Ethical Subjectivity of the Pirates in India
Survival Ethics, Hindu Morals and Neoliberalism
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Abstract
The essay uses Partha Chatterjee’s concept of ‘civic society’ and ‘political society’ to illustrate the moral and political implications of inhibiting a pirate economy in India today. Civil society comprising of ‘corporate class’ and urban middle class criminalizes piracy through the spectrum of Intellectual property (IP) laws. The absence of a legal framework of pirates in India puts them in a political society where they use informal arrangements to negotiate with the state. The ‘bourgeoisie’ sphere of civil society that is traditionally marked by ‘normative’ aspirations makes the political society devoid of one. Political society is about groups of population including pirates and their use of electoral democracy to get strategic gains. Somewhere the aspirations of the pirates are limited to earning a livelihood using the mechanics of a parliamentary democracy, vote bank politics amongst other things. This essay argues otherwise. Far from a political society of pirates operating in a moral vacuum in India, they have a complex subjectivity. The pirates in the video gaming markets of Delhi grapple with a Hindu moral world, and the IP world. Interestingly, these ideals are part of the civil society in India. I argue by borrowing civil society morals while operating in a political society in India, pirates in Delhi show that Hinduism and neoliberalism are part of a process of extending individual self-interests.

Keywords: Pirate Economy, Ethics, Civil Society, Political Society, Rational Market Actors

Civil Society of Corporate Class and IP Laws

You buy counterfeit goods, government gets no taxes, which affect welfare schemes, & she stops coming to school!

A billboard with this caption hung in one of the busiest of metro stations of Delhi, Rajiv Chowk in August 2013. Just below the main caption is a photograph of a girl in her school uniform. Close to the photograph it read, ‘Ask for a bill, check the label’. It is not a mere co-incidence that the billboard was in an exit in Rajiv Chowk opening towards Palika Bazaar, one of the largest gray markets in Delhi. Traders in Palika Bazaar sell stolen watches to fake phones to cracked DVDs to contraband video game consoles. The
The billboard is a direct attack on piracy and what it has come to signify in recent times. Piracy today includes, ‘counterfeiting, copying, smuggling, and trafficking, which are occasionally separated but more often are grouped together. More precisely, piracy involves the production or movement of goods and services by personnel unauthorized by governments or corporations to participate in the circulatory process’ (Dent, 2012: 29).

The billboard reflects the intolerance of the Indian government towards any act operating outside the ‘legitimate frameworks of circulation and use’ (Simone 2006). It interestingly uses two registers to speak about the government’s condemnation of piracy; one is economic and other moral. From an economic point of view, piracy does not allow the government to get its due revenues that it can use for developmental and other welfare schemes. Morally, the billboard suggests that piracy blocks the education of a girl child. Especially with a dismal sex ration and increasing violence against women, this is a moral campaign that few can ignore in India. Historically, the discussion about rights, responsibility and morality are framed within the concept of a civil society. In Western normative theory, ‘civil society has been defined as a domain for the expansion and realization of rights and freedom’ (Sarkar, 2012: 31-32).

Given presently the civil society in India tilts towards anti piracy sentiments, it indicates a particular type of civil society. The concept of the civil society has undergone changes in India. Sudipta Kaviraj (1988) for instances notes that the primary alliances in the civil society in the country during independence were between rural landed elites, urban bourgeoisie and bureaucrats. These alliances continued until about the 1980s when the cracks of a state led bureaucracy and license raj became obvious. After the deregulation measures undertaken by the government in the 1990s, the changes made to the civil society come to the fore. Partha Chatterjee argues after the 90s although the Indian state continue to be more or less autonomous, with the hold of the bureaucrats weakening in the dominant class alliances, we see the ‘corporate class’ setting the agenda of progress for the country. The ‘corporate class’ of big business houses is the principal player of the ‘civil society’ in the current times. The expanding New Middle Class (NMC) of urban professionals become a primary ally of the ‘corporate class’ in India and depends on the corporates to bring in more transparency and efficiency into the system.

Although Partha Chatterjee does not posit the changes made to the civil society in recent times to that of the growth of neoliberal sentiments in India, the features of it cannot be seen isolated from the global and national context of the rise of a market logic in running the economy. Amongst the many features indicating of the growth of a neoliberal ‘civil society’ in India are the increasing importance attached to capital and the rise of laws protecting the accumulative tendency of capital. Münster and Strümpell argue ‘under neoliberalism, the hegemony of corporate capital remains confined to “civic society”, that is, the urban middle class and the elites, whose members are not only formally citizens like everyone else but also behaves in a “civil” way-for example, utilising the formal workings of the law-and are treated as such by the state’ (Münster and Strümpell, 2014:10).

The reason that the current civil society is intolerant towards piracy is because acting under a neoliberal regime; it finds the increasing number of actors in a competitive market field alarming (Dent, 2012). The Intellectual Property (IP) laws become one of the
important laws carving out the domain of the civil society and its distance from the pirate economy. India by this logic of accumulating profit for the few is a signee of major copyright laws in the world including the elaborate TRIPS Agreement (Trade-Related Aspect of Intellectual Property Rights).

The Political Society of Video Gaming Pirates in India

While civil society in a neoliberal word comprises of the elites, business class and urban professionals, the other side is the political society that is characterized by informality and ‘non corporate capital’. Partha Chatterjee (2004) argues ‘the form of government regulation of population groups such as street vendors, illegal squatters, and others, whose habitation or livelihood verge on the margins of legality, as political society’ (Chatterjee, 2008: 58). The pirate economy in Delhi, Lajpat Rai Market, Palika Bazaar and Nehru Place falls under this category of a political society of informal labour laws and gray products. Lajpat Rai Market situated in old Delhi is a wholesale market of video games in Delhi. It stocks original video games DVDs and consoles, Chinese made copies, locally manufactured games and second hand DVDs of video games. Palika Bazaar situated in central Delhi is primarily a retail market of video games. It sells original DVDS of video games and consoles, cracked gaming consoles and second hand DVDs/CDs of video games. In Nehru Place, mobile street vendors mostly sell cracked DVDs/CDs of computer games.

Pirate Economy and Ethics

Partha Chatterjee’s seminal essay, ‘Democracy and Economic Transformation in India’ continues with his original conception of civil society as the sphere of norms, rights and ‘property’ and political society as ‘the space where population are governed by and looked after, often by ignoring and violating civic norms’ (Chatterjee, 2008b: 91). His article received many rejoinders. Some of the issues raised by the critics were about the importance cast to civil society and subsequent passivity attached to political society as a sphere of transformative politics. For instance, Chatterjee observes in his article that the extent of the politics and ethics of the political society is to negotiate with ‘governmental agencies with the conditions for meeting their basic needs of livelihood’ (Chatterjee, 2008a: 55). Although Chatterjee (2008b) later revised his position in broadening his idea of political society to include morality, he does it in terms of ‘moral passion’ and ‘populism’. Chatterjee argues, ‘populism is the only morally legitimate form of democratic politics today’ (Chatterjee, 2008b: 92). Sarkar (2012) sees the problematic of casting morality in political society in the realm of passion and populism. He argues ‘the analysis of governmentality entails the study of a very specific domain, namely the mode of application and transformation in governmental rationality and power, and resistance to it. This does not exhaust the possibilities of analyzing other domains of power relationships’ (Sarkar, 2012: 46).

In order to have a more nuanced understanding of the political society is to analyze them directly through the subjects that inhabit them and what kind of political and normative subjectivity that emerge within it. In the case of the pirates in Delhi, morality is not
limited to negotiating with the democratic politics of the day but traverses different axes functioning in an informal economy of video games in India.

In recent times, ethics in the case of framing a subject in India is studied critically. Anand Pandian for instance, using a Foucauldian lens of ethics as a broader disposition to lead one’s life. He tries to ‘grasp the making of an interior selfhood through other cultural traditions of self-engagement’ (Pandian 2010:65). The essay follows a Foucauldian trajectory linking the making of a subject in a specific historical context to the search for a virtuous self on some higher principles (Foucault, 1983; Foucault, 1998; Kelly, 2013). The engagement of the video gaming pirates in Delhi with ethics emerges in a similar subjective light where the lived context intersperses with moral codes. All the traders in the three markets make ‘involuted’ enquiries to their lives and came out with a much more nuanced perspective of what their ethics are.

**Survival Ethics**

In the electronic bazaars in Delhi, survival ethic sustains a fight to exist in a competitive urban environment. If the traders do not hold on to their daily commercial transactions, they could perish from the urban economy. The primary rationale attached to the spirit of survival is to earn at any cost. A trader has to think of his immediate material requirements and give his best in each and every market transaction. The survival ethic in the bazaars does not leave much scope for contemplation. When it comes to the matters of surviving or perishing in the urban economic scene, the traders do not have the luxury of politicizing life beyond its biological disposition (Fassin, 2010).

*Gazaarish ke liye sab kuch Jayeez Hain! (Everything is Fair in Survival!)*

Vikram, a street vendor in Nehru Place says with a pragmatic tone, ‘you can follow your virtues when you have money, if not then you are just thinking about your own survival’. The traders in all the three markets have various arrangements with police officials and other shopkeepers to pursue their illegal business activities. This includes mostly practices of bribing to keep all the potentially risky situations in the market under check. The pirates have connections with the right people in the markets that facilitate the transactions of money with different government officials.

On a particular day, Saurav, a street vendor in Nehru Place cheats a consumer by giving him a wrong DVD of a computer game. The consumer had asked for the fifth installation of *Grand Theft Auto*. Saurav had the cover of the title without any DVD. He skilfully placed another DVD within the cover and sold it. Saurav felt it wiser to replace the DVD at the right time rather than relinquish the money coming to him.

In the spirit of fighting for survival, all other considerations of social etiquette were put on hold. Many a times, the traders would be seen bargaining incessantly with the regular customers. They were adamant in acquiring every penny of the profit available to them. There were times when the traders would accuse each other of being unfair at the slightest provocation. The traders were not in a position to have value judgments about the modes of earning when they were fixated with making a living in the first place.

*Samay Bech ne se Pehle Apna Aap ko Becho! (Before You Sell a Product Sell Yourself)*

4
One of the striking sentiments attached to the idea of surviving in the bazaar is to stop at nothing. Not only is the value system open for negotiation, the physical body is also put to test. The discomfort of the physical body is ignored over the energy required for each transaction in the market. I am using a conversation at Govind’s shop in Palika Bazaar to show the amount of persuasion and convincing that goes behind the sale of a product. Govind one afternoon is talking to a group of high school students in his shop.

Govind: Come here! What are you looking for?
Consumer: I want to sell the used PlayStation 3 DVD of Grand Theft Auto V
Govind: How many times have you used it? I hope there is no scratch.
Consumer: I have played it once. It is in great shape.
Govind: How much do you want for it?
Consumer: 1600 rupees (24$). I bought it for 3000 (60$)
Govind: Kid! Are you coming to the market for the first time? Do you have any idea what are the present rates in the market for used DVDs? Give us a decent price! We are not paying anymore than 900 rupees (18$)
(Slighted by Govind calling the consumer a ‘kid’ or an immature dealer, there is some commotion amongst the young men. They are contemplating whether to stick to the shop or try another one. They bounce back with the information at their disposal).
Consumer: We have checked the price on OLX (a website for secondhand goods). It is paying us 1500 (30$).
Govind: Do you even know how it is to deal with OLX? It will first list your DVD on the web and then wait for interested consumers. If it gets anyone, the website will first forward your number to the person. After that it is your headache to arrange a meeting and give the buyer your product. Then you have to ensure that you get paid the correct amount for the sold product. It is not automatic!
Consumer: We know the process that is why we have come to the shop. But we want at least 1200 (24$).
(Govind realizes that his scheme of direct bargaining and belittling the consumer was not working in his favour and decides to change his strategy altogether. He shifts the topic of conversation).
Govind (pointing to his assistant says in a jocular tone): Look at him, how thin he is! Don’t you want to treat us with something to eat? We can all do with some samosas (Indian snacks) and tea. You all look like nice young men. Come on! You people can spare us some money (At this point the assistant getting his cues jumps into the conversation).
Assistant: How nice of them! We are going to have free evening snack today.
(Govind meanwhile calculates how much money would be required to feed everyone at the shop, eight people including me. He quotes the price at 2$ (100 rupees). All the four young men are baffled and they are reluctantly sucked into the conversation by the sheer spectacle created in the shop. They were in a way obligated to spend on tea because of the attention diverted towards them. It was now hard for them to escape the transaction and appear out rightly disrespectful)
Assistant to Govind (in a loud voice making sure that the consumers are listening): Okay! So we have to pay them 1000 rupees (20$) after deducting the price for the tea. (The young men are hesitant to accept the bargain. Yet, they realize they cannot do much to get out of it. They take their 20$ and leave the shop)

Govind was fortunate to push the transaction until the very end. Many a times the traders spend as much effort in devising strategies only to find the consumers far more stubborn leaving them immensely exhausted. The gruelling routine continues in the bazaars. The traders are drawn to the idea that their survival is contingent on the success of each and every transaction in the market.
Hindu Moral Universe

Traders in Delhi support ideas of ‘selfless service’, and ‘frugality’ as it allowed them to live a virtuous life according to a Hindu moral universe. In the lives of the traders, a ‘techne tou biou’, a ‘craft of life’ was essential. Like the ancient Greeks, the traders sought to find a virtuous life in ‘certain formal principles certain formal principles in the use of pleasures, in the way one distributed them, in the limits one observed, in the hierarchy one respected’ (Luna, 2009: 142). And popular notions of Hinduism were used to build an idea of a moral self.

Humeh Niskam Karma Karna Chahiye! (We should do Selfless Service).

Vikram is a street vendor in Nehru Place. He had come to Delhi in the late 1990s from a village close to Baraut in Uttar Pradesh. Stories from his earlier days are of struggle and loneliness in a new city. His principal contact in the market, Ramesh who came from the same village helped him out. Ramesh had a lamination shop in Nehru Place and over the years, he had built reliable contacts in the market. When Ramesh introduced Vikram as his ‘brother’, to his colleagues, the attitude of everyone changed towards Vikram. From that day on, Vikram was accepted as part of the market. He was included within a group of street vendors and was assigned a spot from which he could target consumers. The gesture of Ramesh was life changing for Vikram in opening many doors in the market. Vikram evaluates his friend’s action relating it to the Bhagavat Gita. He draws illustrations from the Gita that celebrates actions managing to rise over material benefits. Vikram says, ‘It is in the Gita, we should strive for niskam karma (selfless service). Krishna says to Arjuna that not all action has to reap a profit in the immediate context. One should do one’s duty without thinking about the results’. Vikram finds in the Gita reference to selfless service that has a bigger purpose that mere egoistic gratification. Vikram alluding to the Bhagavat Gita evokes a context that is not always available to an ordinary man. It is available to a greater human and is symptomatic of the action and ideas of a better life.

Karobar Mein Sabotage Manobhav Nahi Chahiye! (In Business there should be No Sabotage Mentality)

Govind, a trader in Palika Bazaar narrates a story of Vedic sage to portray the evils of lobh (greed). He says a Vedic sage was keen to know what was the cause of evils. He prayed to God for a long time. In due course, God revealed to him that a prostitute could give him the correct answer. The sage accordingly went to a prostitute and asked her the same question. She did not give him an immediate reply and said if he wanted to know the answer he should stay with her for a month. The sage agreed with the condition that he would have his separate quarter. After a few days of living with the prostitute, one day she offered to cook his meals and bring him a gold coin everyday. The sage thought it was not a bad idea and he could dedicate his free time to other pursuits. Very soon, he started living a domestic life with material comforts. One day he proposed the prostitute to marry him. In the place of one month, seven months had passed. The prostitute as a reply to the sage’s proposal remarked, ‘You came here to know what was the cause of all
The sage understood everything. He coming in contact with wealth and comfort had long moved away from his previous virtuous life.

Govind spoke about how Hindus were more in a position to control their greed than the followers of other religions. Govind thinks greed and a sabotage mentality develops among the Muslims as ritualistic sacrifice is prevalent in the religion. On the contrary, Hindus have strong sanctions against sabotaging other human beings. According to Govind Vasudhaiva Kutumbakam (the world is a single family), the famous saying in Upanishads captures the sentiment of co-existence amongst the Hindus.

**IP Ethics**

*Piracy Chori ke Barabar Hain!* (Piracy is similar to Stealing)

Shailen is a skilful technician in Nehru Place. His everyday chores comprise of selling pirated DVDs/CDs of computer games and installing cracked games in personal computers. Based on his skill and reputation, Shailen manages to secure a decent income from his job. Yet, Shailen does not accept piracy as a right path to earn a living. Shailen argues, ‘we have a Microsoft office (points to a multi storied building) right next to the market. Thousand of employees in there have to meet monthly targets. Otherwise, they get fired from their jobs. It is only the top-level executives whose jobs are secured. Indians hardly rise to these positions. Indians are usually the foot soldiers without any real power. We are not surprised therefore, when we get raids from the Microsoft’s offices. We are directly responsible for the spiralling down of prices. But what can we do! We also have to earn a living’. Shailen sees piracy as tantamount to stealing someone else’s livelihood. He explains, ‘Microsoft is every year spending thousands of dollars in producing games and software and spending another thousand to build security systems. Hackers destroy all their work in one second. Then the pirated DVDs come to the bazaars. We sell software whose market price are 100,000 for only 500 rupees. This is stealing from the company who spend so much time and money in creating a new product’. Shailen was unable to process piracy as something innocent and empowering. He framed piracy in the exact way that the neoliberalism and IP saw it, unabashed copying stifling creativity (Liang, 2010).

*Jo Mechanics Hain Un Logo Ke Paas Degree Nahi Hoti!* (Those who are Mechanics do not have Degrees)

One day at Palika, a repairperson rattles off why he cannot be a successful programmer. Lalit says, ‘Have you seen the expensive machines the programmers use to build a software! The successful programmers get to work with the most powerful computers in the world. We are here working with screwdrivers and borrowed tools. I can never reach the stage of efficiency that skilled software programmer have. It is almost impossible to create things on your own in the market. We are copying invention of others. There is no originality in the market’. The traders associate the professional skills and sophisticated machines with creativity and innovation. According to them the pirate economy on the other hand produce ‘mechanics’ and ‘crackers’ copying each other at the slightest pretext.

Shailen says, ‘Sometimes in the market I am able to install DVDs which even the engineers coming to the market find difficult to work with. Over time I have picked useful skills. I however do not see any future outside of the bazaar. No office will ever
hire me even if I am good at what I do. I don’t have any degree certificate to validate my knowledge’.

Linking skills to professionals and educational degrees ties the process of high skilled knowledge in India with a neoliberal dream. Much of the progress that India has made in recent years in the global IT sector is connected to the loop of graduates coming out of highly specialised engineering institutes in India.

**Neoliberalism, Hindutva and the idea of a Rational Pirate**

The ethics of the pirates in India is layered and is not limited to meeting survival needs. We see pirates use popular Hindu and neoliberal symbolisms to develop their subjectivity. However, the frames used to build a complex ethical universe come from the civil society. IP laws and Hindu moral universe goes hand in hand in a neoliberal civil society especially pushed by the New Middle Class (NMC) in India. Fernandes and Heller (2011) argue ‘The cultural politics of Hindutva provided a unifying political frame that did not disrupt the dominant NMC interests in the benefits of liberalization’ and ‘manage its paradoxical need to produce order and unity amongst its factions, one the one hand, while preserving its dominance through the reproduction of hierarchy and exclusion, on the other’ (Fernandes and Heller, 2011: 507).

It is easy to predict the process of adaptation by the political society civil society morals as a simple process of colonisation of the ‘life-world’ of the political society by civil society. However, it is not as simplistic as that. While at one level, the political society of pirates in India do not create any independent ethics apart from the ones circulating in the elite civil society, they take these ethics more as an elaboration of their own interest rather than these ethics acting out a Gramcian hegemony (Anderson, 1976). This idea becomes clearer when we take into account how Hindutva became a popular ideology. Not necessarily because it catered to some irrational whims of the mass in India. Gopalkrishnan (2008) argues about rise of Vishwa Hindu Parishad (VHP) in India through an optic of maximisation of individual interest. He argues ‘the importance of the “Hindu community” was not a result of invocation of religious identities alone. Rather, this exploration postulates that it built on a partial satisfaction of a material-ideological need of its cadre and its base- while simultaneously converting those needs into a driving force for individualisation and the restructuring of social relations in favour of capital’. Gopalkrishnan (2008) observes the process of capital tying up with Hindutva in mainly two ways, ‘reduction of social processes to individual choice’ and the ideal that ‘divisions within society are unnecessary and pathological; the only division that is of importance is the line between “society” and its Other’. Under the first premise Gopalkrishnan argues just as in neoliberalism, the emphasis is on the ‘utility-maximising’ individual, similarly ‘the utility maximising individual is equivalent of the “good Hindu” in Hindutva-both the centre of the social order and the ideal that order aspires to produce’. Under the second premise elements resisting an individual’s interest are to be restricted. Illegality for instance for neoliberalism and the minorities for Hindutva are ways to restrict conflicting parties. Amongst the pirates in Delhi we observe the adaption of the neoliberal and moral universe of Hinduism in the same light. The pirates attach to Hinduism and neoliberalism as they allow them to create a better version of themselves. Ideas of neoliberalism and Hinduism also restrict the number of actors in a competitive field.
The political society of pirates and their adaptation popular ideas of Hinduism and neoliberalism arise therefore, through an attempt as market actors to better their economic prospects. Under the logic of a *homo economicus*, the paradox of civil society morals existing in political society is solved. In spite of these morals serving the elites in India predominately, these morals inspire the political society of pirates in India to better their life chances. Therefore, unlike the mainstream discourse of pirates existing either as ‘parasites’ or anti-capitalist in the figure of the activists, pirates in Delhi use their moral world to integrate into the world of capital. The survival ethics guarantee them an immediate survival in the way traditionally the role of political society is imagined through the use of different informal arrangements under a parliamentary democracy. But the incorporation of civil society morals of Hindutva and neoliberalism further their interest in building meaning to their pursuit of making money. Hindu symbols used in the market like popular ideas of Hindutva enable the pirates in Delhi to feel good as an economic actor. The pirates in Delhi strive to become a ‘good Hindu’ within the framework of the economy. Neoliberalism, on the other hand opens the possibility of the pirates to prosper if they work under the frame of law. And therefore, the pirates in Delhi go through the dilemma to make a shift into the legitimate sphere that would let them excel as market actors. And both these ideals let the pirates imagine themselves as the rightful incumbent to restrict the other, whether it is religious minorities or the expansion of the pirate economy itself.

References


