reforms have been passed by the Parliament. The reforms will ensure well-being of our industrial workers and give a boost to economic growth. They are also shining examples of "Minimum Government, Maximum Governance." The new Labour codes universalize minimum wages and timely payment of wages. They give priority to occupational safety of the workers. These reforms will contribute to a better working environment, which will accelerate the pace of economic growth. These Labour reforms will ensure "Ease of Doing Business." These are futuristic legislations which will empower enterprises by reducing compliance, red-tapism and

---

15 World Bank, *Doing Business 2015*, accessed at https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB15-Full-Report.pdf and Doing Business 2020, and *Doing Business 2020* accessed at https://www.doingbusiness.org/content/dam/doingBusiness/pdf/db2020/Doing-Business-2020_rankings.pdf.

16 Social Progress Imperative, *Social Progress Index 2015*, accessed at https://www.socialprogress.org/static/b11e8918ae3b7edf007e9343965b650b/2015-social-progress-index.pdf; and *Social Progress Index 2022*, accessed at https://www.socialprogress.org/static/8a62f3f612c8d40b09b3103a70bdacab/2022%20Social%20Progress%20Index%20Executive%20Summary_4.pdf. Quality of Life Index accessed at https://www.numbeo.com/quality-of-life/rankings_by_country.jsp.

India's Consumer Economy (ICE) 360 Survey estimates that incomes for the poorest quintile of Indians dropped 53% from 2016-21, while incomes for the richest quintile rose by 39%; accessed at http://lucaschancel.com/india-2021/.

17 Clair Brown, Tristan Misko, Daya Kuhnkhun, Justin Laskowski, Richard Lu, Jess Nathan, Minh Nguyen, Max Strongman, and Isabel Weiss, "Sustainable and Shared-Prosperity Index" (2023). SSPI 2018 data, tables, and papers are available at https://drive.google.com/drive/folders/1A6ak1dpaLhSSpKU12q-ZTjUFMCCWDYcb?usp=sharing

"Inspector Raj." These reforms also seek to harness the power of technology for the betterment of the workers and industry both.[18]

On the one hand, Modi stresses here that the reforms aim to promote well-being and not simply growth, and to benefit workers as well as industry. On the other hand, he highlights the negative agenda of reducing government and regulation, and references the Ease of Doing Business metric. The government revealingly espouses this negative view of government in a chapter on "Undermining Markets: When Government Intervention Hurts More Than It Helps" in its *Economic Survey 2019-20*.[19] Modi embraces this tension with his slogan of "minimum government, maximum governance."

The marketcraft agenda would suggest an alternative slogan: better government for better governance. This means not less government, but higher government capacity; and not less regulation, but more rigorous analysis of the quality of regulation.[20] The government might begin this analysis with a basic principle of promoting pro-competitive regulation while reducing anti-competitive regulation, but it would also require a more holistic analysis of how regulations shape government, firm, and individual capacities.[21] At its core, effective marketcraft should shift firms from value-extraction toward value-creation strategies. It should press them to provide value for consumers, to share returns with workers, and to invest in future productivity.[22] Let us briefly examine the Modi scorecard in some of the core realms of marketcraft in that light.

Labor market reforms. The marketcraft frame suggests that reforms should strive toward enhancing firm and worker welfare rather than boosting firm returns at the expense of workers. Labor market reforms can promote worker welfare and enhance productivity, or exacerbate worker precarity and discourage firm investment in human resources. The Modi administration has done both: it has improved working conditions and streamlined regulation, but it has also undercut job security and undermined union power. The government introduced labor reforms in 2021 to replace 29 federal-level laws with four new laws on wages, working conditions, labor-management relations, and social security. It eliminated restrictions on dismissals without government approval for companies with fewer than 300 non-managerial employees, and permitted state governments to raise this threshold further. It permitted fixed-term employment in all industries for all types of jobs. It restricted recognition of trade unions to those with 100 members or 10% of total non-managerial employees; required 60-day prior notice before striking; and banned non-employees (professional unionists) from serving on union boards.[23] The risk is that these reforms may exacerbate economic insecurity and inequality. Labor market "deregulation" has had this effect in the very different contexts of the United States and Japan.[24]

---

[18] Quoted in Ministry of Information and Broadcasting, Government of India, *New Labour Code for New India: Biggest Labour Reforms in Independent India* (2020). https://labour.gov.in/sites/default/files/Labour_Code_Eng.pdf

[19] Government of India, *Economic Survey 2019-20* (2020), 67-99.

[20] Milan Vaishnav, "Transforming State Capacity in India," Carnegie Endowment for International Peace, July 2, 2019.

[21] In the terms of Amartya Sen, the government should promote the broader goals of "development as freedom": *Development as Freedom* (New York: Knopf, 1999).

[22] Steven K. Vogel, "The Regulatory Roots if Inequality in America," *Journal of Law and Political Economy* 1 (2021): 273-4

[23] Ken Koyanagi, "Modi's Structural Reforms Enter Climax as Vested Interests Dig In," *Nikkei Asia*, April 13, 2021.

[24] Vogel, "Regulatory Roots," 286-8; Steven K. Vogel, "Abe's Slight Left Turn: How a Labor Shortage Transformed Politics and Policy," in Takeo Hoshi and Phillip Y. Lipscy, eds., *The Political Economy of the Abe Government and the Abenomics Reforms* (Cambridge: Cambridge University Press 2021), 271-309.

Formalization. The Modi government has sought to promote the formalization of the economy to increase the tax base, subject a greater share of the economy to government regulation, and improve productivity. In practice, the government's major initiatives offer starkly positive and negative examples of marketcraft, akin to the U.S. digital revolution and financial crisis cases, albeit on a smaller scale. The government's less successful initiative involved a demonetization campaign in 2016: forcing businesses and individuals to turn in high-value cash notes for new bills. This devastated cash-based small businesses and undermined economic growth. The more successful initiative introduced a common digital payment platform that shifted activity from the informal to the formal sector in a more constructive and equitable way. It rolled out the Unified Payments Interface (UPI), a common digital payment platform. The government sought to provide bank accounts to all citizens, and have them linked to mobile phones and biometric national IDs. This boosted digital payments, which are easier to track and tax.[25] The informal share of the economy has declined from greater than 50% in the 2010s to 43% in 2022.[26]

Antitrust. Indian antitrust policy provides an especially vivid example of how marketcraft can promote or impede growth, innovation, and equity. On the one hand, the Modi government has permitted increasing domestic market concentration, with many sectors dominated by large private conglomerates, via protection, subsidies, and preferential contracts.[27] And these national champions have obtained favorable policies via their close ties with the government.[28] This combination of private market power with political capture stifles innovation and impedes startups from challenging the dominant incumbents. On the other hand, the government has strengthened antitrust enforcement, especially with respect to the American big tech platform firms. The government has gradually adopted a more aggressive posture toward the large tech firms, stressing the principle of structural separation: firms may operate a market platform or sell goods and services on that marketplace – but not both. The platform firms are obliged to operate in a "fair and non-discriminatory manner," meaning that they must offer similar terms to all vendors. These rules were initially vulnerable to loopholes, but the Competition Commission of India and other authorities have increasingly cracked down on the big tech firms, especially Amazon and Google.[29] And most importantly, the government has provided an alternative to the private platforms via investment in a Digital Public Infrastructure, the "India Stack," including high-speed internet, digital identity, and a

---

[25] UPI accounts for 68% of all payment transactions by volume as of 2022: Christian Alonso et al., "Stacking Up the Benefits: Lessons from India's Digital Journey," IMF Working Paper No. 2023/178, March 31, 2023, p. 5, accessed at https://www.imf.org/en/Publications/WP/Issues/2023/03/31/Stacking-up-the-Benefits-Lessons-from-Indias-Digital-Journey-531692.

[26] World Economics, India's Informal Economy Size, accessed at https://www.worldeconomics.com/Informal-Economy/India.aspx.

[27] One study found that the share of the top 20 companies in total corporate net income rose from 14% in 1994 to over 40% when Modi took power in 2014 to almost 70% in 2019: "India Inc's Profits Increasingly Belong to a Tiny Clutch of Companies," Economist, May 21, 2020; accessed at https://www.economist.com/business/2020/05/21/india-incs-profits-increasingly-belong-to-a-tiny-clutch-of-companies.

[28] These ties came under increased scrutiny in 2023 when Hindenburg Research produced a devastating report on the Adani Group, whose founder is a loyal ally of the prime minister. The report accused the Group of massive accounting fraud and stock manipulation.

[29] Divij Joshi, "India's Curbs on Amazon and Flipkart address Concerns, But Still Lack Clarity," *The Wire*, February 7, 2019; accesssed at https://thewire.in/business/india-amazon-flipkart-concerns-fdi-rules; Erick Massey, "2022 Year in Review: Big Tech 'Monopolies' Come Under Scrutiny," *Economic Times*, December 27, 2022; accessed at https://economictimes.indiatimes.com/tech/technology/2022-year-in-review-big-tech-monopolies-come-under-scrutiny/articleshow/96544046.cms.

public cloud to give citizens access to government services.[30] The government has also launched the Open Network for Digital Commerce, an open protocol public digital marketplace that provides an alternative to the big tech platforms in some market segments.[31]

Telecommunications regulation. With regard to sector-specific regulation, effective marketcraft entails regulation that enhances rather than limits competition and that fosters public-interest goals such as broad access and reliable service provision. In practice, however, the Indian government has often favored incumbents over challengers, permitting consolidation and rent extraction. In telecommunications, for example, the government has combined pro-competitive and anti-competitive impulses. It deployed asymmetric regulation to promote competition, allowing Jio, from the mammoth Reliance group, which entered the market in 2016, to offer more generous promotions than the incumbents. But critics argue that this preferential treatment for India's largest corporate group went too far, pushing two viable competitors to the brink of bankruptcy and imposing lasting damage on the development of the sector.[32] The government proposed reform legislation in 2023 to spur competition, including modifications to license fees, spectrum usage charges, and foreign direct investment restrictions.[33]

Financial regulation. In the financial sector, effective marketcraft means maximizing value for consumers and investors while insuring the stability of the system overall. In the U.S. case, as noted above, financial liberalization allowed financial institutions to boost rents while setting the stage for the global financial crisis. The Indian financial system has long been plagued by non-performing loans, especially in the state-owned financial sector. The government moved slowly to address the problem, but it has made steady progress in recent years.[34] The government passed an Insolvency and Bankruptcy Code (IBC) in 2016, streamlining the legal framework for bankruptcy and making it easier for banks to recover debts.[35] The financial markets remain vulnerable to share manipulation and other irregularities. The government has made limited progress in strengthening accounting and corporate governance standards.

Intellectual property rights. Intellectual property (IP) protection can promote innovation by giving firms and individuals a greater incentive to innovate, yet it can also undermine innovation by insulating incumbents, encumbering challengers, impeding competition, and raising costs. India has benefitted from relatively weak IP protections in some sectors. Indian pharmaceutical companies, for example, emerged as major players in the generic market in the 1970s partly by eschewing strong IP protection. In recent years, however, the Indian government has sought to strengthen IP protection to promote innovation and to respond to pressure from the United States. The government passed a

---

[30] Alonso et al., "Stacking Up the Benefits." Mobile broadband subscribers increased from 345 million in 2017 to 765 million in 2021, and datae traffic per user increased by 31% over the same period: Ernst & Young, India@100: Realizing the Potential of a US$26 Trillion Economy, 2023, 46-7; accessed at https://www.ey.com/en_in/india-at-100/digitalizing-india-a-force-to-reckon-with.

[31] Government of India, *Economic Survey 2022-23*, 342-72; accessed at https://www.indiabudget.gov.in/economicsurvey/doc/eschapter/echap12.pdf.

[32] V. Venkateswara Rao, "The Rise of Monopolies in 'New India'," *Deccan Herald*, November 19, 2020.

[33] "Reforms Have Made Telecom Sector Investment-oriented, Employment Generator: Vaishnaw," *ET Telecom*, March 1, 2023; accessed at https://telecom.economictimes.indiatimes.com/news/reforms-have-made-telecom-a-sunrise-sector-vaishnaw/98294621.

[34] Non-performing assets dropped to a ten-year low of 1/3 percent of total assets in 2022 and the profitability of the scheduled commercial banks rose to a seven-year high: Government of India, Economic Survey 2022-23 (2023), 85-7, accessed at https://www.indiabudget.gov.in/economicsurvey/doc/eschapter/echap04.pdf.

[35] See Government of India, *Economic Survey 2022-23* (2023), 89-94, on the code's impact on the exit of distressed firms.

new National Intellectual Property Rights policy in 2016, integrating IP protection into a single regulatory framework and shifting the regime in a direction more favorable to IP owners. In practice, the strengthening of IP laws after accession to the World Trade Organization has benefited foreign firms more than Indian ones. In the pharmaceutical sector, increased patent protection has bolstered the market power of foreign producers. The Modi administration appears not to have framed its IP policy with a broader marketcraft lens to maximize the diffusion and dissemination and knowledge and to promote the broader public interest of consumers and patients. The government could do much more, for example to promote open source drug discovery and open source software.[36]

Final Thoughts

The stakes in the game of marketcraft could not be higher. Marketcraft can deliver critical public goods, as in the case of the digital revolution, or foster rampant rent-seeking, as in the case of the global financial crisis. It can serve as enlightened industrial policy or as politically motivated protectionism. This essay has emphasized that governments, firms, and individuals make markets work. The "free market" myth obscures our own agency in crafting markets for our own purposes. We can craft better markets, but to do so we must recognize that markets are human constructs, not natural phenomena that flourish in the absence of governance. We are not limited to a choice between "leaving" markets as they are – riddled with imbalances of power, inefficiencies, and fraud – or stifling them with regulation. We can craft governance to empower markets and to direct them toward the public good.

The Indian government can craft markets to distribute returns more fairly. It can design financial markets so they bestow fewer rents to the intermediaries, better returns for savers, and less volatility for society at large. It can reform intellectual property protection to promote innovation and the dissemination of knowledge. And it can foster competition more consistently and effectively, recognizing that laissez-faire is not likely to produce competitive markets. It can structure markets to enhance equality of opportunity, in practice and not only in rhetoric. That is the promise of public-minded marketcraft. But this will require more state capacity, not less state "intervention." That means investing in the civil service, enhancing regulatory capacity, cultivating an impartial judiciary, clearing court backlogs, and cracking down on corruption: in sum, better government for better governance.[37]

The author would like to thank Chinatsu Kato and Avani Kothari for superb research assistance and Ritika Goel for helpful comments.

---

[36] Dinesh Abrol, "Who Gains from the Modi Government's Intellectual Property Rights Policy?," *The Wire*, May 22, 2016. Accessed at https://thewire.in/economy/who-gains-from-the-modi-governments-intellectual-property-rights-policy.

[37] On regulatory capacity, see Lalita Som and Faisal Naru, "Regulatory Policy in India: Moving Towards Regulatory Governance," OECD Regulatory Policy Working Papers No.8, May 4, 2017, accessed at https://www.oecd-ilibrary.org/docserver/b335b35d-en.pdf?expires=1681928280&id=id&accname=ocid195467&checksum=B8BAEFC63682E61D86BFF0E3D1B08D78.