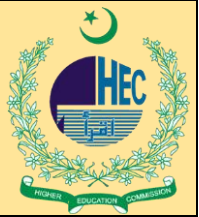




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State Interventions through Regulation: History and Implications—Evidence from the USA, UK, and Pakistan

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ABSTRACT

Government intervention through Regulation is an Aristotelian concept having deep roots in history. The conflict of market vs. the state has existed in all societies at all times. This paper discusses the history of regulations, with a brief review of Regulations in the USA and UK, and then taking the discussion to Pakistan. The paper concludes that while the intervention of the USA, UK and much of Europe has been surgical here in Pakistan we have had sweeping nationalization programs. The nationalization program has changed the growth trajectory of Pakistan. Had there been no nationalization regimes and the pre - 1970 private sector led growth model had been allowed to evolve, much better results could have been achieved. The paper has used existing knowledge on the hazards of Government interventions in market to advocate market freedom.

Keywords: State Interventions, Regulation, History and Implications, USA, UK, Pakistan.

Introduction

Government intervention, policies and excuses of making the market work right are things that have corrupted economic theory and practice. Advocates of government intervention through policy will always put forth the noble-sounding words “*policy is there to address market failure*”. They seem to forget simple logic that the market never fails, and if it fails (which it never does) then it ceases to exist. On the other hand, it’s the Government which often fails. Just look at the history of any nation, there have been multiple points where governments have failed as far as the market is concerned it has remained defiant in face of every catastrophe. It has stood the tides of time. It has passed every test. It is the strongest entity that ever existed and nothing can counter its power. However, for those who think that markets should be steered for some magical (mostly ideal) efficient outcomes, regulations and regulatory authorities are the magic potion. The Government intervenes through regulation and its weapon of choice is the regulatory authorities. The point of this paper is to discuss that regulatory authorities do more harm than good. And that market solutions are only sustainable and practical options. And arrive at conclusions regarding justification of government interventions

All the inventions that have had an impact on the world, things that have changed the way we live, things that have transformed the social, political and economic spheres, were they the outcome of government intervention? There have been many cases where the benevolent market has provided the world with inventions such as the telegraph and telephone and the government has later hijacked it and intervened in it through regulations under pretext of defense, security, public interests. The telephone industry and the telegraph services were

privately owned in the US. The private sector attracted investment and the business and government sector used it and benefited from it. However right across the border in Canada the the US model was copied in the metropolitan areas but in rural areas the Government supplied the public with telephone and telecom services¹ Now the advocates of government being the charity loving selfless Robinhood will say that had the government not played its part there in the rural Canada the private sector would never have thought of opening the business there. As plausible and logical as it may sound there is little truth to it.

One among the many problems with this line of thinking is that it lacks empirics. For instance, what about the US, did the Postal service or the federal government take the initiative or was it the private sector? While the Canadian telecom industry was totally owned by the public, free enterprise was dispensing social services to the US telecom consumer. Today, here in Pakistan we have many telecom services. The sector which was owned by the public some 20 years ago has a lot of private players. And what has that private sector brought with it? It has brought employment and quality service to consumers fast speed internet at affordable rates. The telecom giant the PTCL has been made a semi government with the private sector having more than 50% share in it. Consumers have shifted towards better optic fiber services such as NAYatel or StormFiber forcing PTCL to come up with good competing packages, tariffs and services. These private companies cover the rural and suburbs as well. Barakahu, BAnigal and other areas which are mostly rural Islamabad have private internet providers there. The question is why? Was this a result of government regulation or is it a reflection of what can be achieved if the little freedom is given to the market forces to operate. Logic tells us that it's the latter. But few understand it and still few appreciate it.

The logic of Government regulations

The Government intervention through regulatory mechanisms and policy is justified by the advocates based on categorizing businesses as "*business affected with public interest*"² There are cases where a particular necessity such as sanitation, water, electricity or telecom services are provided by a single supplier or few suppliers who can behave as a monopoly. The advocates of market regulation propose that the Government then has to regulate the suppliers so that the consumer is protected and no unfair price is charged³. While there could be and there have been cases of abuse of monopoly power but still that doesn't justify regulation at least in a way where the government becomes the monopolist. The very same reasons which serve as foundations for criticizing monopoly power also serve as logical arguments preventing the Government from becoming the very Monopoly that it claims to bring into line. The question that comes up here is that isn't the Government a monopoly too? How is it that a business monopoly is bad and is unfair while a government monopoly is good?

The History of regulation

The History of regulation in the home of free enterprise the United States of America

¹ Melody, W. H. (1997). Policy objectives and models of regulation. *To Dallas Smythe (1907-1993), friend and colleague of many contributors to*, 11.

² *ibid.*

The history of modern day regulations is traced back to the “justum pretium” doctrine of medieval Italian communi. Which was one of the wealthiest regions of the world at that time had the doctrine of just price or “justum pretium” as it was called. But the medieval *communi* economy and the modern day economies of today are not comparable in many aspects. The proponents of government regulators still cite the doctrine to justify Government intervention in the market. For instance Kantarjian *et al* (2013)⁴. Talks about the just pricing of cancer drugs, basing their argument of the price cut that followed an article by Bach *et al* (2012)⁵ in the New York Times where bevacizumab, a cancer drug was found equally effective as its costly counterpart the ziv-aflibercept. The response according to Kantarjian *et al* (2013) was that the company producing ziv-aflibercept lowered its cost by half. So there you go, the drug market needs to be regulated and the regulator can ensure just price or Aristotle's “justum pretium”. what the authors don't appreciate as is the case with many intervention advocates is that the price ziv-aflibercept fell because of the market forces. It was freedom and liberty itself that allowed for Bach *et al* 2012 to put forth their findings that the hospitals reduced their purchase of ziv-aflibercept. So the company in its self interest had to reduce its price so the “just price “was a result of the market forces operating freely and thus it forms no case for Government intervention. if anything this is one of the million examples where market has brought in an efficient outcome while the government in the case of ziv-aflibercept the FDA had approved the drug.

The hale doctrine expounded by Lord Matthew Hale In his treatise *De Portibus Maris* and *De Jure Maris*, circa 1670 please see {Barness (2011)}{Heritage (2014)}^{6 7}, is one of the most important documents that can be rightly called as a pioneer work in the murky field of government regulation. MATthew's work has become the basis for various court rulings justifying government intervention in the name of “*businesses affected with public interest*”. For inscat the famous case of *Munn vs, illinois* 1877 please see {Jhonson and james (2009)}⁸ but if the munn case are looked at we find a lot of things that show Munn case was an excuse used by the Chicago board of trade {Kitch and Bowler (1978)}⁹. The only reason that the munn case is relevant to Intervention advocates is because of the forced price that the court ruled. The court actually extended the time period of grain storage while making the elevators and warehousemen charge the same price. There was one aspect though and that was the fact that many warehouse managers used to mix the grains and separate batches of identifiable nature were not there, so the elevator and warehouse managers had an incentive to weigh it low when the grain was docked and weigh it high when they shifted the grains to rail cars. The question here is not that the Chicago Board of Trade or the state of Illinois established an inspection system to curb the malpractices of the

⁴ Kantarjian, H. M., Fojo, T., Mathisen, M., & Zwelling, L. A. (2013). Cancer drugs in the United States: Justum Pretium—the just price. *Journal of clinical oncology*, 31(28), 3600.

⁵ Bach P, Salz L, Wittes R. In cancer care, cost matters. *New York Times*. 2012 Oct 15;:A25

⁶ HERITAGE, C. L. (2014). PRIMER ON CORE CASE LAW IN US PUBLIC UTILITY REGULATION.

⁷ Barnes, R. (2011). Revisiting the public right to fish in British waters. *The International Journal of Marine and Coastal Law*, 26(3), 433-461.

⁸ Johnson, James C., and James M. Highsmith. "Munn v. Illinois (1877): A Centennial Evaluation." *Journal of Transportation Law, Logistics, and Policy* 76.2 (2009): 234.

⁹ Kitch, E. W., & Bowler, C. A. (1978). The Facts of Munn v. Illinois. *The Supreme Court Review*, 1978, 313-343.

elevator managers. The real question that needs to be asked is how the free market enterprise could solve this problem.

The free market solution would have been more sustainable and would have ensured fairness. The market would have achieved this by the self-interest mechanism where due to free choice the farmers would choose that elevator and warehouse who had a reputation of being honest. This mechanism would force others in the competition to give a good quality service. Each warehouse manager would have been a well behaved business actor if it had been left to a free and competitive market. I don't see a stronger case for a competitive and free market than this yet many interventionists use the Munn vs. Illinois as a case for more intervention.

The Munn fiasco was followed by the Interstate commerce act in 1887 {Marshall & Weingast (1989)}¹⁰, which has passed through various stages of evolution {Hilton (1966)}¹¹. The Interstate commerce commission was followed by the 1890 Sherman act of antitrust regulations please see {Bradley (1989)}¹² {Sklar, 1990}¹³. It is worth mentioning here that the Sherman act did not receive any appreciation by the professional economists rather most of the experts of economic profession were against it {(Mathew. 1998)}¹⁴. The Sherman act was followed by the Clayton Act of 1914 {Launer and McGinn (2013)}¹⁵. The Clayton act was not that different from the Sherman act as was the case made by some scholars immediately after the bill was passed, please see {Davenport (1915)}¹⁶. However, it was another hit at the efficient free market enterprise. And this happened ironically in the land of *laissez faire*.

In the decades that followed there was scholarly work that appreciated the fact the Clayton act was a failure please see {Esch (1948)}¹⁷. The whole point of these legislations, the Sherman and the Clayton acts, was to prevent mergers and stock acquisition of one firm by another big firm. It is understandable that economists and economic literature disapproved of it and because the act goes against the basic human instincts and human behavior. Even in the presence of these acts the mergers and acquisitions were still happening. The absence of these acts would have created incentives for companies to perform better and that would lead to a happy consumer but instead it tries to regulate competition which led to its effectiveness and failure. There were exist other examples of the government regulations such as the Robinson Patman Act of 1936

¹⁰ Gilligan, T. W., Marshall, W. J., & Weingast, B. R. (1989). Regulation and the theory of legislative choice: The Interstate Commerce Act of 1887. *The Journal of Law and Economics*, 32(1), 35-61.

¹¹ Hilton, G. W. (1966). The consistency of the interstate commerce act. *The Journal of Law and Economics*, 9, 87-113.

¹² Bradley Jr, R. L. (1989). On the origins of the Sherman Antitrust Act. *Cato J.*, 9, 737.

¹³ Sklar, M. J. (1990). Sherman Antitrust Act Jurisprudence and Federal Policy-Making in the Formative Period, 1890-1914. *NYL Sch. L. Rev.*, 35, 791.

¹⁴ Mayhew, A. (1998). How American economists came to love the Sherman Antitrust Act. *History of Political Economy*, 179.

¹⁵ Launer, S., & McGinn, W. F. (2013). The Interstate Commerce Commission and the Anti-Trust Acts. *St. John's Law Review*, 20(1), 2.

¹⁶ Davenport, D. (1915). An Analysis of the Labor Sections of the Clayton Anti-Trust Bill. *Cent. LJ*, 80, 46.

¹⁷ Esch, H. H. (1948). *Failure of an anti-trust act: a history of section seven of the Clayton Act*. American University.

{Haslet(1948)}¹⁸ {Calvani & Breidenbach,(1990)}¹⁹, Celler-Kefauver Act of 1950 please see {Luchansky & Gerber, (1993)}²⁰ Some other notable contenders for so called consumer protection heroism also include the packaging act of 1966 please see {wall (2002)}²¹ and the Consumer Credit Act of 69{{Boyd,(1969)}.²²{Moran (1970)}²³.

The history doesn't end here there have been many other attempts of Government intervention through regulation. The purpose of the discussion above was to display the brief history of the way the US government, the torch bearer of freedom trespassing its boundaries, takes away consumer freedom in the name of protection.

The US was in fact a British Colony and the concept of state was different in Britain. The UK, like many other European countries, was acquainted with the interventionist state. Understanding the brief history of regulation in the UK is therefore important to understand the dynamics of state intervention in the Sub-continent, specifically Pakistan.

The UK, State and State Regulation

Although there has been a history of Britain as a Monarchy therefore the British are multiple eras that serve as starting points of the British experience of regulation. However, I would like to begin with the Test acts of the 1670s. The way catholicism was targeted by the state and the right of choosing one religion other than the state religion was a crime and the free act was penalized by the state as the right to education and other civil benefits were determined by the religion one opted for please see {Golson (2008)}²⁴ {newman(1994)}²⁵.

If this brief description of so-called test acts appears illogical and unfair to you then I would think that you may understand the next part. Intervention is intervention whether its religion, imposition of values or the meddling with market forces and delusional thinking that the market can and has to be steered and regulated will always lead to catastrophe. There is no justification of looking at these differently.

The Test acts are not a mere historical account of abritality of monarchical state; rather it has some important lessons to understand the “philosophy” of intervention. These acts were put into place after the monarchy was restored under Charles the second. The new king was a flexible

¹⁸ Haslett, J. T. (1948). Price Discriminations and Their Justifications Under the Robinson-Patman Act of 1936. *Michigan Law Review*, 46(4), 450-480.

¹⁹ Calvani, T., & Breidenbach, G. (1990). Introduction to the Robinson-Patman Act and Its Enforcement by the Government. *Antitrust LJ*, 59, 765.

²⁰ Luchansky, B., & Gerber, J. (1993). Constructing state autonomy: the federal trade commission and the Celler-Kefauver Act. *Sociological Perspectives*, 36(3), 217-240.

²¹ Wall, E. (2002). A Comprehensive Look at the Fair Packaging and Labeling Act of 1966 and the FDA Regulation of Deceptive Labeling and Packaging Practices: 1906 to Today.

²² Boyd, W. E. (1969). Federal Consumer Credit Protection Act--A Consumer Perspective. *Notre Dame Law.*, 45, 171.

²³ Moran, R. D. (1970). Relief for the Wage Earner: Regulation of Garnishment Under Title III of the Consumer Credit Protection Act. *BC Indus. and Com. L. Rev.*, 12, 101.

²⁴ Gibson, W. (2008). The limits of the confessional state: Electoral religion in the reign of Charles II. *The Historical Journal*, 51(1), 27-47.

²⁵ Newman, P. D. (1994). " Good Will to all men... from the King on the throne to the beggar on the dunghill": William Penn, the Roman Catholics, and Religious Toleration. *Pennsylvania History: A Journal of Mid-Atlantic Studies*, 61(4), 457-479.

and tolerant man (tyson, 2009) ²⁶ However, the parliament in its attempt to keep the catholics away from the government and carry on with the progress of anglican church was able to pass the test acts and enforce them properly. These acts had a much wider political objective rather than a religious one. The state thus used religion. Piety and virtue as a justification for market intervention, the underlying logic was that the state knows the best, the state can preserve the sanctity and piousness of the society and therefore this invention is justified but was it? Did it serve its purpose? Wasn't Charles the second the same person who assured king louis the 14th that he would convert to catholicism isn't it contradictory that the most profound symbol of the state the "king" who enforced the puritan laws was himself giving sureties to french that he would convert to catholicism? Please see {Glickman(2013)}²⁷{Huton(1989)}²⁸This is proof that the state intervention is nothing but a means to limit civil liberties so that the elite can get away with the capture while; the poor are more concerned about values and sanctity of the state. No wonder around the world we would find that the patriots and nationalists are mostly from the poor and middle class please see. {(Kindle , 2019)}²⁹ for details.

The Test acts and the post interregnum period tell a story of how the British state where the monarch or in the period before the restoration, the Cromwell dictatorial years has shown its visibility in the society. The regulation was thus a by-product or a result to the nature of the British state regarding visibility making its presence known or weber would say displaying its monopoly of violence. The British state through its grants of licenses for the antlinc trade, its taking over of colonies from the East India company and the serfdom culture of the nobles all point to the fact that the British state was more visible in the daily affairs of the society. The British state regulated the tax revenue, the estate management and the grant of titles to land and nobility. And they took this model of visible interventionist state to the colonies that it acquired. Britain was not alone, its neighbors have also shown mindless tendency towards a visible and interventionist state for example the prussian state under the Wilhelm the second see {Kohlrausch(2016)}³⁰.the dutch have their own history of an interventionist freedom curbing state please see {Baena (2011)}³¹{Gelderen (1998) and French Revolution , one of the biggest and most significant events in the history of the world, was a response to an oppressive and interventionist state system.

The british were not the only one rather the above discussion shows that the european states showed their visibility through interventions but the british stand out because of two main reason,(1) they were able to keep order for most of the time despite the interventionist nature

²⁶ Tyson P.T (2009) *Test Acts* — an annotation to Thomas Carlyle's "Signs of the Times" 2009 retrieved 02/21/2022 from <https://victorianweb.org/authors/carlyle/signs/testacts.html#:~:text=The%20Test%20Acts%20of%201673,any%20civil%20or%20military%20office.>

²⁷ Glickman, G. (2013). Christian Reunion, the Anglo-French Alliance and the English Catholic Imagination, 1660–72. *The English Historical Review*, 128(531), 263-291.

²⁸ Charles II, H. R. (1989). king of England, Scotland and Ireland. *Eikon Basilike with Selections from Eikonoklastes*.

²⁹ Kindle, P. A. (2019). Review of Broke and Patriotic: Why Poor Americans Love Their Country. *Contemporary Rural Social Work Journal*, 11(1), 4.

³⁰ Kohlrausch, M. (2016). Kaiser Wilhem II and the Visibility of the Monarchy in Germany. In *Mass Media & Monarchs*, Date: 2016/05/26-2016/05/26, Location: KU Leuven.

³¹ Baena, L. M. (2011). *Conflicting words: The peace treaty of Münster (1648) and the political culture of the Dutch Republic and the Spanish monarchy* (Vol. 13). Universitaire Pers Leuven.

found in the veins of British monarchical state and (b) they were able to export this to their colonies and successfully use it as a weapon of expropriation and extraction.

There are many other examples of state intervention in British history, for instance the appointment of inspector to regulate the railway companies under the 1844 railway act the railway franchises and company vehemently opposed the state regulation. Other than the inspections there were other restrictions on railway operations for instance a ceiling on profits if profits of a line exceeded 10% as a percentage of its stock and the act also gave the government the right to nationalize if a company had more than 10% annual profits. The act influenced the interstate commerce regulations in the US and served as a rationale for price and quantity regulation and therefore is significant in terms of its impact over time and space. The act has served as a basis for defining basic structure of monopolies in the commonwealth, the US and other countries and therefore warrants academic attention from an economics lense {Maclean & Foster (1992)}³²{Maclean (2002)}³³ The act remained enforced until the 1960 transport act. The rational was the tacit unspoken doctrine that laissez faire is the norm and will only be violated in the greater good {Bailey(2003)}³⁴..

There were other interventionist policies like for example the nationalization of telephone, telegraph and many public utilities. The mode of this nationalization was inspired by the model given by Herbert Morrison. This nationalization has a flavor of socialism. The aberfan tragedy that took place in 1966 opened a new chapter in history of british regulations {Mclay(1966)}³⁵ {Cundy (2016)}³⁶.

The history of regulations in the UK post 1966 Aberfan disaster and has much to offer but since the part of the objective of the current piece is to understand a link between the British colonial state and the regulations mechanisms of postcolonial subcontinent specifically Pakistan so therefore we depart to British era of the subcontinent after briefly discussing the regulation history of the Subcontinent in the times that preceded the mughal and british era.

Ancient India, the concept of the state

Unlike the British and European models of state the Indian version is very different.in Indian State has been an enchanted concept. An entity that is most powerful, sacred, divine but at the same time invisible to a large extent. The Aryan social order of caste system that has prevailed in Indian society provides for an occupational caste system. The boundaries of each caste are defined ³⁷ and the entity that has set those boundaries is far above humans; it's a superhuman entity and all humans here will be united with the superhuman entity. This union is called mukti and mukti is the objective and this blessing is bestowed upon the righteous. Therefore , the state has always

³² McLean, I., & Foster, C. (1992). The political economy of regulation: interests, ideology, voters, and the UK Regulation of Railways Act 1844. *Public Administration*, 70(3), 313-331.

³³ McLean, I. (2002, November). The origin and strange history of regulation in the UK: three case studies in search of a theory. ESF/SCSS Exploratory Workshop The Politics of Regulation.

³⁴ Bailey, M. F. (2003). Railway regulation in 19th century Britain: the economic rationale and legacy of Gladstone and Chadwick. *University of Ulster (draft of 4 July)*.

³⁵ Maclay, D. T. (1966). Aberfan Disaster. *British Medical Journal*, 2(5521), 1075.

³⁶ Cundy, L. (2016). Aberfan. *Attachment: New Directions in Relational Psychoanalysis and Psychotherapy*, 10(3), 246-249.

³⁷ Bose, S., & Jalal, A. (2017). *Modern South Asia: history, culture, political economy*. Routledge.

remained a business of just one class see kaviraj (2005)³⁸ The Brahmins the priestly class, the kshatriyas the political elite or the rulers and soldiers and the vaishyas are the farmers and merchants while the sudras are the lowest caste {Jalal and Bose pp 15 (2017)}.³⁹ the order has never been challenged. It is accepted as divine and GOD given therefore even if the king had wanted to change it, he couldn't.

The state was invisible, it was not seen everywhere. The most visible presence of these state was felt in and around the palace walls. As one moved away from the palace the center, the hold of the center became weaker and weaker. The state never intervened in the divine order given by the super human entity and the people never questioned the order. The Brahmins were the interpreters of the text and thus had an interest that this status-quo was maintained. Even in this exotic environment, where questioning the divine was never allowed, there came a solution from the market. More egalitarian faiths like those of Buddhism and Jainism presented a better option for those who were suffering at the hands of the Vedic order.

But the focus in this section was to introduce the concept of state in the Indian context. The state has always remained aloof from the society in India. The Indians were not accustomed to seeing state and state symbols everywhere around. The state visibility was there in case of collection of taxes and that too was in a different manner not in the form of taxes and produce that the colonial state used to take. Secondly, one could feel the state in and around the palace walls and lastly the state showed itself when the Vedic order was challenged (if there were any)... But the traditional Indian state and the Vedic order was changed by ommayad Muslim expansion as isalm came to India. With the advent of Islam, a new chapter began in Indian history.

The Muslim period, the concept of the state and state intervention

Islam as a religion was introduced long before the conquest by Muhammad Bin Qasim. It was the Arab traders that had brought with them islamic teachings. However, the Islamic state system established in India was also not that visible as its successor colonial British state was. Kaviraj (2005) opines that the Muslim state and its premodern predecessor the Hindu state both had remained aloof from daily business of the society.

The post ommayad Muslim state especially towards the mughal era was a persianised islamic state carrying on it Persian imprint and flavor. Kaviraj is of the view that in Persia too the king had remained separated from the society. The majority in Persia or khorasan was that of Muslim but unlike the rest of the Muslim world this region had seen a number of non-muslim rulers. The islamic scholars according to kaviraj used the Aristotelian concept that propagated it that for a society to flourish the king must give religious freedom to his subjects. And the scholars succeeded in such a social contract. So it was a political choice for the Persian king to not interfere in the daily business of the society. The mughals carried this imprint on them and hence as odd as it may sound there was some similarity in the ancient Hindu state and the Muslim state that followed. .

The British period

Then comes the British period. The English who were accustomed to an interventionist state under a complete monarchy as well under a parliament. . The way the British defined the state

³⁸ Kaviraj, S. (2005). On the enchantment of the state: Indian thought on the role of the state in the narrative of modernity. *European Journal of Sociology/Archives Européennes de Sociologie*, 46(2), 263-296.

³⁹ Bose, S., & Jalal, A. (2017). *Modern South Asia: history, culture, political economy*. Routledge.

was very different from the way the state was understood in India. India had no concept of state that exerted its power so nakedly, and regulated the everyday business of life so minutely. The state showed its visibility everywhere. It intervened in the social, political, economic and even religious life of the people. Examples include the tradition of *satti* which had remained for centuries but was no longer allowed by the English. Similarly there were many interventions in the *mulim* way of life. The state tried to regulate the society in every way possible and deemed fit by the state.

The tax system, the numberdars, the revenue courts, a colonial barbaric police as some writers have rightly called that the brutal /Royal Irish Constabulary model was perfected in India, all were symbols of intense intervention of the state.

The state was able to capture the market by force, disrupt the market forces by using its coercive power and ability to steer the market outcomes in its favor. The state had a business with you if you wanted to do any business even if that was starting a fruit cart at a bazaar. The police of colonial India had a legal cover to intervene on behalf of the state. The state itself was a market player, the biggest one. One that enjoyed dominance and monopoly of coercion. From prices to sowing of crops each and everything was regulated and tight control was exercised by the state. Laws were enacted, acts were passed and the state adopted laws and acts that favored it. An extractive system thus came into being. The literature on institutional economics such as Acemoglu *et al* (2001)⁴⁰ Acemoglu *et al* (2005)⁴¹ advocate emphatically that the colonial state established extractive institutions but if we look closely at the definition provided by Acemoglu and Robinson of what attractive institutions are, it becomes clear that extractive institutions as defined by them are extractive because the state intervenes in them therefore state intervention is a crime. There may be very few times where some surgical intervention is justified but on whole it brings with it inequality, poverty and backwardness. The colonial state designed these institutions and they persisted in and are having an effect even today. , Acemoglu & Robinson (2008)⁴² and this explains the way the state behaves in Pakistan and India i.e. its a legacy of colonial state. and in some case it had become even more extractive and is detrimental to growth and development since it influences market outcomes.

Post colonial Pakistan

In today's Pakistan from opening a small shop in the market to operating a food chain or running a limited liability company, one has to acquire tons of licenses from the ministry of interior, board of investment, and many others. The FBR will come right after you if you have earned something and created employment. The investor will be chased by FBR and others if he is lacking political connections, however if he has friends in the state which often have to be purchased then one is safe. The government has its business everywhere. It is the largest and biggest market player. According to a study by PIDE authored by Dr. Nadeem ul haq and Raza Rafiullah the government

⁴⁰ Acemoglu, D., Johnson, S., & Robinson, J. A. (2001). The colonial origins of comparative development: An empirical investigation. *American economic review*, 91(5), 1369-1401.

⁴¹ Acemoglu, D., Johnson, S., & Robinson, J. A. (2005). Institutions as a fundamental cause of long-run growth. *Handbook of economic growth*, 1, 385-472.

⁴² Acemoglu, D., & Robinson, J. A. (2008). Persistence of power, elites, and institutions. *American Economic Review*, 98(1), 267-93.

Footprint is around 67%. Haq and Rafiullah (2020)⁴³ argue that taking into account the statutory regulatory audiences and account for the red tapism and regulations the actual footprint of the government in the Pakistan Economy is more than 67%. The state owned enterprises are also to be accounted for if the Government role is to be studied. For instance there are 7 broad sectors including; energy, financial, trading, industry, services, transport and advocacy⁴⁴ Pakistan has an economy where the government acts as a business player in the entire economy. It is sometimes influencing the market through regulations and other times there are state owned enterprises.

There are few examples where in we see the state led development strategy bringing some positive results for example Korea under park-chung hee but as the Korean economy understood the need to appreciate and welcome technology innovation and competition it had to reduce the government involvement in the economy and transform into more market based structure. Its role as a player therefore ended and was replaced with the role of the state as a referee. See {Noland, 2005}.

In this backdrop it's quite understandable that in an economy like that of Pakistan the Government had to play a role as a player but those advocating for it do not appreciate that the modern world economy warrants a structure of free market enterprise. The 67% government footprint estimated by Haq and Rafiullah (2020)⁴⁵, is an alarm bell and this means that in the entire economy there is only 37% where private enterprise is active. So it wouldn't be wrong to say that the economy is driven by 37%. It is this segment from where we have cost efficiency techniques, innovations, and effective strategies coming out. An increase in the non government share would definitely mean that the Government will have to reduce its share of the Pie. Otherwise the whole PIE might rot and even worse economic scenario may follow.

Regulation, Nationalization waves and the POST-SAP denationalization

Looking at the regulation history of our metropolitan colonial state the UK, and one of its other colonies the home of free market enterprise we see a linear trend. The state intervention has been there and has had many negative economic implications. But there has been a pattern, a linear pattern of evolution and at some points the system had to reconcile with the market. The history of regulation in Pakistan has not been a linear path rather it's a zig zag web like path where at some point everything is nationalized and at others a total 180 degree turn takes place and reprivatization is considered the only remedy. So this to and fro moment has stopped the economy from evolving into a competitive economic machine.

At the eve of independence Pakistan had inherited state structure from the colonial legacy. The metro elites were replaced by local elites and the state structure made the state machinery operate in the favor of the elites. So in the ground much did not change. An uncertain future made Pakistan sometimes take paranoid decisions, for instance the Bhutto years introduced a nationalized economy to the society. As a response to the 22 families, the exclusive licenses policies and other such regimes the Bhutto nationalization drive was appreciated and gained

⁴³ Haque, N. U., & Ullah, R. R. (2020). *Estimating the Footprint of Government on the Economy* (No. 2020: 26). Pakistan Institute of Development Economics.

⁴⁴ *ibid*

⁴⁵ Haque, N. U., & Ullah, R. R. (2020). *Estimating the Footprint of Government on the Economy* (No. 2020: 26). Pakistan Institute of Development Economics.

public support as well so no doubt it was good politics but was it good economics ? As Friedman would say that it is a mistake to judge a program based on intentions rather it's the results that matter/ so what were the results? Were the results as productive as intended (assuming that the nationalization was well intended)?

The results were not as intended. The claim was to counter the concentration of wealth in a few hands but what happened was the opposite. The inequality remained as it was rather in some cases it worsened. The small and medium scale industries like cooking oil and cotton were nationalized leading to a severe blow to the participants of the industry. Three were state enterprises established which served political purposes and as a whole the economic efficiency of Pakistan was adversely affected. The investor in-house and abroad were scared to invest as the government had a threatening rhetoric symbolized by Bhutto's famous statement "i will skin the businessmen alive if they do not come to terms with the Government please see (Zahoor and Asif 2018)⁴⁶

The ranks were shuffled and not eliminated. The industrial houses or big guys were shuffled. For instance the Dawood group and Crescent group became the number 1 and 2. In the pre-nationalisation times the Siegel were at the number 1 who then traded their place with the Dawood group in the new setting. So it was more of a reshuffle than a reformed structure {Zahoor and Asif 2018}⁴⁷. quoting data from (Shafqat, 1997)⁴⁸,

The Nationalization policies also affected the otherwise well performing equities market of Pakistan rather the interventionist policies of Bhutto regime were the reason that the Pakistani equity market couldn't perform until the liberalization that took place in the 1990's post-SAP's {Hussain and Qaim (1997)}⁴⁹. This post SAP's efficiency were also observed in the banking sector⁵⁰ {Iimi, (2003)}.

The Bhutto regime seized around 200 million US\$ worth of assets of more than 20 firms⁵¹ in the private sector. This was the biggest ever takeover rather than the first ever in the history of Pakistan. The New York Times reported in 1972 this news but what is more relevant to this discussion is the irony of the stance of Bhutto and his finance minister that the Times reported towards the end of the piece,

"Both the President and his Finance Minister, Dr. Mubashir Hasan, said that no foreign investment would be affected"

In the rest of the world as discussed in the previous two sections on UK and USA we have seen Government regulations but those have been more of surgical kind. It is not to say that surgical interventions are therefore justified or the interventions in the US or UK are therefore having better results but merely to point out that that disastrous effect of government regulations was

⁴⁶ Zahoor, M. A., & Asif, A. (2018). Political and economic dimensions of nationalization of industries under Zulfikar Ali Bhutto. *Pakistan Journal of History and Culture*, 39(2), 134.

⁴⁷ ibid

⁴⁸ Shafqat, S. (1997). Civil-Military Relations in Pakistan, Boulder.

⁴⁹ Hussain, F., & Qasim, M. A. (1997). The Pakistani equity market in 50 years: a review. *The Pakistan Development Review*, 863-872.

⁵⁰ Iimi, A. (2003). Efficiency in the Pakistani banking industry: Empirical evidence after the structural reform in the late 1990s. *The Pakistan Development Review*, 41-57.

⁵¹ <https://www.nytimes.com/1972/01/03/archives/pakistan-orders-nationalization-of-10-industries-bhutto-moves-to.html>

to some extent curtailed due to the surgical nature. The impact mostly remained limited to the industry itself. For example there was the Clayton act regulating mergers and acquisitions or the packaging act of 1966 in the USA while the 1944 railway act in the UK can be quoted as the examples of the surgical intervention. However, in case of Pakistan it was not intervention, it was captured and one can only wonder how the administration at times could say that foreign investment would not be affected by this acquisition.

Sequence of the nationalization⁵²

year	Industry
1972	32 basic Industries and three Life insurance companies
1973	26 ghee companies
1974	All commercial Banks, petroleum (marketing and shipping) companies. The remaining insurance companies in the private sector
1976	State took control of the SME sector, rice, wheat and sugar mills around 2,000 ⁵³ units nationwide

So the nationalization in Pakistan was a sweeping nationwide program. It was believed by the so called desi Pakistani socialists which some literature refers to as Islamic socialism was some sort of magical cure that would bring in equality. The very reason or pre-reqs of growth “the free market enterprise was considered as the source of the inequalities. The Finance minister called the 22 families as “robber barons” while the banks as their facilitators. it was wrong to make the the “robber baron” analogy as the “robber baron” itself has been a myth according to some prominent free market activists and academics like Milton Friedman. While the widespread belief is that during the 19th century the rich became rich at the expense of the poor and the financial institutions helped them. Friedman argues that the people who became rich actually became rich due to the free market enterprise and the only reason was that they were being productive and the market reward productive members of the society. In fact, according to Friedman the so called robber baron time was the ebay for common individuals for the ordinary men, for the working class. Please see Friedman (1977)⁵⁴.

So as the finance minister had used the terms of robber barons for the private firms who made good money by being productive it was an erroneous statement for the term itself is a myth according to mainstream economic history literature. There is enough data to support it. What is worthy of investigation here is the fact that whether the pre nationalization time was in fact a time of looters, a time of rich becoming richer at the expense of the poor, a time of economic backwardness or was the common man better off in the pre- nationalization private sector led economic growth?

During the 19th century the US experienced a wave of migration. Some of those years are known as peak periods where people left Europe and migrated to America. Friedman argues that would they have done that if the situation was bleak and exploitative as the people of robber baron myth claim? There is plenty of new literature that supports Friedman (1977) for instance

⁵² Asian Development Bank. (2008). Private Sector Assessment, Pakistan, Asian Development Bank Report.

⁵³ Raza, Syed Rasul; Sani Panwar (2008). "5: Nationalization". *Zulfikar Ali Bhutto: The architect of Pakistan* (webbook). Los Angeles, Karachi (Pakistan): Syed Rasul Raza. pp. 29–32

⁵⁴ M. Friedman *Myths that conceal reality* October 13 1977 delivered at the University of Utah retrieved from <https://miltonfriedman.hoover.org/objects/52418/myths-that-conceal-reality>

please see Glaser *et al* 2017⁵⁵, hollifield (2004) ⁵⁶. Pakistan's case is no different. The era that preceded the nationalization of Bhutto, especially the Ayub years, presented a private sector led growth model. The firms that took advantage of the market opportunities excelled and yes they fetched a good amount of profit for the owners, for those who took risk and generated employment and incomes while pursuing self interest economics 101.

Pakistan's growth when led by the private sector in the 1947/1969 era exceeded that of today's industrial giants like China and South Korea. ⁵⁷ Other literature for instance Hussain (1967)⁵⁸ supports that Pakistan's Growth rate of economy outpaced the population growth rate and also exceeded the target during the third five year plan. During the 10 year time from 1950 to 1960 the growth was on average 2.4%⁵⁹. The Population growth rate in the 1950 was 1.9 while in 1960 was 1.8 while Economy/GDP growth rate for corresponding periods were 6.8% in 1960 while 6.5% in 1980's while during the nationalization regimes it was 4.8 (the lowest till then)

The GDP growth rate has been the highest towards the end of the 60's while it drops drastically as we progress into the command style economy⁶⁰. This in itself is an indicator of the havoc that the command style economy created in this country. Had the nationalization project not have taken place it can be said safely that Pakistan's growth trajectory would have been much different.

In the post nationalization Pakistan manufacturing large scale industry dropped by more than 4 %. The large scale manufacturing secretary grew at a rate of 15 and 3 in the decades of 60's and 70's while in the post nationalization period it has only been 3% during the entire period between 72 and 79 Majid (2000)⁶¹.

The Gross capital formation has also been a positive indicator of investor confidence and Pakistan's performance in pre nationalization period was far better than during the nationalization regimes.

Conclusion

The history of development of a country is therefore to a greater extent determined by the history of its regulatory structure, the regulatory regimes and the nature of those regulations. Ideally there needs to be a freely operating market economy for the best possible outcomes however that ideal situation is not possible but a greater freedom of market would necessarily bring results powerful enough to incentivise the society to grow.. True that the businesses affected with public interest will be regulated and the state at some point might have some justification for limited intervention but on the whole the economy should not have the government as a player affected. The greater the freedom of the market the more productive a society will become.

The experience of the USA in the 18th century when it served as a magnet for attracting valued human resources from the rest of the world was because of the relatively free markets compared

⁵⁵ Glaser, R., Himmelsbach, I., & Bösmeier, A. (2017). Climate of migration? How climate triggered migration from southwest Germany to North America during the 19th century. *Climate of the Past*, 13(11), 1573-1592.

⁵⁶ Hollifield, J. F. (2004). The emerging migration state 1. *International migration review*, 38(3), 885-912.

⁵⁷ Asian Development Bank. (2008). Private Sector Assessment, Pakistan, Asian Development Bank Report pp 2-3

⁵⁸ Hussain, A. (1967). Inside Pakistan: An Assessment of President Ayub Khan. *The World Today*, 23(8), 339-347.

⁵⁹ *ibid*

⁶⁰ WDI data bank

⁶¹ Majid, N. (2000). Pakistan: Employment, output and productivity.

to the rest of the world. The US was for a reason called the “land of opportunities”.and this abundance of opportunities has been provided by the market not the state.

In the case of Pakistan things would have been much different if the nationalization experiment had not taken place. Bhutto's nationalization and his finance minister's characterisation of the good businesses as “*robber barons*”, (a term the validity of which is quite questionable due to its mythical nature as discussed in the preceding section) was a move that took Pakistan quite back. Had the market forces been allowed to operate freely the problems of this society would have been tackled market style. Each problem would present an opportunity, an opportunity to find an efficient solution and that is only possible if the right incentives are there. The only entity competent enough to provide human beings is the market and therefore it's best if the daily business of the society is left to the market.