THE DIVERGENCE OF THE ECONOMIC FORTUNES
OF HINDUS AND MUSLIMS IN BRITISH INDIA:
A COMPARATIVE INSTITUTIONAL ANALYSIS

by

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Abstract

This work suggests that the underdevelopment of South Asia’s Muslims vis-à-vis Hindus of the region stems from differences in the commercial institutions and inheritance laws of the two communities. First, the Hindu joint family was a durable institution that could branch out into long term business ventures. Islamic partnerships were not durable and could not carry into long term business ventures. Because of this difference, Hindus enjoyed a competitive advantage in the adoption of joint stock companies. Second, whereas Hindu inheritance law tended to accumulate capital over time, Islamic inheritance law tended to fragment capital over time. This gave Hindus more access to capital vis-à-vis Muslims in India’s capital-scarce economy. As a consequence, India’s Hindus came to dominate South Asia’s industry, marginalizing its Muslims.
Chapter 1: Introduction to the Literature of Indian Underdevelopment

The search for the causes of South Asia’s economic underdevelopment has evoked a variety of explanations since at least the early nineteenth century. These explanations can be classified into two broad categories: those which claim that British imperialism prevented India’s development (often termed as the “exploitation thesis”, “drain theory” or “classical thesis”), and those that consider conditions endemic to India, such as the caste system, geography, the indigenous ethical systems, to have blocked India’s industrialization (Morris 1968, 3). Much of the material written on this issue focuses on the economic history of the period from 1800 to 1947. This period also saw the ascendancy and the subsequent the decline of British hegemony over India.1

The “classical thesis” holds that the British hindered India’s industrial development during this period (Kumar 1972, 64-65). Exponents of the “classical thesis” have written on the lopsided trade relationship between Britain and India, and on the deindustrialization of various Indian industries including silk, salt, and

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1 The terms “India” and “South Asia” will be used interchangeably throughout this work unless otherwise specified.
handicrafts. This view remains popular with Indian historians today (Roy 2002, 124-125). Writers who are not sympathetic to the “classical thesis” have written on causes inherent within India including the caste system, the value system embodied by Hinduism, and the political conditions in pre-British India. For clarity, the explanations of India’s underdevelopment will be placed into the following categories: (i) Classical Thesis; (ii) Marxist Thesis; (iii) Incompatibility of Hinduism and Capitalism Thesis; (iv) Endemic Conditions of India Thesis and (v) Hindu Equilibrium Thesis. While an extensive critique of these explanations is beyond the scope of this chapter, a brief survey of these explanations follows.

The “Classical Thesis” and Its Proponents

The “classical thesis” was first espoused by the historian Alexander Dow in the early 1770s and it was given a theoretical form in 1783 by Edmund Burke. The first Indian writer to address this issue was Ram Mohan Roy in 1830. Much of Roy’s analysis focused on the transfer of capital from India to the West by Europeans who temporarily resided in India. Roy’s solution was a relatively simple one: invite the Europeans to settle permanently in the country. Indian periodicals of the mid nineteenth century such as Sambad Prabhakar and Somprakas also devoted arguments to British exploitation of the Indian economy. Articles discussed how

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2 This chapter classifies arguments of proponents of dependency theory such as Frank (1975) or the world-systems approach such as Wallerstein (1986) under the category of the “classical thesis” because such arguments assume Western or British exploitation to be the root cause of Indian underdevelopment.
British policies hindered the development of industry in India. They also claimed that the wages of European employees were remitted abroad (Roy 1987, 42-44). 

Dadabhai Naoroji’s *Poverty of India*, published in 1876, shifted the focus from the remittances earned by British officials in India and instead used statistical analysis to show how India’s export surplus was a source of impoverishment. Naoroji defined the concept of drain as an export surplus for which there was no corresponding entry on the debit side in the form of import of merchandise or securities. Rather than benefiting from an export surplus, India was impoverished every year throughout the nineteenth century. India’s export surplus was cancelled out by four sources: (i) payment of interest on foreign borrowings; (ii) service charges such as freight and banking; (iii) remittances of British nationals living in India; and (iv) foreign obligations of the government of India (Chaudhuri 1968, 39). The amount drained out of India from 1835 to 1872 was estimated to be approximately 0.5 billion English pounds (Roy 1987, 45).

A work in the periodical *Samajik Prabhandha* written by Bhudev Mukhopahay in 1892 argued that while British rule in India had positive effects in areas such as agriculture, the national per capita income failed to increase because Indian industry suffered from foreign competition and from the drain of wealth to Britain. Mukhopahay estimated that approximately one-fourth the revenue collected by British authorities was submitted back to Britain, along with the salaries of some
80,000 European soldiers and professionals. The amount of drain varied but for 1892 it was estimated to be Rs. 300 million (Roy 1987, 45).

R.C. Dutt in *Economic History of India* alleged that the Indian debt from 1862 to 1901 stood at 200 million pounds and remittances were in the amount of 16 million pounds per annum. The salaries of European officers were 10 million pounds. About one-half of the revenue collected by the British in India, or 22 million pounds, was sent to Britain. Also, the British East India Company sent a total of 32 million pounds to its shareholders in England from 1793 to 1838 (Roy 1987, 45).

Among the most vociferous critics of British rule in India was Jawaharlal Nehru. Before the arrival of the British, India was “as advanced industrially, commercially, and financially as any country” (Nehru [1946] 1991, 284) and well on its path to industrialization. Nehru viewed British rule as having multiple effects: the impoverishment of India through looting, the industrialization of Britain via loot acquired in India, and that India “became progressively ruralized” (Nehru [1946] 1991, 284) as a result of its arrested industrialization. Going further, Nehru asserts that British wealth and industrialization stemmed directly from the British plunder of India, especially the rapacious plunder of Bengal: “the Bengal plunder began to arrive in London, and the effect appears to have been instantaneous, for all authorities believe that the ‘industrial revolution began with the year 1770…’ ” (Nehru [1946] 1991, 297-298). Indian manufacturers were crushed via various
policies and taxes while Britain slammed shut its doors on finished Indian goods. The Indian artisan class was led to mass poverty while the economy was transformed into an agrarian one (Nehru [1946] 1991, 298-302).

The role played by the British in India’s deindustrialization during the nineteenth century continued to receive attention after India’s independence. Some studies by Indian scholars have attempted to assess the impact British policies on the entire Indian subcontinent (Bagchi 1976a; 1976c; 1982; Dutt 1992, 146-150; Eswaran and Kotwal 1994). Other studies discussed the impact of colonialism on specific areas or groups within India. Bagchi (1976b) describes in great detail how British economic policies were conducive to the deindustrialization of Bihar in northeastern India, while Ram (1972) and Specker (1987) discuss the negative impact of British economic policies on the economic development of southern India. Guha (1976) links the growth of the opium industry with the underdevelopment of Assam.

Scholars who are sympathetic the “classical thesis” have also utilized variants of dependency theory to assert that India’s incorporation into the global capitalist economy helped bring about its underdevelopment (Baran 1978, 277-283; Frank 1975, 22; Robinson 1979, 104). Athar Ali (1975, 386-388) asserts that the Mughal, Ottoman, and Safavid empires suffered simultaneous declines because European demand for Asian goods led to inflation and constrained the financial capacities of
the ruling elites of these empires.³ Perlin (1983) asserts that capitalism in pre-British India was well developed and suggests that the British underdeveloped the country.⁴ Wallerstein (1986) suggests that before 1750, India was outside the framework of the European-dominated capitalist world economy. The period 1750-1850 saw both the incorporation of India into the world capitalist system and its subsequent dependence upon the Western world.

Recent works continue to assess the impact of the British on India’s economy. Harnetty (1991) discusses the decline of the Indian handloom industry in the face of British competition. Shah Mohammed and Williamson (2004) argue that improvements in transportation technology in the nineteenth century decreased the price of British products vis-à-vis Indian products and this furthered India’s deindustrialization. Pardesi (2007, 216-217) suggests that Mughal India was not only self-sufficient but also the ultimate destination for much of the New World’s gold and silver. India’s decline can only be properly understood in light of the rise of British and American power. Nayyar (2006) has suggested that globalization occurred during two periods: 1870-1914 and after 1950. Both periods of globalization hindered economic growth in the underdeveloped world and may be

³ Athar Ali is unclear as to why producers of the Mughal, Safavid, and Ottoman empires could not have matched European demand for their goods by increasing production.
⁴ Perlin (1983) is not alone in suggesting that pre-British India was at least a par with the Western world in its level of economic development. Bayly (1989) and Prakash (1998) also suggest that pre-British India was at a high level of economic development.
responsible for much of the economic gap between the developed and underdeveloped regions of the planet.

Some recent material has also been devoted to determining when India became underdeveloped vis-à-vis the Western world by examining differences in wages between the two regions. Parthasarathi (1998) argues that gap in Indian and British living standards is a recent phenomenon. Real wages in South India and southern England were more or less equal: they began to diverge only in the late eighteenth century. Allen (2001) estimates real wages of workers in the Mughal capital Agra in 1595 and compares them to real wages in 1960. He suggests that real wages fell by 23.3 percent during this period. In another work, Allen (2007) argues that while pre-industrial Asia and Europe may not have had dramatically different standards of living, by the beginning of the nineteenth century a clear difference between the two regions had emerged. Broadberry and Gupta (2006) suggest that differences between India and the Western world (especially Britain) began to emerge as early as the seventeenth century.
India’s History Is No History: The Marxist View of Indian Economic History

Amongst the most famous proponents of the notion that India displayed little ability to develop on its own is Karl Marx.⁵ According to Marx the absence of property ownership in India prevented the formation of classes. Therefore class conflict, which was the engine of history in Europe, did not exist in India. Pre-British India had a stagnant social order characterized by the following characteristics: (i) a stable equilibrium that showed little movement through the centuries (external events such as invasions served only to undermine this equilibrium temporarily); (ii) the absence of class struggle in India stratified the classes into permanent positions, which prevented the development of social revolution and technological innovation; and (iii) unlike Europe, where the urban centers played revolutionary roles, Indian cities did not do so (Naqvi 1972). The numerous invasions, falls of dynasties, wars, famines, and other traumatic events in Indian history are not relevant because “Indian society has no history at all” (Marx 1959, 81) until the arrival of the British, who destroyed Indian civilization by “leveling all that was great and elevated in the native society” (Marx 1959, 81). This social revolution was brought about by the introduction of new relations between the classes and particularly the introduction of property rights (Naqvi 1972, 383). By

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⁵ Hegel viewed India’s history as a long episode of stagnation and felt that Hinduism had a stifling affect on the development of human freedom. Marx’s view of India was shaped by Hegel’s assessments (Habib 1995, 16-18).
destroying the traditional industries and self-supporting villages of the Indian subcontinent, the British were able to introduce a technological and social revolution whose scale was unprecedented in previous Indian history.

Irfan Habib (1969) uses the Marxist framework to explain why capitalism did not develop in pre-British India. According to Habib, capitalism is only possible with the accumulation of sufficient capital; if per capita income is too low then it is not possible to accumulate sufficient capital and capitalism cannot emerge (Habib 1969, 34). Much of Habib’s argument is devoted to illustrating how the Mughal landholding system in India siphoned off revenue away from the countryside and into the hands of the aristocracy. The aristocracy, instead of using this capital for investment purposes, was inclined to use the revenue collected from villages for the purposes of conspicuous consumption, and as a result sufficient capital accumulation could not occur (Habib 1969, 32-79).

**Hinduism and Capitalism: Incompatible?**

The proposition that Hinduism stymied industrialization in the subcontinent has attracted considerable attention. A commonly held view is that Indian values are by nature “spiritual” while Western values are “material” (Goheen et al. 1958, 1). India’s “spiritual” values place greater emphasis on reducing desires rather than bettering one’s lot (Goheen et al. 1958, 3). The impact of Hinduism on economic development can be seen in from two angles: attitudinal and institutional (Misra
1962, 42). The former focuses more on specific beliefs and attitudes imbibed in Hinduism, while the latter focuses more on the specific institutions of Hindu society. A significant portion of this literature focuses on the beliefs of reincarnation and *karma*. The institutional analysis of Hinduism has been largely limited to discussions of the caste system.

Amongst the earliest and most influential proponents of the view that the caste system hindered India’s industrialization has been Max Weber. Weber believed that South Asia was in its early history at par with Europe in terms of intellectual development, productivity, and means of social organization (Morris 1967, 589). Weber characterizes the effect of the caste system as “essentially negative” (Weber 1958, 111). The caste system hindered the development of capitalism on the following counts: (i) it engendered extreme traditionalism and hostility to innovation; and (ii) it secluded castes from each other and prevented the rational organization of labor that is characteristic of capitalism (Weber 1958, 113).6

Weber’s approach to differs from that of many modern economists in that it neglects the impact of the caste system on lowering work incentives. K. William Kapp voices the argument in lines more acceptable to neo-classical economists when he suggests that the caste system lowers incentive to be productive because “it works against the emergence of a relationship between individual aptitude, performance

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6 Weber has been criticized for neglecting the heterogeneity of Hinduism. Rao (1969) and Uppal (2001) have both suggested that Hindu scriptures and reform movements within Hinduism need to be accounted for in order to assess its impact on economic growth.
and earnings” (Kapp 1963, 46-47). Status in Hindu society was traditionally linked with one’s place in the caste hierarchy and a person’s earnings were more likely to reflect his socioeconomic status than aptitude or performance.

Vikas Misra also argues that the caste system lowered incentives, albeit in different ways for lower and higher castes. Lower caste Hindus had little incentive to obtain wealth because they would still be looked down upon by upper caste Hindus even if the latter were poor. On the other hand, upper castes were generally forbidden from taking the occupations of the lower castes and this prevented them from participating in lucrative fields such as trade and commerce. Finally, the joint family system limited spatial and occupational mobility while further strengthening the caste system (Misra 1962, 53-56).

**Conditions Endemic to India Led to Underdevelopment**

Morris D. Morris (1968) traces India’s lack of development to historical conditions existing in pre-British India. Unlike the Marxist arguments examined earlier, Morris does not see a causal link between India’s underdevelopment and class relations. He also rejects the notion that Hinduism and its attitudinal and institutional factors suppressed growth. Instead, Morris points to a plethora of geographical, political, and social circumstances as culprits. India was always fragmented into numerous political units and this led to greater political instability
than in Ancient Rome or China.\textsuperscript{7} This fragmentation also prevented Indian markets from effectively integrating into larger markets. Accordingly, it obviated the emergence of economies of scale. Geographical conditions prevented the growth of internal trade, led to lower agricultural yields, and made it difficult to obtain the necessary raw materials for industrialization. Morris stresses that pre-British India probably had a low per capita income and British rule provided the country with political stability, standardization, and greater administrative efficiency (Morris 1968, 3-22).

India’s agriculture benefited greatly from British rule: political stability reduced fluctuations in land usage, leading to greater yields from the land. The new irrigation schemes introduced by the British made allowed for farming on previously unused areas. Finally, there was a greater specialization in agriculture and a shift to crops with greater market value. While British rule had positive impacts in agriculture, the factors causing a lag in India’s industrialization were not so easy to overcome.

One major factor in hindering India’s industrialization during British rule was the low demand for industrial goods. India’s population had risen from 200 million around 1800 to 417 million in 1947. This enormous growth in population, however, did not lead to an increased demand for machine production because average per

\textsuperscript{7} The opposite of this argument has also been suggested by scholars who argue that Mughal Empire stunted India’s economic growth by siphoning away surplus capital for consumption and failing to develop basic infrastructure (Jones [1981] 2003, 194-198; 1988, 134-135; Landes 1999, 156-158).
capita income was too low. India was also characterized by an unequal distribution of income. Moreover demand from the wealthier classes was limited to specialty items which could not be mass produced (Morris 1983, 554-555).

India was hindered not only from the demand side but also from the supply side of the economy. Skilled labor was expensive and almost all machinery had to be imported from the West. Since unskilled labor was readily available, entrepreneurs tapped into it as a source of inputs and neglected mechanization. Businessmen were reluctant to invest in capital-intensive industries and gave preference to labor-intensive industries instead (Morris 1983, 555).

Indian businessmen were plagued by much greater levels of uncertainty than their Western counterparts because there was an unsatisfactory flow of information about incentive structures, alternative goods, and prices. The mechanisms for transmitting information about cost of production and level of demand were much weaker in India than in the West. As a consequence Indian merchants could not make long term calculations with the same level of certainty that Western merchants could. In order to buffer themselves from greater uncertainty, the Indian businessman had to have a stock of ready capital to fall back on. India lacked the institutions for an effective capital market and much of the country’s capital was immobile. Investors were thus reluctant to invest in new areas and tended to remain in traditional ones (Morris 1983, 556).
Hindu Equilibrium: Deepak Lal

Deepak Lal ([1988] 2005) suggests that by the third century BC, an economic and social system had been established that placed India’s economy in a long lasting equilibrium. Despite numerous attempts to reform it, this equilibrium has changed little since its establishment.

This equilibrium was able to persist and function within the framework of four parameters. This first was labor scarcity. Lal argues that until the twentieth century, India has been a labor-scarce country (Lal [1988] 2005, 383). The caste system arose as a response to this constraint and allowed for the provision of a steady supply of labor. The specialization implicit in the caste system made it difficult for castes to migrate to other regions because a caste that migrated to another region would find itself in competition from another caste that possessed the same specialized skills. It is important to note that social ostracism and the emphasis on ritual purity prevented castes from learning skills from one another (Lal [1988] 2005, 44).

A second parameter mentioned by Lal is political instability. According to Lal, much of India’s political history has characterized by feuds between local rulers. This political instability resulted in the rise of autonomous village communities throughout India. Rulers received regular tribute from these communities and responded in turn by refraining from the internal affairs of these villages (Lal [1988] 2005, 384-385).
Lal also points to the climatic conditions of India as a third parameter defining the equilibrium (Lal [1988] 2005, 385). The relative unpredictability of rainfall and monsoons resulted in considerable uncertainty in regards to production of agricultural output. Individuals with relatively large landholdings were able to secure themselves against this uncertainty because their landholdings allowed them to produce and store a surplus supply of food. On the other hand, individuals with small or no landholdings were unable to do the same. In order to obtain a steady supply of food, they supplied services to individuals with large landholdings. This exchange of services for agricultural produce was known as the *jajmani* system (Lal [1988] 2005, 56-58).

The final parameter under which this equilibrium operated was an ideological one. Lal asserts that the general belief system of Hinduism frowns upon commerce and the pursuit of profit. This belief system influenced the attitudes of the rulers of India and played a role in hindering any attempts to move away from an agrarian economy (Lal [1988] 2005, 385).

Three characteristics of this equilibrium are worth noting. The first characteristic was the stability of agricultural technology. Lal argues that Indian agricultural patterns and technology have changed little over the last two millennia. A second characteristic was the stability of population size: until the nineteenth century, India’s population never exceeded 200 million. A third characteristic was a
stable standard of living: India’s per capita income throughout the last two millennia was approximately US $150 at 1965 prices (Lal [1988] 2005, 36-42).\footnote{This amount is equivalent to US $796.50 at 2007 prices.}

Lal asserts that this equilibrium has persisted for over two millennia because it provided Indians with a standard of living higher than that of their neighbors. Lal believes that the equilibrium may be undermined in the near future because many of the parameters that led to creation of this equilibrium have changed (Lal [1988] 2005, 389).

**Conclusion**

This chapter provided an overview of the explanations given for India’s underdevelopment. We have surveyed some of the literature espousing the “classical thesis” which contends that British policies led to India’s underdevelopment. Exponents of the “classical thesis” assert that the pre-British was India was an economically developed society and the British deliberately brought about its underdevelopment. But they fail to explain why a well developed society such as pre-British India was unable to resist the British in a more effective manner. Exponents of the “classical thesis” also fail to make note of any positive impact British policies may have had on India’s economy.

We have also surveyed the traditional Marxist approach to the question of India’s underdevelopment. The Marxist view assigns a progressive role to the
British and asserts that they played a progressive role by bringing in bourgeois institutions such as property rights. The traditional Marxist view believes that India’s development was dependent on one exclusive factor: class struggle and the subsequent development of property rights. The Marxist view fails to take into account that property rights need not always be the consequence of a violent class struggle.

Both the “classical thesis” and the Marxist approach differ from the arguments of Weber, Misra, and Kapp, in that the latter do not emphasize the role played by the British but instead stress that India’s economic fortunes were intertwined with the caste system and the ideology of Hinduism. All three authors believe that Hinduism and the caste system had a negative impact on India’s economic development. Kapp and Misra stress that the caste system lowered incentives while Max Weber believes that the underlying value system of Hinduism was inimical to growth. Weber, Kapp, and Misra do not take account how the belief systems of sects within Hinduism differed. They also fail to take note of any changes they have taken place within Hindu ideology once Hindu thinkers were exposed to Western thought.

Morris D. Morris rejects the notion that Hinduism hindered India’s economic growth. He argues that geographical and historical conditions were among the factors that prevented India’s development. Deepak Lal asserts that geographical and historical conditions colluded with India’s demographic circumstances to place
India’s economy in a long lasting equilibrium. This equilibrium was sustained within the framework of certain parameters. Lal believes that with a change in these parameters, India may break out of this equilibrium. While both Morris and Lal place a heavy emphasis on the role played by geographical and historical conditions in shaping India’s economic fortunes, they do not explain in sufficient detail the impact business institutions such as the Hindu joint family have had on India’s economic development.

In this chapter we have obtained a broad view of the explanations offered for India’s underdevelopment. In the next chapter we will examine literature dealing with a specific question within the Indian context: the underdevelopment of India’s Muslim minority.
Chapter 2: The Underdevelopment of India’s Muslim Minority

Introduction

One of the challenges of the social sciences is to explain the rise of the West (Kuran 2003, 414). A significant body of literature in the social sciences has been devoted to this question (Greif 2006, 25-26; Harris 2006, 1; Kuran 2003, 414).1 Some of this literature suggests that the West’s fortunate geographical position gave it a head start on the path towards industrial development (Diamond 1997; Sachs 2001). Huff ([1993] 2003) and Mokyr (1990) emphasize the role played by Western science.2 Putnam (1993) and Fukuyama (1995) argue that trust and social capital played key roles in the development of the West. Others such as Jones ([1981] 2003), Landes (1999) and Pomeranz (2000) suggest that a confluence of factors such as geography and history gave the West an advantage over other civilizations.3

Several works from the school of New Institutional Economics have attempted to explain the West’s ascendancy by examining the institutions that permitted economic growth in the Western world.4 These works assumed that

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1 There is also a body of literature that suggests that the West deliberately underdeveloped other regions of the world. Examples of such literature include Frank (1975) and Wallerstein (2000).
2 Huff ([1993] 2003) suggests that while the Islamic world and China were initially more scientifically advanced than the West, the legal framework of the West allowed it to create an ethos that was conducive to the birth of modern science.
4 Examples of this literature include North (1990; 1995), North and Thomas (1973) and North and Weingast (1989).
institutions facilitating economic growth were exogenous and failed to address how these institutions initially arose (Harris 2006, 1).

Some of the subsequent literature in New Institutional Economics has been devoted to the examination of specific legal and economic institutions that fostered economic growth. These works eschew the notion that legal and commercial institutions were mandated by the state; instead they suggest that a variety of factors such as pre-existing institutions and historical circumstances affected the development of legal and economic institutions (Harris 2006, 2).5

Recent literature in New Institutional Economics has added a comparative perspective: it seeks to explain why entities such as civilizations or groups embarked upon one institutional trajectory rather than another (Harris 2006, 2). Such literature may seek to explain why the corporation arose in the West and not the Islamic world (Kuran 2005b) or how the differing belief systems of Genoese and Maghribi merchants caused these groups to develop different sets of institutions for the enforcement of principal-agent contracts (Greif 1994).

Some of the recent literature in New Institutional Economics has been devoted to an examination of the relationship between Islamic commercial and legal institutions and the underdevelopment of the Middle East (Kuran 2001, 2003, 2004a, 2004b, 2005a, 2005b). The present work will build on these earlier analyses of Islamic institutions and utilize comparative analysis to explain how the differences in

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5 Many of these works examine the role of property rights in fostering economic growth. Examples of such works include Alchian and Demetz (1973), Liebcap (1978; 1989), and Rosenthal (1992).
the commercial institutions and inheritance laws of the Hindus and Muslims allowed the former to adopt the managing agency model and dominate India’s industry, while the latter were marginalized.

It has been noted that the Hindu joint family (Dutta 1997; Timberg 1969, 8-10; Tripathi 1990, 194; Tripathi 2004, 113; Verma 1987) and Islamic partnership (Arasaratnam 1995, 9; Chaudhuri 1985, 210; Clydesdale 2007, 314; Dale 1994, 65-66, 118; Dasgupta 2001, 112; Levi 2002, 109, 173, 232; Markovits 2000, 156-166; Subramanian 1996, 25) have been used by South Asians as business entities; however these institutions have not been compared systematically. The Hindu joint family has been compared with other family-based business entities. Thus, Dutta (1997, 13-15) compares the Hindu joint family with Western family firms, the Chinese jia, and the Korean chaebol. Ghosh (1974) offers a comparative analysis of the Hindu joint family and the Japanese zaibatsu. The current literature provides us with analytical comparisons of the Islamic partnership and the modern corporation (Kuran 2003, 420-421, 427; 2005, 786) and of the Islamic partnership and partnerships utilized by medieval European merchants such as the commenda (Çizakça 1996, 12-14; Kuran 2003, 424, 426, 434), societas (Çizakça 1996, 22-23), and compagnia (Çizakça 1996, 23-24). This work will add to this literature by providing a detailed comparison of the Hindu joint family and Islamic partnership. It will also illustrate how the former institution was relatively more conducive than the latter to adoption of the managing agency model.
It is well known that application of the Islamic laws of inheritance has led to capital fragmentation amongst Muslim families in South Asia (Ahmad 1991, 4; Bose [1997] 2004, 92; Timberg 1978, 39) and the Middle East (Baer 1962, 79-83; Doumani 1995, 70-71; Kuran 2003, 428-430; 2004b, 71, 74; Marcus 1989, 209-210; Meriwether 1999, ch. 4). Previous literature (Bagchi 1985, 26-28; 1999, 50; Leonard 1981, 197) has also noted that inheritance laws of Hinduism encourage capital accumulation. This work will fill a gap in the literature by providing a comparative analysis of the dynamic consequences of the application of the inheritance laws of Hinduism and Islam. Let us turn to the question of the economic underdevelopment of Indian Muslims.

The Question of Economic Underdevelopment of Indian Muslims

A glance at a listing of India’s fifty largest business groups in 1997 finds that chairpersons of these groups come from a variety of religious and regional backgrounds (Tripathi 2004, 340-342). Indian Muslims, who compose more than 12% of the Indian population (Shariff and Azam 2004, vii), have only one representative on the list. The dearth of prominent Muslim businessmen in India is not a recent phenomenon. A look at the 80 largest publicly traded companies in India from 1951 to 1955 shows us that only one of the companies had an Indian

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6 The term “business group” is defined as “the companies controlled, directly or indirectly, by a particular family” (Tripathi 1990, 27).
Muslim as a director while 64 companies were headed by Hindus (Ministry of Finance 1955, xviii-xxi). 7

Muslim under-representation in business was equally conspicuous in British India. Data collected from the Investor’s India Year-Book series shows that the Hindu percentage of directors on India’s publicly traded companies increased from 21.64% to 40.05% from 1920 to 1940. The corresponding figures for Muslims show only a slight increase from 3.71% to 3.96% (Investor’s India Year-Book 1920; 1940). Thus, while the Hindu proportion almost doubled in twenty years, the increase in the Muslim proportion was only incremental. The persistence of Muslim under-representation in India’s commercial life leads us to a question: what is the cause of this phenomenon?

**Economic Underdevelopment of Indian Muslims in a Historical Context**

The first Muslims to settle in India were Arab traders who married local women from the Malabar Coast during the seventh century. The Muslim population of India grew rapidly and by the thirteenth century Islam had become a major religion in India (Mistry 2005, 400). Muslims played a very important role in India’s economy as skilled administrators, skilled craftsmen, and educators (Talha 2000, 15-18). By the fifteenth century Muslims dominated maritime trade throughout the

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7 Jains and Sikhs will be included under the term “Hindu” throughout this work. This is because both groups use Hindu institutions for business and are governed by Hindu inheritance laws (Cornish 1937, 5).
Indian Ocean region (McPherson 1993, 78). The active role played by Indian Muslims in South Asia’s trade with the Middle East (Pearson 2003, 78-79) and Southeast Asia (Arasaratnam 1989) has been discussed before. Indian Muslims also played an active role in South Asia’s overland trade with Central Asia (Levi 2002, 100-106). Despite the decline of the Mughal Empire, Muslim traders continued to play an important role in trade throughout the Indian Ocean until the nineteenth century (Risso 1989, 382). Only during the nineteenth century did a gap between the economic conditions of the Hindus and Muslims emerge (Talha 2000, 23).

Two important points emerge from the above discussion. First, the loss of political power did not necessarily lead to Muslim economic underdevelopment, because Muslim traders continued to be very active in the Indian Ocean well after the demise of the Mughal Empire. Second, we see the emergence of Muslim economic underdevelopment on a large scale in South Asia during the nineteenth century and not earlier.9

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8 It would not be an exaggeration to say that Indian Muslims dominated South Asia’s maritime trade. Persian and Arab traders had to restrict their trading activities to the Arabian Sea in face of competition from Indian Muslim traders (Pearson 2003, 88-89). The international trade of important port cities such as Surat was dominated by Muslim merchants during this period (Das Gupta 2001, 318, 333).

9 The underdevelopment of Muslims vis-à-vis Christians and Jews in the Middle East began to emerge during the late eighteenth century when increasing numbers of members of the latter communities had access to Western legal and business institutions (Kuran 2004a, 475-476; 2004b, 84-86; 2005a, 610). While Middle Eastern Muslims were hindered by legal barriers from using Western business institutions such as the corporation, the commercial institutions and inheritance laws of South Asian Muslims hampered their transition into the managing agency system.
An Institutional Analysis of the Underdevelopment of Indian Muslims

Large-scale industry emerged in India only during the middle of the nineteenth century. This had two repercussions that are relevant for us:

First, the introduction of large-scale industry in India occurred under the aegis of the managing agency system. This work posits that it was easier for Hindus to adopt the managing agency system than it was for Muslims because the Hindu joint family resembled the managing agency in certain crucial aspects.

Second, the introduction of large-scale industry required greater capital inputs than had been the case previously. Enterprises such as cotton mills or tea companies required large amounts of capital, ranging from Rs. 300,000 to Rs. 500,000 (Rungta 1970, 327). Capital was scarce (Brimmer 1955, 560, 562; Misra 1999, 68-70) and there were no organized capital markets in India during this period (Misra 1999, 68). As a result, capital was usually raised by Indian businessmen via the family or caste networks (Timberg 1969, 12, 81). This work also posits that Hindus had easier access to capital vis-à-vis Muslims because the inheritance laws of the former allowed for capital accumulation within families, whereas the inheritance laws of the latter led to capital fragmentation.

The Muslims of India were thus disadvantaged vis-à-vis Hindus on two points: first, it was more difficult to transition from the Islamic partnership to the

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10 This will be discussed in greater depth in Chapter 5.
11 This will be discussed in greater depth in Chapter 3.
12 This will be discussed in greater detail in Chapter 4.
managing agency than it was from the Hindu joint family. Second, Muslims had
greater difficulty acquiring capital than did Hindus, because Islamic inheritance laws
led to capital fragmentation, while Hindu inheritance laws led to capital
accumulation.\textsuperscript{13} We have noted how Islamic partnerships and inheritance laws may
have played a role in the underdevelopment of Indian Muslims; let us take a brief
look at how Islamic institutions brought about the underdevelopment of the Middle
East.

\textbf{Islam and the Underdevelopment of the Middle East}

Kuran (2004b, 71) suggests that the economic underdevelopment of the
Middle East can be traced to three institutions: 1) the Islamic law of inheritance; 2)
the strict individualism in Islamic law; and 3) the Islamic trust, or \textit{waqf}.\textsuperscript{14} We will
briefly discuss how each of these institutions contributed to the underdevelopment of
the Middle East, and paying special attention to how they limited prospects for
further institutional innovation in the region. Let us begin with the Islamic laws of
inheritance.

The application of the Islamic laws of inheritance constrained development in
two ways: First, they led to frequent estate fragmentation (Baer 1962, 79-83;

\begin{footnotesize}
\textsuperscript{13} Hindus and Muslims have historically used different business institutions and inheritance laws, but
these differences led to Muslim economic underdevelopment only after the introduction of large scale
industry in the middle of the nineteenth century and not earlier.
\textsuperscript{14} Kuran does not imply that Islam necessarily brings about economic underdevelopment or is
incompatible with growth (Kuran 2004b, 72); instead he suggests that the abovementioned Islamic
institutions have resulted in the Middle East’s economic underdevelopment.
\end{footnotesize}
Doumani 1995, 70-71; Kuran 2003, 428-430; 2004b, 71, 74; Marcus 1989, 209-210; Meriwether 1999, ch. 4) and families were rarely able to retain wealth for more than two generations (Kuran 2003, 429). Second, the application of Islamic inheritance laws limited the both the size and duration of Islamic partnerships (Kuran 2003, 424). An important consequence of this was that Islamic partnerships were smaller than their European counterparts, and unlike the latter, they did not have to find solutions for problems of coordination and liability facing larger partnerships. This placed a limit on the extent of organizational innovation in Islamic partnerships (Kuran 2003, 435; 2004b, 79; 2005b 816-817, 831-832). Let us now turn to the second cause of the Middle East’s underdevelopment: the *waqf* or “Islamic trust.”

The *waqf* or “Islamic trust” was an unincorporated trust dedicated to providing social services. The functions of the *waqf* were fixed for perpetuity and could only be changed with considerable difficulty (Kuran 2001, 842, 2004b, 81). This led to the underdevelopment of the Middle East in two ways: First, it led to a suboptimal allocation of resources: the *waqfs* were devoted to fulfilling functions that had been decided centuries ago and meet present needs. Second, the failure to

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15 We will see how *waqfs* were used to circumvent Islamic laws of inheritance in Chapter 4.
16 The reasons for this are discussed in greater detail in Chapter 3.
17 The difference in the histories of the two most popular forms of partnerships in the medieval Western and Islamic worlds is instructive. The *mudaraba* spread from the Middle East to much of Eurasia and was also adopted by other groups such as Armenians, Malays, Russians, and Turks (Çizakça 1996, 18-21). Despite the wide dispersion of the *mudaraba* and its extensive use in the Middle East for more than a millennium, it went through little structural evolution. We have alluded above to the role played by Islamic inheritance laws in limiting the size and scope of Islamic partnerships. On the other hand, the *commenda* was faced issues dealing with economies of scale and eventually spawned more complex organizational forms (Kuran 2003, 421).
18 The *waqf* is discussed in greater depth in Chapter 4.
transform the waqf into a self-governing institution hindered the development of civil society in the Middle East (2004b, 81-82; 2005b, 832). This failure stemmed from the fact that Islamic law only recognizes natural persons and does not grant legal personhood to other entities (Kuran, 2005b).¹⁹

The reluctance of Islamic law to grant legal personhood to institutions hindered the development of the Middle East in other ways as well. First, it prevented the development of the business corporation (Kuran 2003, 436; 2004b, 73; 2005b). The role played by corporations in the economic development of the West is well known and does not need to be repeated here. Second, the region’s businessmen continued to rely heavily on short-lived partnerships and did not engage in institutional innovations necessary for long-lived enterprises. Third, the absence of legal personhood prevented Middle Eastern merchants from developing long-lived associations that would further their interests. Instead, merchants often formed temporary associations for ad hoc purposes (Kuran 2005b, 831-833).

We have seen how certain Islamic commercial and legal institutions brought about the structural stagnation of the Middle East. In the following chapters we will examine how the Islamic partnership and inheritance laws engendered the underdevelopment of Indian Muslims. Before we do so, let us take a closer look at other explanations of the economic underdevelopment of Indian Muslims.

¹⁹ For a fuller discussion of this see Kuran (2005b, 793-797).
Previous Explanations of Muslim Economic Underdevelopment

The question of Muslim economic underdevelopment in the Indian context was discussed as early as 1870 in *The Indian Musalmans* by W.W. Hunter. Since then, a variety of explanations have been advanced as explanations of Muslim underperformance in South Asia’s economy. For clarity, these explanations have classified into the following categories: (i) Incompatibility of Islam and Capitalism Thesis; (ii) Muslim Cultural Insularity Thesis; (iii) Indolent Muslim Elite Thesis, (iv) British Hostility Thesis, and (v) Hindu Advantage Thesis. It is not within the scope of this paper to examine the entire corpus of literature on this subject. However, a brief discussion of the literature on this subject will give the reader a purview of the main arguments put forth.20

The Weberian Thesis on Incompatibility of Islam and Capitalism

According to Max Weber the necessary conditions for the emergence of capitalism are rational law, capitalist modes of ownership, and asceticism (Turner 1974, 232). Capitalism can only arise when there is a confluence of these factors in a given society, and this confluence did not occur in Islamic societies. A key characteristic of Islam is that it is “a religion of the warrior class” (Weber 1968, 262). In such a religion the spoils of war figure prominently as a source of incentive, which were seen as a sign of piety. This had two effects: it engendered a “feudal”

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20 We will also examine arguments put forth by Max Weber, Bernard Lewis and others who discuss Islam in general; these arguments may be applied to the Muslims of South Asia.
A key distinction in Weber’s sociology of law is between rational and irrational legal systems. The latter are not built on general principles. Consequently they judge cases according to personal or arbitrary factors, while the former operate on following general principles of the law (Turner 1974, 235). Weber viewed the sharia as a substantive and rational law because its source was derived from divine revelation instead of worldly needs and was made rigid after the first three centuries of Islam. He saw it as a procrustean legal system that could not meet worldly requirements. Legal ruses knows as hiyal were invented to circumvent the more procrustean elements of the sharia (Turner 1974, 236). Weber saw the law as it was administered by the qadi as being both arbitrary and personal: qadis did not decide law cases according to specific logical rules but rather on the basis of the peculiar circumstances of the case (Turner 1974, 236-237). Thus, in both theory and practice, Islamic law failed to establish a systematic legal tradition: on the theoretical plane the sharia’s origin and history prevented it from becoming systematic and on the practical plane the arbitrariness of the qadi’s decision-making process hindered systematization of the legal system. Weber felt that the lack of development of a rational and predictable legal system in the Islamic world precluded the genesis of capitalism (Turner 1974, 1996; Crone 1999; Schluchter 1999).

21 Weber does not define the term “feudal ethic” in his writings on Islam.
Variants of the Incompatibility of Islam and Capitalism Thesis

Max Weber was not the only major thinker to propose that Islam and capitalism are inherently incompatible. Some of the earlier proponents of this argument also include Lord Cromer and Ernest Renan, both of whom suggested that the fatalistic teachings of Islam made the religion a barrier to economic growth (Kuran 2004c, 129). Shortly after World War II, Daniel Lerner asserted that Muslims must choose between their faith and modernization: they cannot have both (Lerner 1958, 105).

Numerous statistical studies have recently been conducted to measure the impact of Islam on economic growth; there is disagreement, however, in regards to whether the effect of Islam on economic growth has been negative or neutral. A statistical analysis of the impact of religious beliefs and practices on economic behavior by Barro and McCleary (2006, 69-70) finds that adherence to Islam has a negative impact on economic growth; the same study suggests that adherence to other religions such as Hinduism and Judaism did not have a statistically significant impact on economic performance (Barro and McCleary 2006, 67-68). A previous study by Barro and McCleary (2003, Table 4) that focused on high-income countries also found that Islam has a negative impact on economic growth. Other recent studies also argue that values fostered by Islam are not conducive towards the

22 There is no recent statistical study suggesting that Islam has had a positive effect on economic growth; much of the current debate focuses on whether the impact of Islam on economic growth is negative or neutral.
development of market economies (Guiso et al. 2003, 228; Voigt, 2005). Others such as Pryor (2007) and Noland (2005) argue that no clear relationship exists between Islam and economic growth: they argue that we can only conclude that Islam’s effect on economic growth is neutral.

**Critique of the Incompatibility of Islam and Capitalism Thesis**

Max Weber and others who assert that Islam and capitalism are incompatible have not taken into account the example set by the personal life of the Prophet or many of the central teachings of Islam. The Prophet himself was a merchant and considered trade to be superior to other occupations (Akbar 1993, 139). The language used by the Prophet is couched in commercial terms because the residents of both Mecca and Medina were men of trade (Rodinson [1966] 2007, 117). Commentaries on the life and sayings of the Prophet known as *Hadiths* discuss numerous commercial topics including usury, buying, selling, mutual agency, and delivery (Haffar 1975, 17). Rather than promoting a feudal ethic, Islam’s central teachings accept commerce as a way of life and appear to point in the direction of a commercial ethic.

Weber’s argument that the structure of Islamic law obviated the development of large scale commerce is brought into question by the existence of Muslim commercial networks. If anything, Muslim commercial networks during the 8th to eleventh centuries served to bring non-Muslims into the orbit of Islam. Muslim
identity carried positive externalities during this period in the commercial world: it gave easier access to other Muslim merchants, use of Islamic commercial law, and a symbolic sense of belonging to a larger community (Risso 1989, 386-387). The success of Muslim traders in successfully establishing colonies and gaining converts in regions geographically far from the Middle East such as India (Abu-Lughod 1989, 270), China (Abu-Lughod 1989, 337), and Southeast Asia (Arasarsatnam 1989, 20) illustrates the relative strength of the Islamic commercial network vis-à-vis these regions. Furthermore, an examination of the sharia by itself does not lead to the conclusion that it was anti-commercial. Muslim merchants have been willing to bypass the teachings of the sharia when necessary (Hoodbhoy 1991, 127).

**Islamic Cultural Insularity Thesis**

In both *The Muslim Discovery of Europe* ([1982] 2001) and *What Went Wrong?* (2002), Bernard Lewis argues that various historical circumstances prevented Muslims from actively borrowing from Western civilization. Lewis makes the argument that Muslims failed to learn from the West until the West had gained an insurmountable advantage. Muslim insularity created a mental framework that prevented absorption of Western philosophy and science, while the West was able to both observe and learn from the world of Islam. According to Muslims, the Islamic state was the only legitimate state and the ummah was the only community with access to the truth. Muslims were generally discouraged from traveling or
settling in non-Muslim regions (Lewis [1982] 2001, 61). Lewis mentions that other non-Western peoples had an advantage vis-à-vis Muslims in learning from the Western world because the former were not hindered by the same kind of insularity.

David Landes in *The Wealth and Poverty of Nations* (1999, 410-412) argues along similar lines: distrust of Western ideas has hindered the development of the Islamic world. Landes differs from Lewis in that the former asserts that other factors such as an emphasis on conspicuous consumption and discrimination against women will continue to engender underdevelopment in the Islamic world.

More recently, Charles Murray (2003, 399-401) has asserted that Islam fosters a fatalistic and anti-scientific attitude in its adherents. Murray goes on to assert that the Islamic world failed to develop due to its hostility towards science. Griffin (1999, 138) makes an argument similar to Murray’s: the victory of theology over science precluded the further development of the Islamic world.

Kazem Alamdari (2004) asserts that the respective cultural heritages of the Islamic and Western world shaped their destinies. The Persian heritage of Islamic civilization led to the union of church and state and this inhibited the development of the Middle East. On the other hand, the Greco-Roman heritage encouraged the separation of church and state as well the economic development of the Western world.
Critique of the Islamic Cultural Insularity Thesis

Lewis ([1982] 2001; 2002) and Landes (1999) do not bring any empirical evidence showing that other non-Western societies had a more receptive attitude towards Western ideas.23 While it is certainly true that Islam has had a longer history of conflict with the West than other non-Western societies, it cannot be inferred that members of these societies were more willing than the Muslims to learn from the West. Lewis and Landes also ignore the possibility that Islam’s prolonged conflict and geographical proximity to the West allowed for more interactions between Muslims and Westerners and both factors could have contributed to a greater exchange of ideas between Muslims and Westerners.

Neither Murray (2003) nor Griffin (1999) explains why Islam fosters an anti-scientific attitude in its adherents; the persecution of scientists in the Islamic world does not necessarily imply that the Islamic religion is hostile to scientific endeavor. While Murray claims that the efflorescence of scientific activity in the Islamic world during the eleventh and twelfth centuries was possible because the Islamic clergy tolerated such activity during this period, he provides no explanation for what caused a change in the policies of the Islamic clergy.

23 Landes (1999, 472) claims that the Japanese were willing to learn Western science and industrial techniques after World War II. But he gives no explanation as to why the Japanese were more willing than Muslims or other non-Western peoples to learn from the West. Tripathi (1997) rejects the notion that Japanese culture was more conducive to industrialization than were other Asian cultures; instead he suggests that the development of national markets and infrastructure under the Tokugawa regime paved the way for Japan’s industrialization.
Alamdari (2004) assumes that both the Western and Islamic world’s fates were determined by their different cultural heritages; however he fails to take into account that the Islamic world was as much an heir of the Greco-Roman cultural heritage as the Western world.

**South Asian Variants of the Islamic Insularity Thesis**

The notion that Muslims were unwilling to learn from the British has found many proponents in South Asia. Sekh Mondal argues that Muslim economic underdevelopment may be explained is due to the fact that Indian Muslims are a “traditional-bound and conservative community” (Mondal 1992, 111). Saleem Khan asserts that Muslim economic underdevelopment may be due to the self-imposed isolation of the Muslims after the decline of the Mughal Empire (Khan 1989, 76). An argument along similar lines is put forth by Kochhar who argues that while Hindus welcomed British rule, Muslims were humiliated by their defeat and were unwilling to take advantage of the opportunities offered by the British (Kochhar 1992, 2609).
Critique of South Asian Variants of the Islamic Insularity Thesis

The above arguments do not provide a causal mechanism for why this particular response took place. It is unclear why Muslims responded to British ascendancy by turning their backs on Western culture. Second, these arguments assert that Muslim economic underdevelopment is a result of the alleged Muslim cultural insularity; however, these arguments do not explain why Muslim cultural insularity may instead have been a product of economic underdevelopment.

Indolent Elite Thesis

Kibria (2001) puts forth the argument that the Muslim elite shirked on its responsibility to uplift the Muslims of South Asia. He asserts while Muslim artisans had considerable technical skills, “nobody took any steps to mobilize creative talent for the benefit of the Muslim community” (Kibria 2001, 21). Kibria asserts that because the Muslim elite derived its income from landowning, it frowned upon business activities (Kibria 2001, 29). An argument along similar lines is presented by Mushirul Haq (1989) who asserts that the Muslim leadership actively worked to prevent the promotion of Western education among Muslims. By doing so, the Muslim elite jeopardized the economic future of the Muslims of the Indian subcontinent (Haq 1989, 60-63).
Critique of Indolent Elite Thesis

The arguments presented by both Kibria (2001) and Haq (1989, 60-63) presuppose that the economic well being of the Muslims of South Asia was dependent upon the attitudes and behavior of the Muslim elite. Kibria does not mention the factors which led to the development of an indolent Muslim elite. Second, Kibria does not clarify why the general Muslim population was willing to follow the lead of the elite in regards to crucial issues such as the learning of the English language. Furthermore, there is reason to be skeptical that regardless of regional, sectarian, or cultural differences, the vast majority of Muslims of India were willing to follow the example of the landowning elite based in northern India.

British Hostility Thesis

There is a body of literature that suggests that the underdevelopment of Islamic societies is a consequence of Western imperialism (Alnasrawi 1991; Amin, 1978; Ayubi 1993; Frank 1998; Islamoğlu-Inan 1987; Owen, 1981). Many South Asian scholars have suggested that the economic underdevelopment of the region’s Muslims was a result of British hostility. Muniruddin Chughtai (1974) argues that British policy deliberately favored Hindus over Muslims. The British appropriated Muslim lands, preferred Hindus over Muslims for civil service positions, and replaced Persian with English as the official language (Chughtai 1974, 243-249). Ahmad (1991) suggests that the British weakened Muslim landowning class by
establishing a system of land tenure in which landowners were forced to pay the government fixed rent while leasing the land out to the highest bidder. Hindu middlemen worked between the tenants and landowners, and extracted much of the surplus away from the Muslim landowners (Ahmad 1991, 9). Ahmad also asserts that the introduction of English in 1864 as the legal language of British India had deleterious effects on the Muslim intelligentsia (Ahmad 1991, 12).

**Critique of British Hostility Thesis**

Both Ahmad (1991) and Chughtai (1974) assume British preference for Hindus over Muslims but no clear reasons are given for the motivation behind the alleged British bias. Chughtai’s assertion that Muslims lost their share of public sector jobs to Hindus (Chughtai 1974, 245) does not explain Muslim underperformance in the private sector. Similarly, Ahmad’s assertion that British policy hurt Muslim landowners does not explain Muslim under-representation in other areas such as commerce and industry.

Both writers also allege that the replacement of Persian by English as the official language of British India played a role in leading to Muslim economic underdevelopment. However, Persian was used as frequently by Hindus as it was by Muslims (Kochhar 1992, 2612). Thus the cost of switching from Persian to English was borne equally by Hindus and Muslims.
Hindu Advantage Thesis

Arnold Toynbee in his *A Study of History* (1963) asserts that during the nineteenth century the Hindus and Muslims responded differently to the British conquest of South Asia. Toynbee asserts that while the Muslims of the region were demoralized by their defeat at the hands of the British, the Hindus took advantage of the economic opportunities that British rule brought to India (Toynbee 1963, 200-203). Toynbee claims that the different responses of Hindus and Muslims to the British conquest can be explained by the respective historical role played by both communities in Mughal India. While Muslims were the ruling class of India, they employed Hindus of the Brahmin caste as officials and administrators in order to make Muslim hegemony more acceptable to the indigenous Hindu population. The Brahmins were later able to obtain positions in the British bureaucracy due to their previous success as administrators for the various Muslim regimes that ruled India.

Critique of Hindu Advantage Thesis

Toynbee’s argument that the Brahmins long history of service of to Muslim rulers as administrators and ministers allowed them to leapfrog into a similar position during British rule is questionable due to many different reasons. Little account is taken by Toynbee of the fact that the vast majority of top administrative positions under the Mughals were occupied by Muslims. The Hindu share of in the
prestigious office of *mansabdar* may have been as little as 15% (Spear 1970, 8). The judicial branch was almost entirely dominated by Muslims (Spear 1970, 11). If access to positions of administration in the Mughal regime was the key factor in determining who obtained economic and political status in British India, then the Muslims of India would have been in a more advantageous position than the Hindus. Toynbee also fails to explain the commercial ascendancy of the British. He asserts that British economic activity opened up new opportunities for members of Hindu business castes (Toynbee 1963, 200) but fails to explain why only Hindu merchants took advantage of these opportunities.

**Conclusion**

We have examined a variety of theses dealing with the question of Muslim economic underdevelopment. The notion that Islam and capitalism are incompatible has been examined; we have seen that the teachings of the Islamic faith are not necessarily inimical to development of capitalism. The success of Muslim merchants in establishing merchant networks that spanned much of the Indian Ocean from the seventh to the nineteenth centuries also undercuts the contention that Islam precludes economic development. While Bernard Lewis and others have asserted that cultural insularity hindered the development of the Islamic world, they have failed to show that Muslims were more insular than other non-Western peoples. The

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24 *Mansabdars* performed a variety of administrative duties for the Mughal Empire and were also responsible for its defense (Spear 1970, 11).
arguments of Kibria and Haq asserting that Muslim elites were unresponsive or were solely exploitative do not explain why only Muslim elites exhibited such behavior or how such elite acquired their position in the Muslim community. We also looked at the argument that the British favored the Hindus over the Muslims and have seen that while this argument may have weight explaining Muslim under-performance in the public sector, it fails to explain why Muslims had such a small share of the private sector. Arnold Toynbee’s assertion that the respective positions of the Hindus and Muslims in the administration of the Mughal Empire shaped the economic fortunes of the two communities was examined and we noted it does not stand up to closer empirical scrutiny. We now turn to an examination of the business institutions and inheritance laws of Hindus and Muslims in order to shed light on the question of Muslim economic underdevelopment.
Chapter 3: A Comparative Analysis of the Hindu Joint Family and
the Islamic Partnership

The Hindu joint family (Dutta 1997; Timberg 1969, 8-10; Tripathi 1990, 194;
Tripathi 2004, 113; Verma 1987) and the Islamic partnership (Arasaratnam 1995, 9;
Chaudhuri 1985, 210; Clydesdale 2007, 314; Dale 1994, 65-66, 118; Dasgupta 2001,
have both been used as business entities by South Asian businessmen.¹ While
previous literature discusses the use of both institutions by merchants in South Asia,
the institutions have not been compared systematically. The Hindu joint family and
Islamic partnership differ in important aspects such as profit sharing, distribution of
liability, formation, and durability.² A closer glance at both institutions is valuable
for three reasons. First, we gain insight into the nature of institutions which were

¹ The literature on the use of Islamic partnerships by South Asian merchants focuses almost
exclusively on the mudaraba (commenda.), which was often utilized for long distance trade.
However, our discussion will include other forms of Islamic partnerships such as the ‘inan and
mufawada even though their use is less well documented.
² Our focus in this chapter is on the Mitakshara branch of Hindu law. All references to Hindu law in
this chapter refer to the Mitakshara unless stated otherwise. Our discussion of Islamic partnerships is
limited to rules stipulated by the Hanafi school of Islamic law. This is because the vast majority of
South Asian Muslims adhered to Hanafi school of Islamic law (Carroll 1983, 630 n.2). Three Muslim
merchant castes (Khojas, Bohras, and Memons) were governed by Hindu laws and were familiar with
the Hindu joint family (Cornish 1937, 5). We will refer to members of these three castes as
“heterodox Muslims.”
utilized by Hindu and Muslim merchants to conduct business in South Asia.\(^3\)

Second, by examining the characteristics of both institutions in greater detail, we can assess their respective strengths and weaknesses. Finally, we also can see why certain characteristics of the Hindu joint family allowed many Hindu families to make the transition to the managing agency model, while Muslims using Islamic partnerships faced greater hurdles in doing so.\(^4\)

**Formation and Duration of Hindu Joint Family Business**

The Hindu joint family exists as a result of *sapinda* bonds between its members (Gopal [1958] 1964, 526). *Sapinda* bonds are formed as a result of birth, adoption, or marriage and are necessary for the existence of the joint family.\(^5\) There is no limit to the number of coparceners, who are “heirs inheriting an undivided

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\(^3\) Disputes between merchants were not resolved at Mughal courts because the Mughals did not have a legal framework for dealing issues that affected business and contract law was non-existent. Merchants were generally reluctant to turn to government authorities to help resolve their disputes and resorted to the use of caste assemblies (*panchayats*) (Tripathi 2004, 22-23). While caste assemblies were effective in resolving disputes between merchants of the same caste, they could not be used for resolving disputes when merchants belonged to different communities. In such cases, other prominent merchants of an area mediated a settlement between both parties (Das Gupta 2001, 99-100). The commercially active region of Gujarat was unique in that assemblies based on occupation (*mahajan*) cut across caste and religious lines and adjudicated disputes between members of the same profession. Merchants and bankers possessed their own distinct *mahajans* (Pearson 1972, 121). In Gujarat, *mahajans* dealt only with commercial matters; *panchayats* were used for adjudication of social and religious matters (Alpers 1976, 28). Unfortunately, the literature on interdenominational *mahajans* does not indicate whether Hindu or Islamic laws were applied.

\(^4\) There was some overlap between Hindus and Muslims in regards to the use of their respective business institutions. Hindu merchants such as the Sindhis were familiar with and utilized Islamic partnerships such as the *mudaraba* (Markovits 159, 2000) while heterodox Muslims were familiar with the Hindu joint family. The *mudaraba* was first introduced to India via trade with Jewish merchants from Cairo (Harris 2006, 16). For a discussion of the trade between Indian and Jewish merchants see Chakravati (2000) and Goitein (1954;1980).

\(^5\) *Sapinda* bonds are discussed in greater detail in Chapter 4.
interest in an estate”⁶ that may be included in a Hindu joint family business (Gopal [1958] 1964, 526). The Hindu joint family business is an appendage of the Hindu joint family and is governed by the same set of rules that apply to other assets held jointly by members of the Hindu joint family (Gopal [1958] 1964, 554). There is also no limitation on the duration of a Hindu joint family business: its existence is not contingent upon the life of a particular member of the joint family and it may continue to exist indefinitely (Gopal [1958] 1964, 526).⁷ A Hindu joint family may only cease to exist if it is partitioned, or if it there are no living members who may add new members to it (Gopal [1958] 1964, 526-527).

Participants in the Hindu Joint Family Business

All coparceners, including minors, are members of the Hindu joint family business. Females and males who are not coparceners have the same rights to the Hindu joint family business as they do to other property of a Hindu joint family

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⁶ See The Reader’s Digest Great Encyclopedic Dictionary, s.v. “coparcener”.
⁷ The Hindu joint family business is not a firm because its members are included due to ties of sapinda. On the other hand a firm is “a collection of persons who have entered into a partnership for the purposes of sharing the profits of a business carried on by all or any of them” (Gopal [1958] 1964, 554).

The shares of the coparceners in a Hindu joint family business are not fixed proportions. Instead, the share of each coparcener is contingent upon the total number of coparceners and may thus fluctuate according to births, deaths, and partitions (Gopal [1958] 1964, 554).

**Powers and Responsibilities of the Karta**

The Hindu joint family business is headed by the “karta” or eldest adult male coparcener. The karta has the considerable authority to make decisions for the benefit of the Hindu joint family business. He has the power to do the following: borrow money, pledge family property and credit, authorize the means of raising additional capital for the family business, sue to enforce contracts, and alienate portions of family property (Cornish 1937, 45-46).

The karta does not need explicit approval from other members of the joint family for taking any of the abovementioned actions. The other members of the Hindu joint family business are not entitled to demand accounts from the karta and may not hold him liable for gross negligence or mismanagement (Gopal [1958]

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8 Outsiders may form a partnership with the Hindu joint family. The literature is unclear about what sort of partnership law was used to govern these partnerships. Hindu merchants belonging to Sind seem to have used partnerships based on Islamic commercial law (Markovits 2000, 157). Since Hindu merchants could use either a Hindu joint family or a partnership to conduct business they possessed a greater menu of choices than Muslim merchants who could only choose amongst the various types of partnerships permitted under Islamic law.
Hindu law assumes that other members of the joint family give implicit approval to the *karta*’s actions unless one of them specifically calls for a partition (Cowell 1895, 10).

However, the *karta* uses family funds to participate in business activities outside of the family’s ancestral business, he must obtain approval of other members of the Hindu joint family (Gopal [1958] 1964, 557). For example, the *karta* of a Hindu joint family engaged in the retail of clothing may not use the family’s funds to start a dairy plant without the approval of other members of the joint family.

The *karta* and other members of a Hindu joint family business also have the right to alienate family funds for “family necessity” (Cornish 1937, 47-48; Cowell 1895, 10). This will be discussed in greater depth further below.

The *karta* may also assign duties and tasks to other members of the joint family. He may voluntarily relinquish his position and appoint a junior member of the joint family to this position (Gopal [1958] 1964, 555).

**Joint Consumption**

The profits from a Hindu joint family business become jointly held property of the family (Cornish 1937, 41) and may be consumed by other members of the family. Hindu law does not have formal rules in regards to dealing with members

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9 This is congruent with the ideology espoused by the caste system: individuals are discouraged from leaving their ancestral vocations.
who engage in free riding. We will discuss the use of various mechanisms by which free riders are punished later in this chapter.

**Liability and Debts**

The liability of the *karta* is unlimited. The liability of other coparceners is limited to the size of their share in the family business (Anant and Mitra 1998, 5). The *karta* is responsible for his share of the joint family business but property held by him individually may be taken in order to cover his liability. The son and grandson of the *karta* may also be held liable for both business and personal debts not paid by the *karta* during his lifetime. Some exceptions apply to this rule. Firstly, a son of the *karta* who partitions away his share of the joint family property before the liability was incurred will not be responsible for this liability. Secondly, if the *karta* accumulates debts as a result of expenditure on vices or acts considered immoral by Hinduism, such as gambling, then his sons will not incur liability (Cornish 1937, 51-57; Cowell 1895, 25-31; Gopal [1958] 1964, 548-555).

Coparceners who are not descendants of the *karta* are responsible for debts contracted by the *karta* for running the joint family business. However, they are not responsible for personal debts of the *karta*. The liability of other coparceners in the Hindu joint family business is limited to their share of business and does not extend to their separately held property (Gopal [1958] 1964, 555).
Use of Business Assets for “Family Necessity”

Assets of the joint family may be used by members for purposes of “family necessity.” The term “family necessity” encompasses avoidance of calamities affecting the whole family, unavoidable duties, and actions necessary to support the family (Cornish 1937, 46). Some examples of this include use of funds for the dowry for marriage female members of the family, legal defense of a family member, and performance of funeral rites for a family member (Cornish 1937, 48).

There is no clear demarcation in Hindu law between the assets of the family’s business and other assets held jointly by the family (Gopal [1958] 1964, 555). Furthermore, there are no formal rules in Hindu law to prevent members of the joint family from exploiting the family business’ funds for personal purposes. We will discuss the means by which the Hindu joint family prevents misuse of business’ funds further below.

Having examined some of the key characteristics of the Hindu joint business, we now turn to Islamic partnerships.

Formation of Islamic Partnerships

Our discussion will focus on the *mudaraba* and the two commercial partnerships recognized by Hanafi law: the ‘*inan*, and the *mufawada*. Hanafi law places the *mudaraba* in a special category but for purposes of simplicity we treat it as
an Islamic partnership. 10 Due to limitations of space and scope we cannot discuss special cases in Islamic commercial law such as credit purchase (istikdama) or discuss the differences between mandated and un-mandated mudarabas. 11

Islamic partnerships are the result of contracts between two or more parties. Their scope and duration is constrained by the contracts which bring about their existence. Islamic partnerships do not have legal personality (Kuran 2003, 422; Nyazee 1999, 77) and their life span does not exceed that of any of their members (Kuran 2003, 432; Udovitch 1970, 117, 248). 12

A key difference between the mufawada and ‘inan involves the scope and nature of capital invested. A mufawada partnership requires that all of the available capital (including personal assets) of the partners be involved in the partnership whereas the ‘inan requires that partners involve only a portion of their available capital in the partnership (Nyazee 1999, 100; Udovitch 1970, 41-42, 120). There are no rules that explicitly state what proportion of his personal assets an investor must place in a mudaraba.

10 The mudaraba may have developed in pre-Islamic Arabia for facilitating caravan trade. Udovitch (1970, 171-172) suggests that it spread throughout the Middle East, North Africa, and Southern Europe as a result of Arab conquests. Udovitch (1962; 1970, 171-172) also argues that the mudaraba was the antecedent of the Italian commenda while Pryor (1977) argues that Roman and Byzantine commercial institutions were the commenda’s antecedents. Çizakça (1996, 10-12) provides a fuller discussion of the relationship between the mudaraba and the commenda.
11 For a fuller treatment of such material see Udovitch (1970) and Nyazee (1999).
12 Islamic inheritance law requires that that the deceased partner’s share be divided among his heirs and makes them stakeholders in the partnership; any of them may choose to take his share out and dissolve the partnership (Kuran 2003, 432).
Participants

A *mufawada* partnership may only be formed by individuals who are of an equal standing in both social and economic terms. A *mufawada* partnership is predicated on existence of mutual agency and mutual surety. Thus partners may act as agents for one another other and may also provide surety for other partners. Slaves and minors are not permitted from participating in *mufawada* partnerships because they do not possess freedom of action and cannot provide surety for other partners (Udovitch 1970, 45). The requirement that *mufawada* partnerships be formed on the basis on social equality prevents the formation of such partnerships between Muslim and non-Muslims, or members of different genders (Udovitch 1970, 46-48). Change in the economic or social status of one of the partners results in a dissolution of the *mufawada* partnership (Udovitch 1970, 118).

In contrast to a *mufawada* partnership, an ‘*inan* partnership does not require equality of social or economic standing of the partners. Any individual of adult age with requisite faculties may form an ‘*inan* partnership with another such individual. Hence, an ‘*inan* partnership may be formed between a Muslim and non-Muslim (Udovitch 1970, 125-126). An ‘*inan* partnership rests on the assumption that partners provide mutual agency for each other; however they do not provide mutual surety for one another. Thus partners may act on behalf of one another but one partner may not be held responsible for the actions of the other partner (Nyazee 1999, 109).
A *mudaraba* involves the participation of an investor and an agent. The participation of multiple investors and agents is also permissible within a *mudaraba* (Udovitch 1970, 194). Agents are given considerable freedom in a *mudaraba* agreement, however investors may place restrictions on agents in regards to method, object, and location of trade. It is understood that restrictions placed on the activities of the agent must be both useful and beneficial to the performance of the *mudaraba*.\(^{13}\) When the investor’s stipulated restrictions are not useful or beneficial to the *mudaraba*, these restrictions may be overridden (Udovitch 1970, 210-213). Unlike the *mufawada* partnership, Muslims and non-Muslims may jointly participate in a *mudaraba* (Udovitch 1970, 227-228).\(^{14}\)

**Investment of Capital**

In a *mufawada* partnership, all partners must invest equal amounts of capital. Partners must also include all of their eligible capital for investment in a *mufawada* partnership. Cash that is readily available for investment is considered eligible capital, whereas goods, merchandise, and cash that is not immediately available are not considered eligible capital. The equality of eligible capital for the partnership must be maintained throughout the duration of a *mufawada* partnership. If one of the partners obtains cash via other sources such as inheritance or gifts and upsets the

\(^{13}\) This means that stipulations must be in line with the primary goal of achieving a profit.

\(^{14}\) Islamic legal literature stresses that in interdenominational *mudarabas* the agent be a Muslim. This is to prevent non-Muslim agents from using a Muslim’s capital to engage in activities that are forbidden to Muslims such as dealing in wine (Udovitch 1970, 228).
condition of equality, then the *mufawada* partnership will no longer be valid (Nyazee 1999, 166-167).  

‘*inan* partnerships are similar to *mufawada* partnerships in that only readily available cash is considered eligible capital, while goods, merchandise, and cash that is not immediately available may not be used as a source of investment. However ‘*inan* partnerships differ from *mufawada* partnerships because partners in an ‘*inan* partnership do not need to invest equal amounts of capital (Udovitch 1970, 127-128).

Neither an ‘*inan* nor a *mufawada* has a legal personality: assets and wealth may not belong to the partnership itself; instead they are held jointly by the partners involved (Nyazee 1999, 77).

A *mudaraba* is similar to both the *mufawada* and ‘*inan* in that only readily available cash may be used for investment (Udovitch 1970, 127-128). Goods, merchandise, and capital not immediately available may not be used as investment (Udovitch 1970, 180). For a *mudaraba* to be considered valid, the capital invested must be in possession of the agent. This transfer of capital to the agent serves two functions in a *mudaraba*: it assures the anonymity of the investor in relation to third parties, and it gives the agent autonomy in utilizing the capital. The transfer of capital to the agent does not imply a transfer of ownership of the capital nor is this transfer sufficient to put the *mudaraba* into effect. The *mudaraba* is only effective once an agent engages in the initial act of trading (Udovitch 1970, 189-190).

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15 This means that the *mufawada* partnership will be transformed into an ‘*inan* partnership.
Profit Sharing

Profits and losses must be shared equally among the investors in a *mufawada* partnership (Udovitch 1970, 48). On the other hand, there is considerable flexibility in regards to sharing of profits and losses in an *‘inan* partnership. The partners may agree to an equal distribution of investment and profit, or an unequal distribution of either or both profit and investment (Udovitch 1970, 119-120). Thus, in an *‘inan* partnership, one party could invest one-fifth of the capital but reap three-fifths of the profits. In a *mudaraba*, the investor and agent may agree upon any proportional division of profits. If the division of profits is not based on proportions or is equivocal for any reason, then the *mudaraba* is no longer valid (Udovitch 1970, 190-192).\(^{16}\)

Liability

In all Islamic partnerships liability is unlimited (Nyazee 1999, 81; Udovitch 1970, 41). The personal assets of partners may be used by creditors and others to pay off debts or liability. In an *‘inan* partnership liability is several but not joint (Nyazee, 1999, 87; Udovitch 1970, 135). The claims of third parties are directed only against the partner responsible for the particular transaction; similarly individual partners may press claims against third parties on their own behalf but not on behalf of the partnership. This is not true for a *mufawada* partnership where third

\(^{16}\) Markovits (2000, 156-166) provides detailed examples of how Indian merchants from Sind (predominantly Hindus) effectively exploited the *mudaraba*’s flexibility in regards to profit sharing.
parties may make claims against either of partners. Conversely, any of the partners regardless of their involvement in a transaction, may make claims against third parties. In a mufawada partnership, liability of the partners is both several and joint (Nyazee 1999, 87; Udovitch 1970, 100). Thus a third party may make claims against individual partners or against all the partners collectively. In a mudaraba, agents act on behalf of the investor and are not liable for normal business losses. Agents are not held liable except in cases of gross negligence (Udovitch 1970, 239-240).

**Usage of Personal and Business Assets**

In both the ‘inan and mufawada partnerships a distinction is made between the financial obligations of the partners in their personal and commercial spheres. Financial obligations stemming from the personal affairs of one of the partners are his exclusive responsibility and not binding upon the other partner in both the mufawada partnership (Udovitch 1970, 166-117) and the ‘inan partnership (Udovitch 1970, 134-135).\(^\text{17}\)

\(^\text{17}\) In some cases an exception to this is made in mufawada partnerships.
Participation

Hindu joint families and Islamic partnerships differ in regarding rules for participation. Islamic partnerships allow for considerable leeway in regards to their composition. For example, an ‘inan partnership or mudaraba may be agreed to by two individuals, regardless of their social or economic status.\textsuperscript{18} A mufawada partnership differs from an ‘inan partnership and a mudaraba by requiring that the partners be of an equal social and economic standing; however individuals of equal standing, including two slaves may form such a partnership. On the other hand, in Hindu joint families participation in business is restricted to the adult male coparceners of the family. Outsiders and female members of the family may not participate in the family’s business activities.\textsuperscript{19} It is safe to say that Islamic partnerships are considerably more flexible in allowing individuals from a variety of backgrounds to participate in them than is the Hindu joint family. It is also important to note that the individuals participating in an Islamic partnership need not be related to each other via familial ties, whereas this is not generally the case for Hindu joint families.

\textsuperscript{18} There are a few exceptions. Male apostates from Islam may not participate in either the ‘inan or the mudaraba.  
\textsuperscript{19} As mentioned above outsiders may form partnerships with Hindu joint families.
Proportion of Shares

The share of particular coparceners in Hindu joint families is not fixed and is contingent upon the number of coparceners. Events such as births, deaths, and partitions may cause the size of a coparcener’s share to fluctuate over time. In Islamic partnerships the shares are predetermined by contracts and may not vary. This may be particularly relevant for third parties such as creditors dealing with a partnership: they can determine exact share of a partner in an Islamic partnership. Since the shares of particular coparcener are only determined during a partition, neither third parties nor members of the Hindu joint family may know the share of each particular coparcener.

Profit Sharing

Islamic partnerships are more flexible than Hindu joint families in regards to profit sharing: in the ‘inan, mufawada, and mudaraba, the partners may predetermine the ratio of profit division as per their specific requirements. The profits of the Hindu joint family are held jointly by the members of the family and individuals are not assigned specific portions of the profits. Since profits from a joint family business are not assigned but instead held collectively, members of the joint family may have a disincentive to work, and an incentive to consume as great a portion of the profits as they can.
Two informal mechanisms are utilized by the Hindu joint family to constrain such behavior. The reputation of an individual who repeatedly participates in free-riding may be affected and as a consequence this particular individual may find his social and business prospects outside of the family to be limited. The success of this method of checking free-riding activity is contingent upon how much value a particular individual places upon his reputation and may not be effective in checking the exploitative behavior of individuals who have little inclination to maintaining a sound reputation. Hindu joint families can also check free-riding behavior by partitioning out to an uncooperative individual his respective share of the joint property and thus remove him from the joint family (Dutta 1997, 93-96). The partitioning out of an individual’s share of the joint family property has two costs attached to it: a.) it decreases the overall stock of the family’s capital stock and thus may affect its business activities; and b.) partitions hurt the business and social reputation of the both the individual involved and his family (Dutta 1997, 97). Hence, the ability to check free-riding behavior through utilization of this second informal mechanism is dependant upon the family’s willingness to incur the economic and social costs to partitioning out a free-riding individual’s share of family’s capital stock.
Liability and Personal Assets

The Hindu joint family and Islamic partnership also differ in regards to their treatment of liability. The liability of the *karta* is unlimited and hence extends to his share of separate property. The debts and liability incurred by the *karta* may be passed on to his son and grandson, but not to other coparceners in the family. The liability of other coparceners is limited to their share in joint family business and does not extend to their separate property. The Hindu joint family as an entity is not shielded from liability because creditors may take the shares of individual coparceners that are used for the joint family business. However the personal assets of the coparceners are shielded since liability is limited to their share of the Hindu joint family business.\(^\text{20}\)

In all Islamic partnerships, liability is unlimited but only the partner participating in a particular transaction is held liable. Given that liability is unlimited in Islamic partnerships, the personal assets of an individual partner are not shielded from liability.\(^\text{21}\) This increases the cost of setting up new business ventures via an Islamic partnership because partners have to not only the risk the capital invested in the venture, but they also risk their personal assets. On the other hand, in the Hindu joint family, the coparceners’ are not subject to the same kind of risk because their personal property is protected from creditors. This allows the Hindu joint family to

\(^{20}\) The sole exception is the *karta*. While his share of the Hindu joint family business may be taken by creditors his personal assets receive no protection.

\(^{21}\) The assets of an individual partner are protected from the creditors of his other partners (Kuran 2005, 787).
invest its capital in a variety of different business ventures without having to risk the personal assets of each of the coparceners. Thus the level of risk incurred for each of the participants (except the *karta*) in a Hindu joint family business would be less than risk incurred for each partner in an Islamic partnership.\(^{22}\)

**Usage of Personal and Business Assets**

The partners have rights to the partnership’s funds provided that these are used for attaining profit. Unlike a Hindu joint family, partners in all three forms of the Islamic partnerships discussed here may not appropriate the other partner’s funds for personal usage. The assets of the partnership and of individual partners are shielded from use by other partners. This differs from Hindu joint families where the jointly held assets of the family business may be used for personal purposes by the individual members of the family. The assets of a Hindu joint family as an entity are not shielded from usage by members of the joint family.\(^{23}\) On the other hand, the personal assets of individual coparceners that are held as separate property may not

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\(^{22}\) The limitation of liability in regards to the personal assets of the owners is a characteristic that the Hindu joint family shares with the modern corporation. However, in the corporation the personal assets of all the owners are protected, whereas in the Hindu joint family this is not the case with the assets of the *karta*. The protection of personal assets of owners is considered to be one of the most advantageous attributes of the modern corporation (Lamoreaux and Rosenthal 2004, 7-11).

\(^{23}\) The Hindu joint family and Islamic partnership both lack legal personhood and thus cannot provide entity shielding (limited liability for the firm itself). This allows creditors of individual partners or coparceners to take assets of the partnership or joint family business. For a discussion of the importance of shielding the business entity’s assets from the owner’s personal creditors see Kraakman et al. (2006).
be used by other coparceners.\textsuperscript{24} A consequence of this is that the Hindu joint family is more vulnerable than the Islamic partnership to the liquidity crises on the part of its participants: any financially squeezed coparcener can use up the Hindu joint family’s funds whereas in an Islamic partnership active partners may do so while sleeping (or silent) partners are denied this right.\textsuperscript{25}

**Formation and Durability**

A key point of difference between both institutions lies in how they are formed: an Islamic partnership is brought about by a contract between two parties and its duration and scope are limited by this contract. A new partnership contract would be needed to expand into areas of business not stipulated by the original contract. Furthermore, the life span of the partnership may not exceed that of any of its members. Since the death of any partner causes the partnership to dissolve, the inclusion of a new partner increases the chances of partnership’s dissolution. This places a cost on increasing the size of the partnership by introducing new members (Kuran 2003, 421-423).

Since the Hindu joint family is not brought about by a specific contract or agreement between its members, it differs from an Islamic partnership in that its scope and duration are not contractually bound. As mentioned above there is

\textsuperscript{24} We will see in Chapter 4 that joint property can become separate property if a coparcener calls for a partition of the estate.

\textsuperscript{25} For more on active and sleeping partners in Islamic partnerships, see Udovitch (1970, 192-194).
considerable difficulty in dissolving a Hindu joint family. A Hindu joint family may outlive its particular members and expand its activities into other areas of business. Hindu joint families also differ from Islamic partnerships in that the inclusion of additional individuals into the Hindu joint family does not necessarily lead to its dissolution. New members may be absorbed into the previous business or have a new branch of the family business set up for them without partitioning from the Hindu joint family.26

Conclusion

From the brief discussion above, we can see that the Hindu joint family possesses two characteristics in common with modern corporations that are not possessed by Islamic partnerships. First, the Hindu joint family is a durable institution. Its existence is not contingent upon the existence of any particular member and it may only dissolved under special circumstances. Islamic partnerships do not possess a similar sort of durability: their life span is contingent upon the existence of each member of the partnership, and the partnership may be dissolved relatively easily.

A second similarity between the Hindu joint family and the modern corporation is that both may branch out their business activities into new areas. On

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26 However, the inclusion of new members into the Hindu joint family business increases monitoring costs and may encourage partitions.
the other hand, in order for an Islamic partnership to deal with businesses that are not stipulated in the contract, a new partnership would have to be formed.

These two differences acquire crucial importance because an individual using the Hindu joint family for business would have the experience and the skill set required for operating in an institution that is durable and can branch out into different types of businesses. On the other hand, an individual using only Islamic partnerships would not have the skill set or the experience acquired working in a durable institution that may branch out into different areas of business.

Islamic partnerships are considerably more flexible than Hindu joint families in regards to key issues such as profit sharing and inclusion of individuals who are not related by familial bonds. Islamic partnerships also acknowledge a distinction between the personal and business affairs of the partners involved; one partner may not use the funds of the other partner for his personal affairs. On the other hand, the assets of the Hindu joint family business may be used by the members of the joint family in order to meet non-business expenses of the family. These advantages may explain the success of Muslim traders in establishing themselves across the Indian Ocean but the Islamic partnership’s lack of durability and the inability to establish numerous branches hindered Muslim transition into managing agencies.

27 The case studies presented in both Chapters 4 and 5 provide examples of this.
28 Members of the Hindu joint family would have a disincentive to use their separately held property for non-business needs if they can tap into jointly held property.
Chapter 4: The Impact of Hindu and Islamic Inheritance Systems on Capital Accumulation in Families

It has been acknowledged that the inheritance laws of Hinduism allowed for wealth to be held collectively by a joint family for long durations and encouraged capital accumulation (Bagchi 1985, 26-28; 1999, 50; Leonard 1981, 197). As a consequence, wealthy Hindu families could hold on to and augment their stock of capital over the course of many generations. The inheritance laws of Islam differ from those of Hinduism in that they do not encourage capital accumulation; instead over time capital becomes fragmented in Muslim societies and families (Ahmad 1991, 4; Bose [1997] 2004, 92; Timberg 1978, 39). While individual Muslim aristocrats and merchants in India may have amassed large fortunes, Islamic

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1 Hindu inheritance law is divided into two branches: the Mitakshara and Dayabagha. We concern ourselves with the former because it used throughout South Asia, while the latter is restricted to the province of Bengal. All references to Hindu law in this section imply the Mitakshara unless specified otherwise.

2 Sunni Muslim jurisprudence has four branches: the Hanafi, Hanbali, Shafi, and Maliki. We will discuss only the Hanafi inheritance law, since it applies to the majority of Muslims of South Asia (Carroll 1983, 630 n.2; Carroll 1995, 25-26). The majority of Shia Muslims of South Asia follow Ithna Ashari law of inheritance (Carroll 1985). Three Muslim castes (whom we shall refer to as “heterodox Muslims”) were governed by Hindu inheritance law. These are the Khojas, Memons, and Borahs (Cornish 1937, 5). The Muslims of Punjab are not governed by Hanafi law but by traditional inheritance law (Rankin 1939, 108).
inheritance codes prevented their families from retaining this wealth over a period of many generations.3

This difference between Hindu and Islamic legal systems would acquire great significance because capital markets were underdeveloped in colonial India, and one’s family and community often became the sole means of raising capital in order to enter industry (Bagchi 1999, 50-51; Timberg 1969, 39). Hindus from wealthy castes such as the Marwaris (Timberg 1978, 81) and Nattukottai Chettiars (Rudner 1989, 422-424) were able to tap into their familial and communal networks and could raise capital with relative ease, whereas Muslims were not able to do so (Talha 2000, 88; Timberg 1969, 75).4 We will now examine the Hindu and Muslim inheritance codes in greater detail in order to get a deeper understanding of the process by which wealthy Hindu families were able to accumulate capital while the

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3 Two mechanisms used by South Asian Muslims to avoid the application of inheritance to their estate include donation of the estate as a gift to a particular member of the family (this practice was known as *hiba-bi’l-‘iwad*) and setting up a *waqf-alal-awlad* (Carroll, 2001.) We will briefly discuss both mechanisms and their limitations in this chapter.

4 Familial and communal networks were used by Hindus from merchant castes and heterodox Muslims to gain access to cheap credit. Marwari businessmen often provided credit to distant relatives to help them set up businesses (Timberg 1978, 102). Merchants from the Nattukottai Chettiar caste lent each other capital at interest rates lower than those charged to non-Chettiars (Rudner 1989, 433-435). Communal banks have also been used by Khojas in order to obtain credit at lower interest rates than would have been possible via money lenders or other banks (Papanek 1962, 267).
capital of their Muslim counterparts dissipated. In order to do so must the nature of
the Hindu joint family must be investigated.

The Hindu Joint Family

A Hindu joint family consists of the male ancestor with his lineal
descendants in the male line, along with the unmarried daughters, wives, and widows
of the ancestor and his descendants. The existence of this male ancestor is not
necessary: the joint family may be composed solely of his descendants. The tie
binding members of the joint family is known as the sapinda, which may arise as a
result of birth, adoption, or marriage. Sapinda relationships are necessary for the
formation of the joint family. There is no limit to the size of a joint family. This
number of members may change due to births, adoptions, marriages, deaths,
partitions, and severance of ties. A Hindu joint family continues to exist indefinitely,
unless it is partitioned, or if it has no living members who can add another member
to it (Gopal [1958] 1964, 526-527).

Property in Hindu joint families is classified into two broad categories: joint
property and separate property. Joint property is held collectively by the family. It
is divided into two categories: ancestral property and non-ancestral property.

5 The Mitakshara is more conducive to capital accumulation than the Dayabagha (Bagchi 1985, 26-
28). This may help in explaining why Bengalis played a small role in India’s industrialization
(Rungta 1970, 164) despite the fact that the province of Bengal had exposure to Western business
methods as early as the 1820s through partnerships between Indian and British businessmen (Tripathi
Ancestral property can only be obtained by two means: inheritance and partition, while property gained through other means is not considered ancestral. Therefore, the profits from a business owned by the joint family would not be considered ancestral property since they were not obtained via inheritance or partition.

Ancestral property is further divided into two sub-categories: unobstructed heritage and obstructed heritage. The male members of the family acquire rights to the former by virtue of birth, while rights to the latter are acquired by male members as a result of the death of the last male owner. An example of obstructed heritage would be the individual property of a sonless uncle. This property may go to his nephews provided that he does not have a son. The presence of a son would “obstruct” the passage of this property to his nephews (Cornish 1937, 36-39; Gopalakrishnan 1959, 88-91).

Separate property refers to property that is held exclusively by a particular individual. Other members of the joint family do not have rights to this property. Separate property has a tendency to become joint property over time: unless the possessor of separate property disposes of it as such upon his death, it will enter the common pool and be classified as joint property (Cornish 1937, 36).

How is the distinction between joint and separate property made? Two principles play roles. The first is the “presumption of joint-ness”. Property is assumed to be joint property, unless explicitly stated otherwise. Property acquired by members of the joint family and gifts given by strangers to members of the joint
family are assumed to be joint family property. The second principle involves the source of origin of the funds for acquiring assets. If joint family funds were used to acquire particular assets, then those assets are included in joint family property. On the other hand, if the funds used to acquire assets have their origin in separate property then those assets will not automatically become joint family property (Cornish 1937, 40-41). Thus it can be seen that wealth tends remain in the common pool unless other forces act upon it.

An example of an event that would lead to the dilution of the common pool is the partitioning of the joint family. Partitions typically occur during three occasions: the male head of the family can call for partitioning of the joint family property; one of the sons may request it; and after the death of the father (Cowell 1895, 41-42).6 In the event of a partition, brothers must receive equal shares (Cornish 1937, 63-64).7 It is very important to note that partitions are frowned upon by the general society and a family’s reputation may suffer as a result of a partition. The act of partitioning is usually viewed as a sign of weakness and may limit the family’s social and business options (Dutta 1997, 97).

The male descendants up to the fourth generation of a Hindu joint family are considered coparceners. While male descendants acquire the title of coparcener upon birth, they cannot receive their respective shares until the partitioning of joint

---

6 The son may only request a partition during the father’s lifetime if there is no chance of the father having any more sons.
7 Adopted and illegitimate sons constitute an exception to this rule.
family property. The share of each coparcener is not constant. It may change with the birth or death of other male coparceners. Coparceners hold the property collectively with other members of the joint family until a partition occurs (Cowell 1895, 8; Gopal [1958] 1964, 527-528). Members of the joint family who are not coparceners have the right to maintenance but do not have shares in joint family property. During a partition property is divided per stripes and not per capita (Cornish 1937, 66; Cowell 1895, 8).8

Female members of the joint family are not coparceners. In the event the female member of a joint family has no sons or brothers, she is granted the right to maintenance. Widows are encouraged by Hindu law to live very frugally. While the right to maintenance is not a fixed share, it is assumed that the female members will be granted enough property to allow them to live within reasonable means. Classical Hindu law discouraged women from owning property and only grudgingly conceded a separate form of property for the maintenance of women (Gopalakrishnan 1959, 100).9

---

8 In a per capita partition, the property would be divided evenly per eligible male member of the family. This means that each of the grandsons of a deceased karta whose father is also deceased are eligible to receive the same share as the sons of the abovementioned karta. In a per stripes partition, the grandsons would receive collectively the amount which their father would have received had he been alive. Furthermore, the deceased father’s inheritance would be equally divided amongst the grandsons of the karta had he been alive.

9 In certain cases, the mother is entitled to a share in the Mitakshara doctrine.
Capital Accumulation in Hindu Families

What makes the Hindu joint family an effective vehicle for the accumulation of capital? Two fundamental characteristics of Hindu joint families that have been discussed above are highly conducive to capital accumulation. For one thing, joint family property can be held collectively for an indefinite period until a partition occurs. Since a joint family does not have to divide its capital with the passing of every generation, the pool of capital can grow indefinitely. For another, a joint family is not limited in terms of the number of members that are included in it. This characteristic allows joint families to expand through marriages, births, and adoptions.

The ability of the joint family to accumulate capital is buttressed by some important aspects of Hindu inheritance law. First, Hindu inheritance law encourages separate property to become joint property. In the process, the pool of jointly held property grows over time. Second, Hindu inheritance law grants coparceners inchoate titles to joint property until a partition occurs. Coparceners may not use substantial portions of joint property without the approval of other members of the family. This places a check on an individual coparcener’s tendency to abuse family property, because his rights to its disposal are limited. Third, since partitions occur per stripes and not per capita, tendencies for excessive fragmentation of capital are discouraged. The underlying logic is as follows: in per stripes division, the number of fragments into which capital is partitioned is limited to the number of sons the
*karta* has. In a *per capita* partition of capital, however, the number of fragments into which capital is partitioned can increase because grandsons of the *karta* whose father is deceased will also each receive a share. Therefore, the fragmentation in a *per capita* partition is likely to be greater than in a *per stripes* partition. Finally, by limiting the share of non-coparceners to maintenance, Hindu inheritance law places limits on the number of eligible heirs.

**The Islamic Inheritance System**

The inheritance system of pre-Islamic Arabia sought to keep property within the hands of the tribe and conferred rights of inheritance exclusively to male agnatic relatives of the deceased individual. Islamic jurisprudence brought radical changes to traditional inheritance laws and established rights of inheritance for females and others who were ignored in the inheritance laws of pre-Islamic Arabia. The Islamic inheritance system has two broad categories of heirs: male agnates (*'asaba*) who were legal heirs under the previous tribal laws and the new heirs (*ahl al-fara'id*). A significant portion of the complexities of Islamic inheritance laws can be said to stem from attempts to reconcile the claims of members of these two categories (Coulson 1971, 29-30). The second category is further divided into three sub-categories: Quranic heirs, agnatic co-sharers, and female agnatic heirs (Carroll 1983, 630).
Male agnatic heirs may have either a germane or consanguine relationship via the father (Carroll 1983, 630). Table 4.1 illustrates the rankings of categories of male agnatic heirs.

Table 4.1
Order of Priority of Male Agnatic Heirs in Hanafi Law (Carroll 1983, 631)

<table>
<thead>
<tr>
<th>Category</th>
<th>Order of Ranking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Descendants</td>
<td>Son, son’s son etc. ad infinitum</td>
</tr>
<tr>
<td>Ascendants</td>
<td>Father, father’s father etc. ad infinitum</td>
</tr>
<tr>
<td>Brother and his male issue</td>
<td>Germane brother, consanguine brother, germane brother’s son, consanguine brother’s son, ad infinitum</td>
</tr>
<tr>
<td>Paternal uncle and his male issue</td>
<td>Germane paternal uncle, consanguine paternal uncle, germane paternal uncle’s son, consanguine paternal uncle’s son, ad infinitum</td>
</tr>
<tr>
<td>Paternal great uncle and his male issue</td>
<td>Father’s germane paternal uncle, father’s consanguine paternal uncle, father’s germane paternal uncle’s son ad infinitum</td>
</tr>
<tr>
<td>Other male relatives</td>
<td>…</td>
</tr>
</tbody>
</table>

Quranic heirs include the mother, grandmother, husband, wife, daughter, son’s daughter, uterine brother, germane, consanguine, and uterine sisters. It is important to note that 8 of the 10 Quranic heirs are women. The agnatic co-sharer is a female Quranic heir who is brought into this new category by virtue of the fact that
she and a male agnate are related to the propositus in the same manner. Once a female has been converted into an agnatic co-sharer, she ceases to be a Quranic heir. Female agnatic heirs include the germane and consanguine sisters. The agnatic sister only becomes a female agnatic heir if she has no brother and a female agnatic descendant is present as a Quranic heir.

Hanafi law distributes according to the following six steps:

1. Identification of the highest ranking male agnatic heir.
2. Identification of agnatic co-sharers.
3. Identification of female agnatic heirs.
4. Identification of Quranic heirs. Those members who fall into the abovementioned three categories may not be counted as Quranic heirs. Certain Quranic heirs may be excluded by the presence of other relatives. For example, the presence of a mother may exclude the grandmother as a Quranic heir. Similarly, the presence of an uncle who is an agnatic heir may exclude his niece as a Quranic heir. However, the husband, wife, mother, father, and daughter may never be excluded from a share of the inheritance even though they may take their share as agnatic co-sharers or as male agnates.

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10 Propositus is defined as “the person from whom a line of descent is reckoned” (The Reader’s Digest Great Encyclopedic Dictionary, s.v. “propositus”).
(5) Determination of shares of the Quranic heirs. Fractions of the share are assigned to each of the Quranic heirs. The remainder is assigned to members of categories (1), (2) and (3) as listed above.

(6) Distribution of the appropriate amounts to the four categories of heirs.

(6a) If the fraction of shares of Quranic heirs equals one or more: the amount is distributed in proportion to the Quranic heirs and nothing remains for members of the other categories.

(6b) If the fraction of shares assigned to Quranic heirs is less than one: the residual amount goes to male agnatic heirs, agnatic co-sharers, and female agnatic heirs respectively. If there are no agnatic heirs then the amounts are increased in proportion to their original entitlements. If there is are neither agnatic heirs nor Quranic heirs who are related to the propositus via blood, the residual amount may be distributed to distant kindred. If there are no agnatic heirs, Quranic heirs, or distant kindred, the proportions are divided between the spouse relict and the State (Carroll 1983, 638-640).

Table 4.2 provides a simplified version of the respective shares of relatives under Hanafi law. (For the sake of brevity the numerous rules regarding exclusion of Quranic heirs and the alteration of shares of Quranic heirs have not been included in the table).
Table 4.2
Quranic Heirs and Their Respective Shares (Carroll 1983, 636-637)

<table>
<thead>
<tr>
<th>Relation to Propositus</th>
<th>Basic Quranic Share</th>
<th>Revised Quranic Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grandfather</td>
<td>1/6</td>
<td>1/6 + share as male agnate</td>
</tr>
<tr>
<td>Grandmother</td>
<td>1/6</td>
<td>N/A</td>
</tr>
<tr>
<td>Father</td>
<td>1/6</td>
<td>Ranges from 0 to 1/6</td>
</tr>
<tr>
<td>Mother</td>
<td>1/6</td>
<td>Ranges from 0 to 1/3</td>
</tr>
<tr>
<td>Husband</td>
<td>1/4</td>
<td>1/2</td>
</tr>
<tr>
<td>Wife</td>
<td>1/8</td>
<td>1/4</td>
</tr>
<tr>
<td>Daughter</td>
<td>Ranges from 1/2 to 2/3</td>
<td>Takes Share with Son</td>
</tr>
<tr>
<td>Son’s Daughter</td>
<td>Ranges from 1/2 to 2/3</td>
<td>Ranges from 0 to 1/6</td>
</tr>
<tr>
<td>Germane Sister</td>
<td>Ranges from 1/2 to 2/3</td>
<td>None</td>
</tr>
<tr>
<td>Consanguine Sister</td>
<td>Ranges from 1/2 to 2/3</td>
<td>Ranges from 0 to 1/6</td>
</tr>
<tr>
<td>Uterine Brother/Sister</td>
<td>Ranges from 1/6 to 1/3</td>
<td>N/A</td>
</tr>
</tbody>
</table>

We can see from the foregoing table that the application of Islamic inheritance laws could potentially divide an estate among a large number of heirs. Another potential consequence of Islamic inheritance laws is that the size of the estate can dwindle into small portions. We will see further in this chapter how the application of Islamic inheritance laws over the course of many generations can severely fragment an estate.

**Capital Fragmentation and Islamic Inheritance Laws**

The effect of Islamic inheritance law in encouraging fragmentation of estates has been discussed before (Ahmad 1991; Bose [1997] 2004, 92; Timberg 1978,
It would be wise to briefly discuss how the Islamic inheritance system enforced the tendency towards fragmentation of capital. First, Islamic inheritance system enforced division of the estate upon the death of the propositus. The propositus’ ability to make adjustments in the distribution of his estate through a will was limited: he could not bequeath more than a third of his estate through testamentary dispensation without the consent of his heirs. This prevented Islamic estates from existing for long durations and limits their life expectancy to that of the propositus. Second, the Islamic inheritance system greatly increased the number of eligible heirs. While the pre-Islamic inheritance codes of Arabia limited shares to male agnates, Islamic jurisprudence increased the number of heirs by including others, especially females. Both the abovementioned factors create a pronounced tendency in the Islamic inheritance system towards estate fragmentation.

**Mechanisms for Circumventing Islamic Laws of Succession**

South Asian Muslims attempted to bypass Islamic inheritance laws and prevent fragmentation of their estates through donation the estate via the *hiba-bi'l-

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11 The application of Islamic law also led to estate fragmentation among the Muslims of the Middle East. For a discussion of some of the consequences of this see Baer (1962, 79-83), Dourani (1995, 70-71), Marcus (1989, 209-210), and Meriwether (1999, ch. 4). A variety of methods (such as the marriage of two heirs of the same estate) were utilized to circumvent the application of the laws of inheritance (Baer 1962, 115-116; 163-166; Meriwether 1999, ch.4; Mundy 1988, 49-65; Powers 1990, 19-27). The establishment of a waqf was another means by which Muslims of the Middle East circumvented the application of the laws of inheritance (Barnes 1987, 16; Kuran 2001; 2003, 430; 2004b, 75).

12 Sunni and Shia laws of succession differ in that in the former, a propositus may not use testamentary dispensation to benefit one of the intestate heirs, whereas this is not the case with the latter.
'iwad or establishment of a waqf-al-al-awlad. We will discuss the hiba-bi’l-‘iwad first. Since the practice of hiba-bi’l-‘iwad in South Asia differed significantly from what the term implies in classical Islamic law, it would be wise to discuss the meaning of the term in the context of classical Islamic law.\(^\text{13}\) The hiba-bi’l-‘iwad refers to a transaction composed of the exchange of two separate gifts. The gifts do not need to be of equal value; often the second gift (‘iwad) is a token item such as a bangle or prayer rug, and is worth only fraction of the original gift. The significance of the second gift (‘iwad) cannot be underestimated. In classical Islamic law, the giving of a gift (hiba) from one party to another may be revocable, but when a return gift (‘iwad) is accepted by the donor of the first gift the exchange (hiba-bi’l-‘iwad) becomes irrevocable. The hiba-bi’l-‘iwad differs from another method for exchange of goods, the hiba-ba-shartul-‘iwad, on two crucial points: in the latter the gifts exchanged are of equal value and the transaction is treated as a sale.\(^\text{14}\) The hiba-ba-shartul-‘iwad may be revoked because it is treated as a sale in classical Islamic law (Carroll 2001, 249-250).

The South Asian hiba-bi’l-‘iwad possessed characteristics that allowed it to become an effective means for the circumventing Islamic laws of succession. It differed from both the classical hiba-bi’l-‘iwad and the hiba-ba-shartul-‘iwad in that the original gift does not need to be in possession of the donee for the transaction to

\(^\text{13}\) We distinguish between hiba-bi’l-‘iwad as it is discussed in classical Islamic legal literature from the practice of it in South Asia by referring to the latter as “South Asian hiba-bi’l-‘iwad.”

\(^\text{14}\) However, until the exchange has been completed, the hiba-ba-shartul-‘iwad is governed by rules applying to gifts (hiba) and not the rules applying to sales.
be valid and complete. This protected the donor because he did not have to pass his property to the donee during his lifetime and thus reduce himself to poverty or dependence on the donee. However, the South Asian *hiba-bi’l-‘iwad* (just like its classical counterpart) required that a gift of token value be given by the donee. The transfer of the second gift (*‘iwad*) made the transaction irrevocable. The South Asian *hiba-bi’l-‘iwad* was similar to the *hiba-ba-shartul-‘iwad* in that both were governed by rules regulating sales but not gifts. Since Hanafi laws restricted the transfer of property via gift-giving but allowed for it through sales, this made the South Asian *hiba-bi’l-‘iwad* an effective mechanism for the transfer of property and thus avoid the application of the Islamic inheritance laws. The South Asian *hiba-bi’l-‘iwad* lost popularity during the late nineteenth century when British-Indian courts insisted that the donor’s rights over the donated property cease immediately.

The *waqf-alal-awlad* was utilized by South Asian Muslims during the nineteenth century in order to circumvent the Islamic laws of inheritance (Bose [1997] 2004, 92; Carroll 2001, 257). Before analyzing this institution it would be wise to

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15 Since the South Asian *hiba-bi’l-‘iwad* allowed for postponement of the delivery of the original gift, the token gift (*‘iwad*) was often delivered immediately to make the transaction irrevocable.

16 It has been suggested that the *waqf-alal-awlad* became popular with members of the Muslim aristocracy during the nineteenth century because higher taxes on land and the concept of private property threatened the Muslim aristocracy’s ownership of its estates (Carroll 2001, 257). However it is unclear why the introduction of the concept of private property would necessarily lead to estate fragmentation amongst Muslim families, especially since larger estates may have brought with them the benefits of economies of scale and greater social prestige. It is also unclear why higher revenue demands on land would encourage estate fragmentation, since a large estate could meet these demands more effectively than a small estate. Carroll ignores the possibility that the *waqf-alal-awlad* may have gained popularity as a response to the decline in the efficacy of the South Asian *hiba-bi’l-‘iwad* as a means of estate preservation during the late nineteenth century.
briefly discuss the nature of waqfs in general. 17 A waqf is property of an individual (known as the waqif) and is dedicated to charitable ventures such as schools or mosques. The property passes from the ownership of the waqif and is governed by a manager (mutawalli) who is appointed by the waqif. 18 The profits from the waqf are given to a beneficiary designated by the waqif. 19 The waqf-al-al-awlad gives the not only the waqif and his family the right to consume profits but extends that right to his descendants until his line goes extinct (Carroll 2001, 255-257).

The waqf-al-al-awlad possessed certain characteristics that made it conducive to preservation of estates. First, beneficiaries were not allowed to transfer or partition waqf property. This not only shielded waqfs from Islamic inheritance law, but also prevented profligate beneficiaries from selling portions of the waqf property. Second, waqifs were allowed to retain control of the property until their death. 20

17 The waqf emerged in the Islamic world during the eighth century and served two functions: it protected its founder’s immovable goods and provided public goods (Kuran 2001, 844-847). The waqf drew inspiration from similar institutions used during this period by Romans, Byzantines, Jews and others. The waqf differs from its Romans and Byzantine predecessors in that the latter always had to be managed by state or ecclesiastical authorities whereas this was not the case with the former. The waqf also differs from a similar institution, the Jewish hekesh, in that the latter discouraged its founders from accruing any pecuniary benefits (Kuran 2001, 848 n.10). Frye ([1975] 1988, 17) draws parallels between the waqf and endowments for Zoroastrian fire temples known as ruwanikan difira and stresses the waqf’s Persian roots. Kozlowski (1995) provides a history of the waqf under the Mughals. He stresses that unlike the Ottomans and Safavids who used the waqf for a variety of secular and religious ends, the Mughals’ utilization of the waqf was often limited to granting endowments to prominent Muslim religious figures. The use of the waqf to preserve familial estates only gained currency in South Asia during the nineteenth century and evoked controversy among the Muslim intelligentsia (Kozlowski 1980, 291-296).

18 There may be multiple managers in charge of a waqf.

19 The Hanafi is the only major school of Islamic jurisprudence that allows the waqif to keep these profits for himself during his lifetime. However both Hanafi and non-Hanafi schools permit the waqif’s spouse and children to consume profits from the waqf.

20 This could not be done when an estate was given as a gift (hiba). The donor was required to part with it immediately and would be left destitute.
Third, *waqifs* could choose who the beneficiaries would be. This allowed *waqifs* to choose immediate family members as beneficiaries and exclude more distant kin who may have had a share to the property if Islamic inheritance laws were applied to property (Carroll 2001, 260-262).

While the *waqf-al-al-awlad* was utilized by the South Asian Muslims for preservation of their estates, it also prevented their effective utilization. First, since beneficiaries were bound by terms stipulated in the *waqf* deed they had to utilize *waqf* property as per the original intent of the *waqif* and could not place the property or its assets in more profitable ventures. Second, because beneficiaries could not sell *waqf* property, the capital invested in this property could not be utilized for other areas of economic life. Finally, while the number of beneficiaries grew over time, each beneficiary’s share of (and profit from) *waqf* property declined. Thus beneficiaries had little incentive to maintain *waqf* property which often fell into misuse (Carroll 2001, 260-262).²¹

Thus we can see that two means used by South Asian Muslims to circumvent Islamic inheritance laws had specific shortcomings that limited their effectiveness. The South Asian *hiba-bi‘l-’iwad* lost its efficacy in the nineteenth century, when British-Indian courts insisted that the donor’s rights upon the gifted property cease immediately. The *waqf-al-al-awlad* gained popularity among during this period but it limited the fluidity of capital and prevented its usage for industrial ventures.

²¹ We observe similar problems with *waqfs* in the Middle East (Kuran 2001).
Frequency of Estate Fragmentation

Hindu and Islamic inheritance codes differ in their treatment of the familial estate. Under Hindu inheritance laws, a joint family may exist and hold its property collectively for an indefinite period of time. The Hindu estate is only split during a partition which is not necessarily concomitant with the death of the patriarch of the family. Muslim inheritance law calls for division of the estate upon the death of the propositus, i.e. every generation. Since Muslim estates must be split up every generation, while Hindus can exercise the option of holding wealth collectively, this may lead to a greater occurrence of fragmentation of estates amongst Muslims than amongst Hindus.

Treatment of Individual and Collective Property

Hindu inheritance law recognizes the concept of collectively held property in a family and encourages the growth of this property. Individually held property has a tendency to devolve into the pool of joint family property. The Hindu treatment of property differs from the Islamic treatment in that the latter does not: a) distinguish between individually and collectively held property; or b) allow for the family estate to be broken into individual segments held by the various members of the family.
Number of Heirs

The Hindu inheritance code limits the shares of the estate to the coparceners while non-coparceners are granted only enough of the family’s capital for maintenance purposes only. Joint family divisions occur *per stripes* and not *per capita*. This is an effective means of reducing fragmentation because joint families may have large numbers of male members when sons and grandsons of coparceners are taken into account and a *per capita* division would fragment the estate to a far greater extent than would a *per stripes* division.

Islamic inheritance codes differ from Hindu inheritance codes in that the former introduce a large number of heirs under the category of Quranic heirs. While females do have the right to maintenance under Hindu codes, Islamic codes grant certain female members of the family specific shares.  

Quantifying Consequences of Hindu and Muslim Inheritance Codes

How would Hindu and Muslim families fare under the codes of their respective religions? Let us assume that we have two families: $F_H$ and $F_M$. Both start initially with a capital of Rs. 1,000,000. We trace the history of the families’ capital stock over the course of three generations. Since we want to see the impact of the inheritance codes on the respective families we will work under the following simplifying assumptions:

---

22 Unfortunately, there is no study that provides us the average number of heirs in Hindu and Muslim estates.
(1) Both families consist of only one father and his two sons.

(2) In each subsequent generation the family will consist of father and two sons.

(3) The families do not consume from their capital stock, nor do they augment it via other means such as business profits.

(4) The families are restricted to operating under the codes of their respective faiths and may not switch to the other inheritance code.

(5) The Muslim family must split its stock of capital with every subsequent generation; the Hindu family has the option of splitting or retaining its capital every generation. 23

(6) When capital is divided it will be divided into two equivalent shares between both sons.

Let $F_H =$ Hindu Family

Let $F_M =$ Muslim Family

Let $K =$ Stock of capital.

Let $S =$ Splitting of the estate.

Let $R =$ Retention of the estate

Let $P_S =$ Probability of splitting the estate per generation. For the Hindu family $P_S$: $0 \leq P_S \leq 1$. For the Muslim family $P_S = 1$.

---

23 We ignore both the _waqf-alal-awlad_ and the _hiba-bi’l-‘iwad_ in this model because the latter had fallen out of use during the late nineteenth century while the former tended to decrease the fluidity of capital and hindered its investment in industry.
Let $G = \text{Generation}$ where $G: 0 \leq G \leq \infty$, where $G_0$ indicates the initial generation.  

To measure the extent of capital fragmentation by the $n$th generation in the Muslim family we use the following equation: $K_N = K_0(\frac{1}{2})^N$

To measure the extent of capital fragmentation by the $n$th generation in a Hindu family we use the following $K_N = K_0(\frac{1}{2})^{P_SN}$

Given that $0 \leq P_S \leq 1$ for $F_H$, we can infer that $K_N(\frac{1}{2})^{P_SN} \geq K_N(\frac{1}{2})^N$

Furthermore, $K_N(\frac{1}{2})^{P_SN} = K_N(\frac{1}{2})^N$ only if the Hindu family’s $P_S =1$.

Scenario 1: The history of the capital stock of a Muslim family vis-à-vis the capital stock of a Hindu family with high incentive to avoid partitioning. $P_S =0.1$ over three generations.

The capital stock of the Muslim family would diminish in a pattern as is illustrated by Table 4.3. The capital stock of the Hindu family could follow any one of the patterns with their respective probabilities outlined in Table 4.4. We can also see from this table that over the course of three generations, the p-value for the Hindu family’s capital fragmenting to the extent of the Muslim family is only 0.001.
Table 4.3
*Capital Fragmentation in a Muslim Family*

<table>
<thead>
<tr>
<th>Generation</th>
<th>Stock of Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>G₀</td>
<td>Rs. 1,000,000</td>
</tr>
<tr>
<td>G₁</td>
<td>Rs. 500,000</td>
</tr>
<tr>
<td>G₂</td>
<td>Rs. 250,000</td>
</tr>
<tr>
<td>G₃</td>
<td>Rs. 125,000</td>
</tr>
</tbody>
</table>

Table 4.4
*Probability of Capital Fragmentation in a Hindu Family with P₅ = .1*

<table>
<thead>
<tr>
<th>S</th>
<th>Probability</th>
<th>Stock of Capital by G₃</th>
</tr>
</thead>
<tbody>
<tr>
<td>Split 0 times</td>
<td>.729</td>
<td>Rs. 1,000,000</td>
</tr>
<tr>
<td>Split 1 time</td>
<td>.243</td>
<td>Rs. 500,000</td>
</tr>
<tr>
<td>Split 2 times</td>
<td>.027</td>
<td>Rs. 250,000</td>
</tr>
<tr>
<td>Split 3 times</td>
<td>.001</td>
<td>Rs. 125,000</td>
</tr>
</tbody>
</table>

Scenario 2: The history of the capital stock of a Muslim family vis-à-vis the history of the capital stock of a Hindu family that is indifferent to partitioning the estate. P₅ = .5 over three generations.

Table 4.3 and Table 4.5 represent the stock of capital for the Muslim and Hindu families respectively. We can see from Table 4.5 that over the course of three generations, the p-value for a Hindu family’s fragmenting to the extent of a Muslim family is 0.125.
Table 4.5  
*Probability of Capital Fragmentation in a Hindu Family with $P_S = .5$*

<table>
<thead>
<tr>
<th>S</th>
<th>Probability</th>
<th>Stock of Capital by G₃</th>
</tr>
</thead>
<tbody>
<tr>
<td>Split 0 times</td>
<td>.125</td>
<td>Rs. 1,000,000</td>
</tr>
<tr>
<td>Split 1 time</td>
<td>.375</td>
<td>Rs. 500,000</td>
</tr>
<tr>
<td>Split 2 times</td>
<td>.375</td>
<td>Rs. 250,000</td>
</tr>
<tr>
<td>Split 3 times</td>
<td>.125</td>
<td>Rs. 125,000</td>
</tr>
</tbody>
</table>

Scenario 3: The history of the capital stock of a Muslim family vis-à-vis the history of the capital stock of a Hindu family with little desire to avoid partitioning. $P_S = .99$ over three generations.

We can see from Table 4.6 that over the course of three generations, the p-value for a Hindu family’s estate fragmenting to the extent of a Muslim family is 0.97.

Table 4.6  
*Probability of Capital Fragmentation in a Hindu Family with $P_S = .99$*

<table>
<thead>
<tr>
<th>S</th>
<th>Probability</th>
<th>Stock of Capital by G₃</th>
</tr>
</thead>
<tbody>
<tr>
<td>Split 0 times</td>
<td>.000001</td>
<td>Rs. 1,000,000</td>
</tr>
<tr>
<td>Split 1 time</td>
<td>.000297</td>
<td>Rs. 500,000</td>
</tr>
<tr>
<td>Split 2 times</td>
<td>.029</td>
<td>Rs. 250,000</td>
</tr>
<tr>
<td>Split 3 times</td>
<td>.97</td>
<td>Rs. 125,000</td>
</tr>
</tbody>
</table>

**Analysis**

From the above scenarios, we can see that only a Hindu family that partitioned its estate with the passing of every generation would see its estate
fragmented to the same extent as a Muslim family with same initial stock of capital.

On the other hand, as Table 4.7 illustrates, Hindu families with any $P_S$ value less than 1 would retain a greater stock of capital than Muslim families. We can see from Tables 4.4, 4.5 and 4.6 that the likelihood of capital retention Hindu families varies inversely with their respective $P_S$ values.

Table 4.7

*Expected values of capital stock by $G_3$ for both Hindu and Muslim families.*

<table>
<thead>
<tr>
<th>$P_S$ of $F_H$</th>
<th>$K$ of $F_H$</th>
<th>$K$ of $F_M$</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.00</td>
<td>Rs. 125,000</td>
<td>Rs. 125,000</td>
</tr>
<tr>
<td>.99</td>
<td>Rs. 127,636</td>
<td>Rs. 125,000</td>
</tr>
<tr>
<td>.50</td>
<td>Rs. 353,553</td>
<td>Rs. 125,000</td>
</tr>
<tr>
<td>.10</td>
<td>Rs. 812,252</td>
<td>Rs. 125,000</td>
</tr>
</tbody>
</table>

How can the $P_S$ value be determined for a family? Incentives to avoid partitioning an estate are negatively linked with the $P_S$ value. These incentives stem from the following sources: Most families are reluctant to divide assets because by doing so the family’s reputation in the community will be diminished and such partitions are seen as an affront to the patriarch (Dutta 1997, 115). Also partitions decrease in the aggregate the stock of the family’s capital. Factors such as individualism, envy, greed, and intra-family conflict may encourage the partitioning of estates. These factors may increase the $P_S$ value for a family. We cannot determine whether the abovementioned incentives to avoid partitioning estates swamped the incentives to partition particular estates. However, both set of
incentives worked against each other in families and their relative strengths determined each joint family’s \( P_S \) value.

Irrespective of the incentives Muslim families may have had to prevent fragmentation of their estates, their legal code did not provide them with the option of avoiding a partitioning of the estate. As a result, the \( P_S \) value for virtually all Muslim families was 1. Thus, despite the possible existence of similar incentives to preserve capital, Hindu and Muslim families had different sets of options available to them in regards to partitioning of their estate. Hindu law allowed Hindu families to respond to incentives and retain or partition estates accordingly, while Muslim families were unable exercise similar options.\(^{24}\) The history prominent Hindu families involved in banking in Hyderabad in the eighteenth and nineteenth centuries offer a case in point: there was very strong incentive to accumulate capital and these families usually avoided partition for the duration of a century (Leonard 1981, 182; 198).

A look at specific cases can provide us with a more complete picture of how some wealthy Hindu families were able to successfully retain capital by avoiding partitioning of their estates. Four case studies of Hindu joint families are discussed below. These particular case studies were not chosen randomly from the literature on Hindu joint families but were instead chosen because they reflect successful utilization of Hindu inheritance law in order to prevent partitioning of family estates.

\(^{24}\) We have discussed the \textit{hiba-bi' \textl-	extrwad} and \textit{waqf-alal-\textl-wlad} and their limitations.
and encourage the accumulation of capital for a considerable duration of time.

While there is no study that provides statistics on how frequently Hindu joint families were partitioned in the past, these case studies can be utilized to get an idea of the durations for which Hindu joint families could potentially avoid partitioning their estates.

**Case Studies**

Case 1: Gopaldas Manohardas

History

The money-lending business of the Gopaldas Manohardas family was founded sometime in the seventeenth century in northern India. It provided credit and services such as currency exchange to its clients. The clients of the business included local landowners and the East India Company. Though the business was based in Benares, it was able to establish branches in 52 cities throughout India. The business was partitioned into two branches in 1787 (Chatterjee 1993, 289-290).

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25 Money-lending businesses run by the Hindu joint family are often referred to in the literature as banking firms (Leonard 1982; Chatterjee 1989, 289). These businesses are not “a collection of persons who have entered into a partnership for the purposes of sharing the profits of a business carried on by all or any of them” (Gopal [1958] 1964, 554) and hence are not firms. Instead, these businesses exist as a result of the *sapinda* bond between their members.
Analysis

A significant portion of the success of the family business can be attributed to the fact that it was able to recruit other male members of the joint family such as nephews to run its numerous branches while the eldest male of each generation retained the power to make key decisions. The family was able to use Hindu inheritance law to hold its wealth jointly until 1787 when it was partitioned into two branches. While we do not know the exact date of the business’s establishment in the seventeenth century, it is clear from the brief history above that the members of this family business were able to hold their wealth jointly for many generations. The history of Gopaldas Manohardas is not an atypical case; other money-lending businesses based in northern India during this time period had similar histories.

Case 2: The Travadis

History

The family business of Travadis was founded by Arunji Nathji in the early eighteenth century. Nathji had access to the Mughal court and started his business career as a moneylender. He was able to combine business acumen with a shrewd understanding of political conditions to amass a fortune. Nathji was succeeded by his son Shrikrishna who successfully established a family network throughout India. Shrikrishna maintained a cordial relationship with the British provided them with capital during their military campaigns in India. Before his death in 1822,
Shrikrishna appointed his adopted grandson Mani Kisan Dube as head of the business. Shrikrishna’s relatives disputed the legality of Dube’s claim to leadership and a crisis of succession eventually led to the collapse of the business (Mehta 1991, 153-168).

Analysis

The history of the Travdis family is interesting because it gives us insight into causes of both the ascendancy and demise of a family business. The Travadises were able to use Hindu law to successfully avoid a partitioning of the family fortune when Arunji Nathji passed away. Shrikrishna’s leadership was not disputed and members of the joint family cooperated with him in establishing a network of branches throughout India. However, Shrikrishna’s appointment of Dube as his successor created resentment that resulted in the demise of the family business. The succession crisis following Shrikrishna’s death indicates that the head of the family business could not disregard the wishes of other members of the joint family without consequence and these members could exercise the option of partitioning the business when they felt their interests were not properly looked after.

Case 3: The Jhaveris

History

The Jhaveris settled in the region of Gujarat in during the last quarter of the sixteenth century. Under the dynamic leadership of Shantidas Jhaveri, by the early
seventeenth century they had amassed an enviable fortune. The family established close relations with the Mughal court and served them in two capacities: as jewelers and moneylenders. The Jhaveris used their wealth and connections with the Mughal court to acquire political influence in Gujarat. They were able to avoid the partitioning of their estate until the early nineteenth century (Tripathi 1981, 21-39).

Analysis

The success and prominence of the Jhaveris is due in large part to their ability to amass capital over the generations via Hindu inheritance law. Despite the fact that the family business’s leadership changed hands five times during a period of two centuries, the Jhaveris were able to hold their wealth collectively. What sort of incentives motivated the Jhaveris to avoid partitioning their estate for such a long duration? Firstly, by holding wealth collectively the Jhaveris were able to accumulate sufficient capital stock to be able to make loans to the Mughal Dynasty. The family acquired considerable political clout and was able to influence some of the policies of the Mughals. Secondly, by avoiding a partitioning of their estate, the Jhaveris were able to present a united front to rival merchant families in Gujarat. Finally, the Jhaveris may have had an extramundane reason for collectively holding their wealth: the family was known to be very pious and was able to fund the building of Jain temples due to its wealth.
Case 4: The Jagatseths

History

The family business of the Jagatseths was established in Patna in 1652 by Hiranand Saho. The business began its operations by lending capital to servants of the East India Company. Saho’s son, Manik Chand, was able to cultivate a close relationship with the Mughal authorities and established branches in numerous cities including Dhaka, Calcutta, and Benares. Manik Chand was succeeded in 1714 by his nephew Fateh Chand who successfully lobbied the Mughals to grant the Jagatseths a near monopoly over banking and minting in Bengal. The fortunes of the Jagatseths began to decline during the middle of the nineteenth century, when the British acquired hegemony over Bengal. The British refused to grant the Jagatseths monopoly privileges and the their prime position was challenged by other indigenous moneylenders. The Jagatseth fortune was partitioned in 1822 as a result of a bitter dispute between two male members of the family (Little 1967, vi-xxii).

Analysis

The Jagatseths offer us excellent illustration of the use of Hindu inheritance law to retain and accumulate capital. The family was able to hold its wealth collectively from 1652 to 1822 and avoided partitioning the family business on at least three occasions. Manik Chand did not have a son but perspicaciously averted partitioning the family business by passing on leadership to his nephew Fateh Chand. Both of Fateh Chand’s sons failed to outlive their father and instead of partitioning
the firm, the mantle of leadership was passed on to his grandson Khushal Chand. The family faced another crisis when Khushal Chand died sonless. Instead of partitioning the estate, the position of leadership was passed on to another male member of the family, Harakh Chand. It was only sometime after the death of Harakh Chand that a family dispute between two of his sons led to the partitioning of the estate. The members of the family could have opted for a partition of the estate after the death of each head of the family firm. However, they choose to not exercise this option and guarded their collective interests by bringing in a competent male member of the extended joint family.

**Paucity of Capital Accumulation in Muslim Families**

The literature is replete with references to Muslim merchants such as Mirza Muazzam, Agha Jafar, and Haji Abdul Nabi, who managed to acquire considerable wealth (Mehta 1991, 33). Muslim merchants, particularly in the western coast of India, were able to accumulate stocks of capital that were comparable in size to those of their Hindu colleagues. Some Muslim merchants were able to use their capital to become moneylenders and successfully competed with Hindu moneylenders.

While Muslim merchants were able to acquire capital with considerable success, this capital was rarely retained for long durations (Dasgupta 1982, 422). Some Muslim merchants, such as Haji Zahid Begg of seventeenth century Surat, were succeeded in business by their sons but even in such cases familial dynasties of
durations similar to the Jagatseths or Jhaveris failed to develop. This is understandable in light of the fact that the Islamic inheritance system made it difficult to preserve estates over multiple generations. Regardless of the talent possessed by a particular Muslim merchant, his descendants would have to expend their energies in rebuilding the capital stock lost by estate fragmentation. This experience contrasts strongly with the experience of Hindu joint families such as the Jhaveris who were able to retain their wealth for over two centuries.

**Conclusion**

Our discussion of Hindu and Islamic inheritance legal systems has helped to illustrate the impact each of the respective legal systems had on capital stocks within families. We saw that both Hindu and Muslim legal codes had a different understanding of the nature of family property: the former acknowledges the existence joint property and creates a framework for the preservation of this property, while the latter allows for the fragmentation of this property. A second crucial difference is that the Hindu inheritance codes attempt to limit the number of heirs while its Islamic counterpart includes a large number of family members as eligible heirs. The third and perhaps most crucial difference is that Hindu inheritance codes gives the option of retaining or partitioning estates while its Islamic counterpart splits the estate upon the death of the propositus. We then demonstrated through a model and case studies how this third difference had a
dynamic effect: some Hindu families were able to retain large stocks of capital, while Muslim families experienced fragmentation of their capital stocks. The next chapter will discuss the significance acquired by differences in the capital stocks of the respective communities.
Chapter 5: The Rise of Hindu Business Families and the Role Played by Capital and the Managing Agency System

Introduction

In December 1993, there were 297,000 joint stock companies in India. The combined paid-up capital on these companies was approximately $25 billion. Of these 297,000 joint stock companies, 294,000 were family run businesses. In enterprises such as these, business families often retained control of a company while floating shares in order to attain additional capital. The majority of the remaining 3,000 joint stock companies were foreign or government owned companies (Dutta 1997, 30). From these statistics we can see that the overwhelming majority of Indian joint stock companies are closely tied to family businesses. The prevalence and spread of joint stock companies in India does not imply that joint stock companies have replaced the traditional family centered model of business; instead joint stock companies have become a useful appendage or extension of the traditional family business. A close look at the history of the joint stock company in India will illustrate that the history of this Indian institution is in many ways intertwined with the history of family businesses in India. The close association between joint stock companies and family businesses has been discussed many times (Brimmer 1955, 558; Tripathi 1990, 26-27; 2004, 112-133) but little of the existing literature addresses why Hindus were more successful in adopting this institution than were
the Muslims of India. The Hindu merchant castes of India were able to use this institution to move beyond their traditional niches of banking and retail, and enter manufacturing.\(^1\) Hindus of non-mercantile backgrounds, such as Brahmins and landowners, were also able to adopt this institution and move from their traditional venues into manufacturing. On the other hand, Indian Muslims were not able to adopt this institution to the same degree and move into new areas such as manufacturing.\(^2\) Recent data show that Hindus continue to dominate industry and business in India. A look at India’s fifty largest business houses in 1997 shows that only one of them had a Muslim as chairman (Tripathi 2004, 340-342).\(^3\) A list of

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\(^1\) According to the 1931 census, merchant castes made up 2.9% of the Hindu male population (Dutta 1997, 65). Muslims ethnic groups that have active in trade and moneylending in various parts of India include Arabs and Pathans (Chandavarkar 1983, 796-797). Muslim castes that have been active as traders and moneylenders in southern India include Labbaís, Rawthers, Marakkayars, Kayalars, Mopillahs, Shaykhs, Navayats, and Daccanis (Mines 1972, 23-37). Muslim castes that have been active as traders and moneylenders in Western India include Khojas, Bohras, and Memons (Timberg 1969, 106). It is difficult to arrive at an accurate estimate of the percentage of the Muslim population involved in trade because the data does not distinguish traders and non-traders in Muslim groups such as Pathans and Mopillahs. While there was some emigration by Indian merchant castes to other countries during the first half of the twentieth century, we do not have an exact statistic on the size of the population of Indian merchants living abroad. According to the 1931 census, 2.4 million Indians lived abroad. The most popular destinations were Sri Lanka and Malaysia, with Indian populations of 773,170 and 624,009 respectively. The vast majority of Indian emigrants to both countries were Hindus from southern India (Census of India 1931, 71-72) but data on their caste origins is not available. There was also an Indian population of approximately 75,000 individuals in East Africa in 1931. It is well known that members of merchant castes (both Hindus and Muslims) migrated to East Africa but exact statistics are not available on the respective size of both communities. Hanna Papanek (1962, 11) estimates that in 1960 the Khoja population of East Africa was approximately 50,000. Given the relatively small size of the East African Indian population, the effect of out-migration to this region on the merchant populations appears to have been minimal.

\(^2\) References in this chapter to Muslim tepidness in adoption of the joint stock company and entry into industry do not apply to heterodox Muslims (Khojas, Bohras, and Memons) who used Hindu business institutions and inheritance laws. We will discuss them in greater detail later in this chapter.

\(^3\) Business house is defined as “the companies controlled, directly or indirectly, by a particular family” (Tripathi 1990, 27).
India’s rupee billionaires in 1994 was composed almost entirely of Hindus and Zoroastrians (Dutta 1997, 64-65).

The adoption of joint stock companies by Hindus was a gradual process and was intimately tied to the adoption and spread of another business institution, the managing agency (Brimmer 1955, 561-563; Tripathi 2004, 112-133). Joint stock companies in India were usually not independent entities but were controlled by firms known as managing agencies. Managing agencies were firms that vested control of the joint-stock company with the managing agents, even though managing agents may have had only a minority interest in the company. Managing agencies usually did not restrict themselves to managing one joint stock company. Usually they managed numerous joint stock companies in different industries. The importance of managing agencies cannot be overestimated because virtually all major private corporations in India were controlled by managing agencies (Lamb 1955, 110; Tripathi 1981, 46-47). Managing agencies arose in India during the middle of the nineteenth century due to two conditions: a shortage of capital for investment, and a dearth of entrepreneurs qualified to run industrial enterprises.

While managing agencies controlled joint stock companies, these agencies were in turn controlled by business families (Brimmer 1955, 558; Lamb 1955, 102; Tripathi 1981, 43; 1990, 27). Managing agencies became a means by which business families controlled the joint stock companies of India.

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4 Banks and insurance companies are excluded because Indian law prohibited them from entering into agreements with managing agencies (Brimmer 1955, 564 n.8).
In the late nineteenth century, the managing agency model was adopted by many leading families from Hindu merchant castes who used this institution to enter the manufacturing sector of the economy. Managing agencies were also adopted during this period to a lesser extent by some Hindu families from non-mercantile backgrounds. However, the Muslims of India did not adopt this institution in a similar manner. A look at the 3,944 domestic managing agencies operating in India in 1951 reveals that only 43 (1.09% of the total) were managed by Indian Muslims (Nigam 1957, 104-225).

This chapter will attempt to demonstrate that the Hindu families were able to adopt the managing agency model successfully and float joint stock companies for two reasons. First, India’s capital markets were underdeveloped and Hindu merchant castes were one of very few groups endowed with capital. Families from the merchant castes floated joint stock companies to raise additional capital in order to enter manufacturing. The shares for these companies were bought not by the general Indian public but by members of the same caste as the family floating the joint stock company. Groups that were not endowed with sufficient capital faced inordinate difficulties in raising capital and were thus handicapped vis-à-vis Hindu merchant castes in this respect. Second, Hindu families were able to transition into the managing agency model and apply it to their own business context because this model was not alien to them. A traditional Hindu joint family business often

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5 Both reasons apply to families of heterodox Muslims as well.
functioned as a sort of informal managing agency; it would collectively manage firms in diverse fields while retaining control of these firms. In many ways the managing agency was a parallel institution: one managing agency would manage joint stock companies in diverse fields as well. Hindu families who did not belong to the merchant castes were also familiar with many aspects of the managing agency model because the various members of the family worked in different fields but the family functioned as one unit and often held wealth as a single unit for many generations. On the other hand, the Muslims of India were subject to the rules of the Hanafi school of Islamic law and as a consequence Muslim families did not hold wealth or conduct business as Hindu families did (Ahmad 1991, 4). One of the consequences of this was that the managing agency model was a more alien institution to Muslims than it was to Hindus.

The Hindu merchant castes of India had two crucial advantages: their communities had access to capital in a capital-scarce environment and it was not difficult for them to grasp the concept of a managing agency. Hindus from non-mercantile backgrounds may not have had access to the sort of capital that Hindus from merchant castes had but the model of a managing agency running multiple joint

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6 Islamic business institutions and inheritance law tended to be more individualistic than their Hindu counterparts. The Hindu joint family emphasizes sharing both work and profits collectively, whereas the Islamic commercial law draws sharper divisions between the two partners involved. Similarly, the Hindu joint family held wealth collectively, while Islamic inheritance law usually split the wealth along individual lines. Avner Greif (1994) has suggested that individualistic societies had advantages vis-à-vis collectivist societies in the development of institutions that were conducive to economic growth in the long run, but our examination of Hindu and Muslim institutions points in the opposite direction. For a critique of Greif’s argument, see Edwards and Ogilvie (2008).
companies was not entirely alien to them. The Muslims of India were at
disadvantage in both respects: their communities and families generally lacked
capital, and the managing agency was alien institution to them.

We shall see below that joint stock companies were initially introduced in
India in the 1660s but Indian merchants were unwilling to adopt them. Joint stock
companies were reintroduced in India in 1829 but we see a significant increase in
their numbers only in the last two decades of the nineteenth century. A glance at
Table 5.1 illustrates the steady rise in the number of joint stock companies in India
since 1880. The number of registered joint stock companies operating in India was
under 500 in 1880. This number increased steadily and in 1950 over 27,000 joint
stock companies were registered in India (Govt. of India 1955, iv). The consistent
increase in the number of joint stock companies indicates that in the seventy years
between 1880 and 1950, an increasing number of Indians became familiar and
comfortable with this institution.
Table 5.1

Number of Registered Joint Stock Companies

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Joint Stock Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1880</td>
<td>Under 500</td>
</tr>
<tr>
<td>1890</td>
<td>886</td>
</tr>
<tr>
<td>1900</td>
<td>1,340</td>
</tr>
<tr>
<td>1910</td>
<td>2,216</td>
</tr>
<tr>
<td>1920</td>
<td>3,668</td>
</tr>
<tr>
<td>1930</td>
<td>6,919</td>
</tr>
<tr>
<td>1940</td>
<td>11,372</td>
</tr>
<tr>
<td>1950</td>
<td>27,558</td>
</tr>
</tbody>
</table>

A Brief History of Joint Stock Companies in India

Joint stock companies were first introduced to India in the 1660s by Dutch and English trading companies. European merchants had initially relied on individual Indian merchants to provide them with various types of cloth but as the quantities demanded of cloth increased, lone Indian merchants could not be counted upon to supply the requisite amounts (Arasaratnam 1966, 85-86).

Individual merchants also competed against each other and offered weavers higher prices for cloth. This led to an increase in the price of cloth and was reflected in the rates Indian merchants charged European companies (Brennig 1979, 73). In order to assure a greater and more consistent supply of cloth, Dutch and English companies began to organize Indian merchants into associations. How were these associations set up? Typically, a European official brought suppliers together and
asked them to join the association. Suppliers were reluctant to join and often only the threat of losing the business of a European company made them give in.

Shareholders were selected on the basis of their familial and caste backgrounds in order to ensure effective cooperation. The shareholders were divided into two categories: head merchants and ordinary merchants. The former provided much of the capital, while the latter did the physical work such as transportation of the goods. The size of capital raised by these joint stock companies varied from 10,000 pagodas to 150,000 pagodas. Share prices could vary from 100 pagodas to 1,000 pagodas (Arasaratnam 1966, 87).

Indian merchants gained by participating in these joint stock companies in many ways. Merchants no longer outbid each other to procure the services of weavers and were able to obtain cloth more cheaply. Members of these joint stock companies were given special trading privileges in areas controlled by the respective European powers. European companies could not buy cloth from merchants outside the joint stock company unless the supply of cloth fell short of what was stipulated in the initial contract. For their part, European companies benefited in many ways. They no longer had to advance cash to merchants to purchase cloth; instead they paid merchants only after an order was fulfilled. Debts owed to the European company were owed by the joint stock company collectively and not by an individual

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7 One pagoda was equivalent to approximately 12 shillings during this time period.
merchant. This paved the way for greater accountability. However, associations were closely monitored by European officials and contracts were renewed annually (Arasaratnam 1966, 89-90). It is unclear how these joint stock companies kept accounts and how members borrowed capital from the collective pool.

These joint stock companies differed from modern joint stock companies in several important ways. The charters of these companies did not allow for a change of membership. Merchants who were not included in the initial contract could not buy shares in the company, and merchants within the company could not sell their shares to outsiders (Arasaratnam 1966, 86). A second crucial difference is that these companies lacked an independent corporate personality. Contracts with the local European company had to be renewed annually (Arasaratnam 1966, 89). If a European company did not renew the contract of the Indian joint stock company X, then company X no longer existed. Company X did not go to another European company and strike a new contract. A final and crucial difference is that shareholders of these joint stock companies were unfamiliar with the notion that a company could possess a distinct personality.

A joint stock company headed by an Indian merchant named Serapa offers an example of the latter pattern. This particular company had become heavily indebted to an English company and was unable to pay its debts. Serapa and two other merchants offered to pay their proportion of the debt, but the other members refused.

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8 This may have also allowed for a greater degree of fraud: no formal mechanism existed to prevent individual merchants from failing to pay their share of the debt owed by the joint stock company.
The English company refused this offer of repayment because it believed that the entire debt must be paid and not the amount proportioned to individual shareholders. This joint stock company was eventually dissolved (Arasaratnam 1966, 89-90).

This new business institution was limited to southern India. While members of many different business castes where involved in these joint stock companies, this institution did not strike permanent roots among the indigenous merchants of southern India. By the late eighteenth century, they had all but disappeared from the region. This institution did not diffuse to other commercially active regions of India such as Gujarat and Bengal. It is beyond the scope of this to discussion to delve into the specific reasons for the disappearance of these Indian joint stock companies in the eighteenth century.9

Joint stock companies were not promoted again in India by either European or Indian businessmen until 1829, when Alexander & Co. promoted the Union Bank. Seven years later, Calcutta Steam Tug Association became the first joint stock company to be promoted by an Indian (Tripathi 2004, 65). Despite these initial ventures, joint stock companies did not become popular in India. In 1851, some twenty-two years after the founding of the Union Bank, only 2 joint stock companies

9 One explanation offered for the decline of these joint stock companies is that factionalism between merchants of different castes that made up these companies may have prevented these companies from functioning effectively (Arasaratnam 1966, 90-91). Another explanation suggests that joint stock companies failed to gain popularity because they lacked mechanisms for resolving conflict between merchants (Brennig 1979, 92-93). Neither explanation accounts for how these companies functioned for over a century. It is possible that the business needs of the Indian merchants of Coromandel were satisfied by the Hindu joint family and they saw little need to adopt an alien institution.
operated in India. On the eve of the Sepoy Mutiny of 1857, 12 joint stock companies existed in all of India. The Act of 1857 had a mildly stimulating effect and by 1860 this number had climbed to 48.\textsuperscript{10} What explains the lack of popularity of joint stock companies in India during this period?

It was very difficult for joint stock companies to obtain corporate status in India during this period. Only a special Act of the Indian Legislature or the British Parliament could give this status. Until 1850, corporate status had been given to only five companies. In legal terms joint stock companies did not have a corporate personality but were seen as partnerships.\textsuperscript{11} The directors and shareholders of the company were perceived as partners. Joint stock companies could be dissolved as quickly as partnerships. Since there was little legislation dealing directly with joint stock companies, the rules of English common law and equity were applied. One of the implications of the application of English common law was that actions between partners could not be sustained if the accounts belonged to the firm. This prevented directors and shareholders from bringing legal action against each other when funds of the joint stock company were involved. A second implication was that in any action against a debtor all the partners were plaintiffs; this meant that all the shareholders of a company had to be present to sue debtors (Rungta 1970, 65). The

\textsuperscript{10} The Act of 1857 provided was the first Act in passed in India to take comprehensive view of the joint stock company: rules concerning its formation, existence, and liquidation were stated in the Act (Rungta 1970, 69).

\textsuperscript{11} While the unincorporated joint stock company had transferable shares, unlike a corporation it did not possess a distinct legal personality.
application of the rules of equity meant that all partners had to be present if the court
was to settle a dispute of the company. Finally, since liability of every shareholder
was unlimited, particular shareholders could be singled out for paying the company’s
debts (Rungta 1970, 65). The Act of 1850 gave joint stock companies a legal
personality (Govt. of India 1955, i). However, this Act did not limit shareholders
liabilities and it failed to make registration of joint stock companies compulsory.
The Act of 1857 granted limited liability to joint stock companies (Govt. of India
1955, i). This act made registration of companies with over twenty shareholders
compulsory and provided much needed legislation for the birth, regulation, and
liquidation of joint stock companies. The act also legislated that dividends could
only be paid out of profits but did not make any rules for the issuing of a prospectus
(Rungta 1970, 69). A feature of the Act of 1857 is that it failed to provide limited
liability to banks.12 A separate act was passed in 1860 to that effect (Tripathi 2004,
145).

A look at the number of joint stock companies in operation from 1850 to
1860 in Table 5.2 shows that the biggest increase came after 1857. The number of
joint stock corporations in operation increased from 16 in 1857 to 48 in 1860.

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12 India’s experience is not unique in this regard. In Britain banks were not granted limited liability
until an Act was passed in 1858 to the effect (Rabushka 1985, 76).
Table 5.2

Number of Joint Stock Companies in Operation at Year’s End (Rungta 1970, 47)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Joint Stock Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1851</td>
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<td>1852</td>
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<td>1853</td>
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<td>1854</td>
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<td>1858</td>
<td>22</td>
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<td>1859</td>
<td>38</td>
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<tr>
<td>1860</td>
<td>48</td>
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</tbody>
</table>

The growth in the number of Indian joint stock companies in 1857-1860 is significantly larger than the period from 1850-1857. It appears that the introduction of limited liability by the Act of 1857 may have stimulated the progress of joint stock companies. In absolute terms, however, the number of joint stock companies in the years immediately after 1857 is still small. It is obvious that the growth of joint stock companies was not solely obstructed by legal issues; the Act of 1857 removed legal impediments and yet growth in the number of joint stock companies remained tepid. We will now examine the other factors which hindered the growth of joint stock companies during this time.

**Obstacles to the Growth of Joint Stock Companies**

The slow spread of joint stock companies in India can be understood in light of the fact that industrial development in India throughout much of the nineteenth
century was hindered by two formidable obstacles: a shortage of capital and a dearth of entrepreneurs willing to enter the industrial sector (Brimmer 1955, 560; 562). There were no organized capital markets in India during this period (Misra 1999, 68) and capital was scarce (Brimmer 1955, 562; Misra, 1999, 68-70). Enterprises such as cotton mills or tea companies required large amounts of capital, ranging from Rs. 300,000 to Rs. 500,000. But these amounts were extremely difficult to obtain because there were few willing investors (Rungta 1970, 227).

The first joint stock company floated by an Indian in the nineteenth century offers an example of how small the pool of willing investors was. In 1836 the newly floated Calcutta Steam Tug Association offered 200 shares at the exorbitant price of Rs. 1,000 per share. Only 10 shareholders bought the entire 200 shares (Kling 1966, 40). The case of the Calcutta Steam Tug Association was not atypical. The shares for many joint stock companies during the 1850s and 1860s were sold at rates ranging from Rs. 2,500 per share to Rs. 5,000 per share (Rungta 1970, 203). Given that the average annual per capita income in India in the mid-nineteenth century was between Rs. 20 to Rs. 40, investments in such shares were well beyond the means of the average Indian.

Furthermore, most Indians did not have access to Western style banks. European-controlled joint stock banks typically served the needs of European

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13 No reason is given by Rungta for the exorbitant prices of stock shares. It is possible that stock shares were expensive because they were not meant for the general public but were instead sold only a small group of wealthy individuals who knew the founder of the joint stock company.
investors. There were no large Indian-run joint stock banks until 1906. While indigenous bankers had large amounts of capital, the rates of interest charged by joint stock banks were lower than those provided by indigenous bankers (Bagchi 1970, 233).

Other sources of capital were also lacking. As mentioned earlier, the incomes of the Indian working classes and peasantry were too low to generate sufficient capital accumulation. The wealth that existed in rural areas was hoarded as precious metals and conspicuous consumption was a marked feature of Indian society, particularly of the aristocracy (Rungta 1970, 54-57). As a consequence, not much capital could be raised from either the Indian aristocracy or peasantry.

In mid-nineteenth century India, the only indigenous groups which had sufficient accumulated capital were the merchant castes of India. These groups were not inclined to investing outside of the traditional venues of banking and retail (Bagchi 1982, 177; Oonk 2001, 422; Rungta 1970, 56-57; Tripathi 1990, 46). The merchant castes did their business using the Hindu joint family and did not use joint stock companies since this institution was associated with industrial ventures (Timberg 1969, 10).

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14 Tripathi argues that lack of education and an exposure to Western ideas were two of the main reasons why merchants were reluctant to participate in industry (Tripathi 1990, 76). Thus, he ignores the possibility that before the late nineteenth century, most Indian merchants were still unfamiliar with how joint stock companies could be used to launch industrial ventures.
The Managing Agency as the Solution to the Dearth of Capital

The development of the managing agency offered a solution to the problem of shortage of capital (Brimmer 1955, 560; Misra 1999, 68-70). A managing agency is a firm that controls numerous companies through a contract known as the managing agency contract (Brimmer 1955, 554-555). The managing agency contract states the rights and obligations of the managing agency firm and the company it manages (Brimmer 1955, 555).

How did managing agencies operate? Managing agents as promoters assessed the costs of raw materials, labor, and other inputs necessary for a particular enterprise. They also assessed the size and potential of the market. Managing agents would then register the company as a legal entity and select the board of directors. Initially the agents issued the shares to themselves and their close associates. If the enterprise showed potential, the agents would issue preference shares and sell these to the public. The agents would also sell some of the shares held by them to the public. This allowed the agents to raise capital for the company. Once agents had recovered their initial investment, they would repeat the process and launch new enterprises (Brimmer 1955, 561). Managing agents retained their power through contracts which specified the tenure, payment, and powers given to the agents (Basu 1958, 5-6). These contracts placed very few restrictions on the powers of the

\[15\] A managing agency may take on one of many organizational forms such as a partnership or public limited company. The companies controlled by it are usually joint stock companies (Brimmer 1955, 554-55).
managing agents (Basu 1958, 6) and tenure for managing agents tended to be for long durations such as two decades (Oonk 2001, 429-430).

British and Indian managing agencies differed in many respects. A British managing agency tended to be a partnership composed of members who had either technical skills or financial resources. In many such managing agencies, one or two of the partners would represent established families to give the joint stock companies an aura of respectability while others were endowed with technical or managerial skills. The partners functioned as executives of different departments of the joint stock company and were rotated on a regular basis. A crucial difference between Indian and British managing agencies is that in the latter partners were not related and when partners retired they were not replaced by their sons (Brimmer 1955, 556-557).

Indian managing agencies, on the other hand, can be seen as extensions of the joint family. The members of the managing agency were usually members of the same family and the eldest male had the highest position of authority. A joint family would launch a joint stock company and the shares would be bought by family members and individuals belonging to the family’s caste (Tripathi 2004, 112-113).\(^\text{16}\)

The shareholders would agree to a contract by which the family launching the venture would maintain control of the joint stock company as managing agents of the

\(^{16}\) Since the shares of a joint stock company were bought by relatives and caste-fellows of the managing agents, this may have removed conflicts of interests between managing agents and shareholders.
company. This allowed the family to raise capital while still retaining control of the company (Tripathi 2004, 112-113). Through a managing agency, a single family could control several different companies. The managing agency firm would use the first company launched by the family as base, and float other joint companies throughout different industries. The funds from the older company would be used to ensure that the original family retained control of the new companies (Tripathi 1990, 26-27). Families divided responsibilities among members according to geographical considerations or industry (Lamb 1955, 102). If an Indian managing agency needed to recruit partners from outside its pool of family members, it recruited individuals from the family’s caste (Brimmer 1955, 558).

We have not yet dealt with the question of how managing agencies addressed the shortage of capital in India. With respect to the shortage of capital, Indian managing agencies were better adapted to raising capital in two ways. First, managing agencies were capable of tapping into capital internally. A managing agency could transfer capital from one of the joint stock companies under its management to another without being challenged.\(^\text{17}\) This gave managing agents considerable flexibility in manipulating capital. Given that capital was in short supply and could not be raised anew for each joint stock company, this proved to be advantageous. A joint stock company operating by itself might have found itself

\(^{17}\) A managing agency differs from a holding company because the former’s control over joint stock companies is not due to ownership of a significant portion of shares but is instead derived by the managing agency contract.
hard pressed for capital during difficult times; if the joint stock company was managed by a managing agency, it would have received capital from one of the other companies managed by the agency. Managing agents also used capital from one of their joint stock companies to launch other joint stock companies (Brimmer 1955, 562). Second, managing agencies had access to capital from banks. Indian banks were often reluctant to lend to joint stock companies that did not have managing agents because these companies generally had high rates of bankruptcy. Since managing agency firms had very low rates of failure, banks were more willing to extend credit if the managing agent of a joint stock company would sign the note of indebtedness (Brimmer 1955, 562).

**Adoption of the Managing Agency System by Hindus**

How did joint families come to control the managing agencies of joint stock companies? The adoption of the management agency model proved beneficial to Hindus for three reasons. Since the capital market of India remained underdeveloped, members of Hindu merchant castes could go to their traditional networks to raise the necessary capital to fund industrial concerns. This gave them a decided advantage vis-à-vis most of the other groups in India. While it is true that Hindus from non-mercantile backgrounds generally did not have capital to the same
extent as Hindus from business castes, the former followed the same inheritance laws as the latter. This prevented the rapid dissipation of capital in their families.  

Secondly, Hindu families used the managing agency agreement to exert tight control over joint stock companies. Even if a family did not have the majority of shares in the joint stock company it retained controlled via a managing agency agreement. We will see numerous examples in the case studies analyzed below. Finally, a family could economize on capital because it did not have to control a company through direct investment; it could use capital from other companies under the control of the family to control the joint stock company. This allowed families to control large numbers of companies. Families or managing agencies in control of large numbers of industrial companies are referred to as business houses or business groups.

A look at the composition of the large business houses of India shows both the preponderance of Hindu families and the absence of Muslims. Table 5.3 shows three different lists of large business houses in India. The first list shows the largest industrial houses in India in 1965 and was compiled by the Monopolies Inquiry Commission. This list, excluding foreign business houses, shows us only the domestic business houses. Of the 37 domestic business houses, 34 are controlled by Hindu business families, two by Zoroastrians, and one by an Iraqi Jew residing in India (Timberg 1969, 17-20). The second list is derived from The Structure of the

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18 For more details on how Hindu inheritance law prevents the dissipation of capital, see Chapter 4 of this paper.
Corporate Private Sector, by R.K. Hazari. Hazari’s list includes business houses of large, medium, and small sizes, and has been cited in the literature as an accurate representation of Indian business houses. Hazari’s sample has been adjusted for not only for size, but also for caste origin, age of business houses, and dispersion of assets. A closer look at the business houses in Hazari’s sample reveals that all of them used managing agency contracts to control their joint stock companies.

Hazari’s list includes 20 business houses. 3 of these are controlled by non-Indians, 2 are controlled by Zoroastrians, and the remaining 15 business houses are controlled by Hindus (Hazari, 1966). The final list in Table 5.3 is from the appendix of Sharma’s Entrepreneurial Change in Indian Industry which lists India’s 73 largest business houses in 1969. 15 of the largest industrial houses in this list are controlled by non-Indians, 3 by Zoroastrians, and the remainder by Hindus (Sharma 1980).

Table 5.3
List of Business Houses from Various Sources

<table>
<thead>
<tr>
<th>Community</th>
<th>Monopolies Inquiry Commission</th>
<th>R.K. Hazari</th>
<th>Sharma</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td>34</td>
<td>15</td>
<td>55</td>
</tr>
<tr>
<td>Zoroastrian</td>
<td>2</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Muslim</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Foreign</td>
<td>N/A</td>
<td>3</td>
<td>15</td>
</tr>
</tbody>
</table>
The foregoing table provides an overall idea of the composition of business houses in India. The lion’s share of business houses are controlled by families from a Hindu background. The absence of Indian Muslims is conspicuous in all three lists. Before discussing the causes for the absence of Indian Muslims, we will briefly discuss two small groups who actively participated in industry: the Zoroastrians and heterodox Muslims.

As can be seen from the above table, the Zoroastrians also possessed some business houses; this is significant given the small size of the Zoroastrian population in India. The success of the Zoroastrians has traditionally been attributed in the literature to their greater degree of “Westernization” (Desai 1968; Guha 1970; Kennedy 1962; Lamb 1955; White 1979; 1987). It has been argued that Zoroastrians were quick in adopting business practices of Europeans but the provided reasons are vague. It is beyond the scope of this chapter to discuss the strengths and weaknesses of this proposition.

It has been long acknowledged that heterodox Muslims have played a role in South Asia’s business and industrial life to a far greater proportion than their proportion in the population would suggest (Altaf 1983, 190-199; Levin 1974, 231;

Table 5.4
*Background of Pakistan’s 12 Largest Business Houses* (Papanek H. 1972, 27)

<table>
<thead>
<tr>
<th>Name</th>
<th>Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dawood</td>
<td>Memon</td>
</tr>
<tr>
<td>Habib</td>
<td>Khoja</td>
</tr>
<tr>
<td>Ademjee</td>
<td>Memon</td>
</tr>
<tr>
<td>Crescent</td>
<td>Punjabi</td>
</tr>
<tr>
<td>Saigol</td>
<td>Punjabi</td>
</tr>
<tr>
<td>Valika</td>
<td>Bohra</td>
</tr>
<tr>
<td>Hyesons</td>
<td>N/A</td>
</tr>
<tr>
<td>Bawany</td>
<td>Memon</td>
</tr>
<tr>
<td>Amin</td>
<td>Punjabi</td>
</tr>
<tr>
<td>Wazirali</td>
<td>Punjabi</td>
</tr>
<tr>
<td>Fancy</td>
<td>Khoja</td>
</tr>
<tr>
<td>Colony</td>
<td>Punjabi</td>
</tr>
</tbody>
</table>

19 There are exactly four Muslim castes that use the Hindu joint family and are governed by Hindu inheritance law: Khojas, Bohras, Memons, and Girasias. However, it is only the first three that are active in business and our discussion is limited to them. While there is some literature on the history and social institutions of the Khojas and Bohras, there is not much material on the social institutions and history of the Memon caste. A Soviet scholar has discussed the role of Memon entrepreneurs in the industrialization of Pakistan (Levin 1974). Engineer (1980) has an excellent discussion of Bohra history and communal institutions. For a discussion of the history and institutions of the Khojas see Hanna Papanek (1962) and Rattansi (1987). King (1974) gives insights into Khoja migration to East Africa. Hickling (1998) discusses the use of Hindu laws of inheritance by Khojas. Lokhandwalla (1976) discusses why Khojas and Bohras were reluctant to adopt Islamic laws.

20 This is not to suggest that heterodox Muslims did not play an important role in South Asia’s economy before the formation of Pakistan. Heterodox Muslims competed successfully with Hindu merchants in areas such as retail of hardware (Talha 2000, 88).
Table 5.5
Proportion of Industrial Investment in Pakistan circa 1960 (Papanek G. 1962, 54)

<table>
<thead>
<tr>
<th>Community</th>
<th>Proportion of Industrial Investment</th>
<th>Proportion of Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Memon</td>
<td>27%</td>
<td>0.3%</td>
</tr>
<tr>
<td>Bohra</td>
<td>5%</td>
<td>0.04%</td>
</tr>
<tr>
<td>Khoja</td>
<td>11%</td>
<td>0.14%</td>
</tr>
<tr>
<td>Bengali Muslim</td>
<td>4%</td>
<td>50%</td>
</tr>
<tr>
<td>Other Muslim</td>
<td>53%</td>
<td>49.05%</td>
</tr>
</tbody>
</table>

As can be seen from Table 5.4, half of Pakistan’s twelve largest business houses belonged to families from the heterodox Muslim community. Table 5.5 shows us that despite possessing approximately 0.48% of Pakistan’s population, about 43% of Pakistan’s industrial investment came from heterodox Muslims. The preponderance of heterodox Muslims in Pakistan’s industrial life may be attributed to the fact that unlike other Muslims of South Asia, heterodox Muslims use Hindu business institutions and are governed by Hindu inheritance law (Cornish 1937, 5). As a result of this they possessed the same advantages possessed by Hindus vis-à-vis the remainder of the Muslim population. We will compare the economic performance heterodox Muslims with other South Asian Muslims in greater detail in the next chapter. We now turn to our discussion of the remainder of the Indian Muslim population.

The absence of Indian Muslims from the abovementioned tables can be attributed to two causes: the Muslims of India did not have access to large amounts of capital and the managing agency model was alien to the Muslim methods of
conducting business. Let us begin with the issue of capital. Unlike potential entrepreneurs from Hindu merchant castes, potential Muslim entrepreneurs could not turn to their community and raise capital for industrial ventures. Why did Hindu merchant castes possess capital and not the Muslims? The inheritance laws of Hinduism encourage the accumulation of capital in joint families (Bagchi 1985, 26-28; 1999, 50; Leonard 1981, 197). Capital is held jointly and is not distributed in individual shares to the various members of the family when the patriarch passes away. On the other hand, the inheritance laws of Islam divide capital between different members of the family, and redistribution of capital tends to divide it into smaller shares held by individuals. Over the long term, capital dissipates under Islamic law (Ahmad 1991, 4; Bose [1997] 2004, 92; Timberg 1978, 39). While individual Muslim merchants may have accumulated wealth, this wealth was not retained in their families and tended to dissipate. On the other hand Hindu families, regardless of their caste background tended to retain their wealth. This crucial difference in Hindu and Islamic inheritance codes acquired great significance in India since the capital market was underdeveloped. Muslim families and communities did not find themselves with the requisite capital to start industrial ventures.21

This lack of capital hindered attempts by Muslims to set up industrial ventures. In 1889, Muslim traders established the Koilpatti Mills in southern India.

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21 Hindu and Muslim inheritance laws are examined in greater depth in Chapter 4.
This mill was persistently handicapped by a lack of adequate financing and was eventually purchased by a wealthy Hindu family for Rs. 700,000. In 1895, a joint stock company, the Petai Sugar Refining Co. Ltd. was promoted by Muslim merchants. The paid up capital for this mill, Rs. 2.4 million, was a substantial amount. But this mill remained underfinanced throughout its years of operation and in 1914 it was taken over by Hindu bankers (Tripathi 1984, 228-236).

Muslims were also disadvantaged vis-à-vis Hindus in that the latter’s experience in joint families was in some ways similar to a managing agency running joint stock companies (Tripathi 1990, 194; 2004, 113). A Hindu joint family of landowners could see the different sons manage different portions of the land but the land was still held and controlled by one central unit. In a similar vein, a Brahmin joint family might have seen its sons hold jobs in different areas of the civil services but the wealth was still held and managed by one central unit. Muslims, on the other hand, were accustomed to a model based not on the joint family but conducted business in partnerships. Unlike joint families, partnerships dissolved with death of one of the partners (Kuran 2003, 432) and could not have branches going into different businesses. The Hindu joint family and the managing agency shared two attributes: they had an identity that in theory could exist for an infinite period of time, and both institutions could create new branches to expand to different areas of the business world. The managing agency could go into another business sphere by floating a joint stock company; the joint family did this by assigning a new venture
to a male member of the family. On the other hand, the Islamic partnership could not exist indefinitely and a new partnership would have to be created to enter a new business.  

A look at case studies involving Muslim businessmen using partnerships can highlight how specific characteristics of the partnership made it difficult for Muslim businessmen to transition to the use of managing agencies. Second, these case studies give us an opportunity to compare the specific characteristics of partnerships with Hindu joint families. Since there is no study discussing in great detail how Muslim businessmen used partnerships in India during the late nineteenth and early twentieth centuries, case studies were constructed on the basis of summaries of commercial cases from the records of the Bombay High Court. While these records provided 50 commercial cases in which Muslims used partnerships, in the vast majority of these cases only very rudimentary information was provided about the partnerships. The four case studies of partnerships below were constructed on the basis on four separate commercial cases in which sufficient information was available about the partnership.

There is a bias in our case studies of partnerships from two counts: First, these were taken from records of the Bombay High Court and may not adequately reflect how healthy partnerships functioned. Second, since these case studies were not selected randomly but instead due to availability of information, we do not

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22 The specific differences between the Hindu joint family and Islamic partnership are discussed in Chapter 3.
necessarily get a fair sample of out of the commercial cases. Despite these two important biases, we will use the case studies to get insight into these partnerships.

Case Studies

Case Study 1: Partnership of Esmailji and Mohamedali:

A partnership composed of two partners Esmailji and Mohamedali sold umbrellas. The partnership had a considerable rate of return: profits of over Rs. 30,000 were grossed annually on an investment of approximately Rs. 70,000. After the death of Mohamedali in 1896, his heirs called for dissolution of the partnership to obtain their respective shares of Mohamedali’s estate. After acquiring a loan from Mohamedali’s family, Esmailji pleaded with the deceased’s family to continue running the business. However, disputes in regards to Mahomedali’s estate led to the dissolution of the partnership in 1900.

Analysis: We can draw some important lessons from the brief history the partnership between Esmailji and Mohamedali. First, this partnership was not durable. The duration of this partnership was limited to life of one of the partners involved. (The death of Mohamedali would have led to the immediate dissolution of the partnership, but Esmailji was able to side-step normal procedure and kept the partnership running through a special agreement with Mohamedali’s heirs. This appears to have been an exception to the usual procedure). Islamic inheritance laws

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23 Hasanali Mahomedali v. Esmailji Sulemanji, 9 Bombay Law Reporter (hereafter BLR) 606 (1907)
24 The records do not mention when Mohamedali and Sulemanji initiated the partnership.
also played a role in facilitating the dissolution of this partnership. Mohammedali’s death caused all his of heirs to become stakeholders in the partnership and not all of them had an interest in tying up their share of the estate in the partnership. If Hindu inheritance laws had been applied in place of Islamic inheritance laws, then members of the joint family would have had the option of avoiding partitioning the estate and the business would have continued for a greater duration. Second, even though this partnership had impressive profit margins, it was not able to expand into other areas of business. Both Esmailji and Mohamedali restricted the partnership’s activities to the retailing of umbrellas and did not seek to enter into other areas of business (such as the manufacture of umbrellas) or set up new venues for the retail of umbrellas on a larger scale. This may be because the expansion of the partnership into new areas of business would have required the inclusion of other individuals as partners. These new partnerships could be just as easily dissolved as the original partnership and would thus have limited durability. On the other hand, a Hindu joint family would not have needed separate agreements in order to include new members and branch out into other areas of business: other relatives such as the karta’s sons could have been assigned to manage new branches of the business.

We can also see from the history of this partnership the difficulties Mohamedali and Esmailji could have faced if they attempted to transition into the use of managing agencies. Even though both businessmen were familiar with the workings of a partnership, we can safely assume that they were unfamiliar with the
dynamics involved in managing numerous branches from a centrally controlled unit as is the case in the Hindu joint family or a managing agency. Secondly, while both Mohamedali and Esmailji may have acquired a particular skill set to work with a non-durable institution such as a partnership, they would have had to acquire considerably different set of skills in order to work in durable institutions such as a Hindu joint family or a managing agency.

Case Study 2: Partnership of Najoo Khan and Ali Ebrahim:25

A partnership was formed between Najoo Khan and Ali Ebrahim in 1916. It was agreed that Ali Ebrahim would transport goods from Aden and sell them in Somalia. Ebrahim would then use the capital from the sale of goods to buy a variety of local agricultural products, which would then be sold in Aden for a profit. Najoo Khan agreed to provide the initial capital for the partnership while Ebrahim would provide the labor; the partners agreed to split the profits and losses equally. Najoo Khan dissolved the partnership towards the end of 1917 because he felt that he was not getting a sufficient return on the capital he had invested.

Analysis: One of the advantages of partnerships is that they allow for considerable flexibility in many important aspects such as distribution of profits and the proportion of labor and capital to be provided by the partners. In the case of the partnership between Najoo Khan and Ali Ebrahim, this flexibility allowed both

partners to reach agreement such that each could contribute to the partnership according to his resources: the former was able to provide capital, while the latter provided labor, and profits were distributed equally.

In addition to flexibility, the partnership also had some advantages over a Hindu joint family business. First, the partnership allowed two unrelated individuals to conduct business with one another for a period of about a year; in a Hindu joint family the inclusion of an outsider into the family would have been considerably more difficult. Second, instead of restricting itself to one good or ancestral goods as would have been the case in a Hindu joint family, the partnership dealt in a variety of goods.

We can also see from this case study why it would have difficult for a businessman like Najoo Khan to transition partnerships to managing agencies. Since the partnership was not durable, Najoo Khan had to cultivate a different skill set and outlook in order to be a successful partner than he would have needed if operated via a managing agency or Hindu joint family. Najoo Khan had no difficulty in dissolving the partnership due to an alleged lack of profits. Instead of acquiring new skills and implementing new ideas that may have allowed the partnership to survive in difficult circumstances, Najoo Khan dissolved a business venture that did not give him immediate profits. As a businessman who operated via partnerships, Najoo Khan needed to have the ability to be able to discern when it would be appropriate to dissolve an unprofitable business. Najoo Khan also needed the requisite skills to
negotiate and work out temporary agreements with partners (such as Ali Ebrahim) who were not related to him via ties of kinship. Finally, since partnerships tended to be relatively short durations, Najoo Khan needed to be good judge of short term economic conditions in order to ascertain the likelihood of the partnership’s success.

Had Najoo Khan operated this business utilizing either a Hindu joint family or a managing agency, he would have needed a different set of skills. Under both the Hindu joint family and managing agency, it would have been much harder for him to dissolve his business. If Najoo Khan had attempted to dissolve the family’s ancestral business merely because it did not make profits in a particular year he would in all likelihood have faced resistance from coparceners. Instead, Najoo Khan would have had to work with other coparceners and channel the family’s resources in a more effective manner in order to generate profits for the business. Similarly, if Najoo Khan had operated this business as a managing agent, then the shareholders of the company would have placed greater pressure on him to make the business succeed.

Thus under both the Hindu joint family and managing agency, Najoo Khan would need to have the ability to manage the business effectively even during unprofitable years. He would also have needed a much deeper understanding of long term economic circumstances. Finally, since both the managing agency and Hindu

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26 While coparceners must accept the decision of the karta, unhappy coparceners can always threaten to partition off their respective share of the business or even be uncooperative in operating the business.
joint family are composed of a central unit with numerous branches, Najoo Khan would need to acquire the management techniques necessary to coordinate the relationship between the branches and the central unit.

Case Study 3: Partnership of A. Haji Dossal & Sons and the family of Haji Hamad.\(^27\)

In 1902 a partnership firm called A. Haji Dossal & Sons acquired a business in arms and ammunition that was run by Haji Hamad and his relatives. A. Haji Dossal & Sons set up a new partnership and hired relatives of Haji Hamad to help run the business. In 1907 Haji Hamad’s relatives were made partners in the business, and in 1912 the partnership agreement was renewed to give them a greater share of the profits. The partnership was dissolved in 1922. The reasons for the dissolution of the partnership are unclear, but disputes in regards to profit sharing between relatives of Haji Hamad and original partners of A. Haji Dossal & Sons may have precipitated the breakup.

Analysis: The firm of A. Haji Dossal & Sons was able to enter and successfully participate in the arms and ammunitions industry for twenty years. Two characteristics of partnerships gave A. Haji Dossal some flexibility. First, he was able to incorporate into his business outsiders (members of Haji Hamad’s family) with the requisite skills, second he could periodically negotiate profit sharing.

\(^{27}\) Suleman v. Haji Abdul Latif, 32 BLR 1152 (1930)
agreements that ensured that members of Haji Hamad’s family would have a vested interest in the firm’s success. 28

We can also note one major drawback of partnerships from this case study: First, the partnership was very easy to dissolve. When members of Haji Hamad’s sought to dissolve the partnership, no mechanism existed within the partnership to prevent them from doing so. Had this been a Hindu joint family business, it is likely that social pressures and a desire to have access to the pool of jointly held property would have worked against its partition.

Case Study 4: Partnership of Dwarka Nath, Rahim Baksh and others: 29

Four individuals, Dwarka Nath Sarkar, Gagan Chandra Biswas, Rahim Baksh, and Jugole Kishore Dubey, formed a partnership in November of 1903 in the construction industry. 30 A few weeks after the formation of the partnership, they contracted with the Secretary of State of India for construction of a bridge. One of the partners, Rahim Baksh died before the bridge could be completed. The partnership had to dissolve upon completion of the project.

28 It is likely that disputes over profit sharing led to the eventual dissolution of this partnership. However, we must stress that the partnership’s flexibility in regards to profit sharing allowed it to function effectively for twenty years.
29 Rai Dwarka Nath Sarkar Bahadur v. Haji Mahomed Akbar, 17 BLR 5 (1914)
30 This partnership involved three Hindus and one Muslim (Rahim Baksh). As we discussed in Chapter 3, Hindu businessmen could use the Hindu joint family and partnerships, while Muslim merchants tended to rely exclusively on partnerships.
Analysis: The brief case study above offers a strong example of how ephemeral partnerships can be. The death of one of the partners caused life span of the partnership to be very short duration (under one year), and its activities were limited to one project. The example also shows that the involvement of a greater number of individuals in a partnership increases the chances for its dissolution. Finally, we can also discern the difficulties businessmen who are familiar with only partnerships would have in adopting managing agencies: they would not be familiar with the dynamics of managing durable institutions or know how to effectively manage relationships between the central unit and branches of a business.

We have examined the histories of four partnerships and have noted the difficulties involved in sustaining long-lived partnerships. We have also seen that the skills gained from working in a partnership differed from those necessary to run managing agencies. The history of the Sarupchand family offers powerful contrast with the histories of the partnerships discussed above. In the history of this family, we have an example of how Hindu inheritance law and the joint family structure could allow for a relatively easy transition to the managing agency model. The roots of the family lie in northern India and it has been involved in money-lending for many centuries. In 1789, one of the family’s members, Seth Pusaji, migrated to central India and used the capital at his disposal to enter the retail business in the city of Indore. Seth Pusaji’s sons and grandsons managed the family’s enterprises collectively and held them as one unit. One of his grandsons, Magniram, was a very
dynamic businessman and managed to expand the family business into the fields of banking and opium marketing. After Magniram’s death in 1872, the family business was jointly managed by his three brothers. The family business continued to be successful and on the eve of the twentieth century its assets were worth Rs. 3 million. It was only in 1913 that the family’s fortune was partitioned. Despite the partitioning of family fortunes, the different branches of the family continued to have ample capital and provided assistance to each other. In 1916, one of Pusaji’s descendants, Hukamchand, had built three textile mills in Indore. Hukamchand also used his share of the family’s capital to build the first one of the largest Indian-owned jute mills in Calcutta in 1919. The family business was also registered as a managing agency in 1919 and controlled joint stock companies in many areas such as textiles, precious metals, and agricultural products (Taknet 1986, 80-81; Timberg 1978, 216-217).

Hindu inheritance law allowed the Sarupchand family to hold its assets collectively from 1789 to 1913. At least four generations passed form Seth Pusaji to Hukamchand. Under Islamic law, the family’s wealth would have been split up with each passing generation. Hindu inheritance laws helped to assure that as long as the males of the family did not partition the fortune, it could be held jointly. This played a particularly important role in a capital-scarce environment such as India. The family had enough capital to expand into new areas such as opium and banking. And when the partition of the family’s fortune finally took place in 1913,
Hukamchand had enough funds at his disposal to enter industry. Since Pusaji’s
descendants managed the families businesses jointly in different areas, Hukamchand
was conceptually familiar with the model of one central unit managing numerous
enterprises. This allowed him to set up a managing agency that controlled numerous
joint stock companies. If Hukamchand had been only acquainted with Islamic
partnerships, he would not have the same conceptual framework and skills to grasp
how one central unit ran numerous businesses.

From the above discussion, we can see that Hukamchand benefited greatly
from two factors. Firstly, Hindu inheritance law allowed his family to retain capital.
This capital allowed the family to expand its operations into other areas. Despite the
partitioning of the family, Hukamchand had the capital to launch a cotton mill.
Secondly, the business culture and experience of the joint family’s business made the
managing agency framework less alien to Hukamchand.

If the Sarupchand family had functioned under Islamic institutions we can
surmise that the fortunes of the family may have differed in some ways. It is likely
that the family’s fortune would have been partitioned with each passing generation.
Not only would this would have limited the family’s stock of capital, it would have
also prevented the family from expanding into new fields of business. This would
have prevented the family’s members from gaining valuable experience of managing
different businesses while working from one central unit. The relevant model for
business under Islamic institutions would have been the Islamic partnership rather than the Hindu joint family.

Having examined the history of the Sarupchand family, we now look at specific case studies of other Hindu families that transitioned from the Hindu joint family to the managing agencies. The five case studies below were selected from a sample of 20 case studies of business houses from *The Structure of the Corporate Private Sector* (Hazari 1966).31 In addition to the criteria utilized by Hazari, the five cases in our sample have been chosen to illustrate how the Hindu joint family could be effectively used to transition into managing agencies. Two of the families in our sample (Kirloskars and Mafatlals) did not belong to merchant castes and were also handicapped by a lack of capital. The case studies of these two families emphasize that it was not necessary for a Hindu family to belong to a merchant caste in order to transition towards the use of managing agencies. The other three families (Lalbhais, Khataus, and Birlas) in our sample illustrate the relative ease with which families from merchant castes were able to utilize the Hindu joint family to transition into managing agencies. While the experience of the families in our sample may not be typical of all Hindu families involved in industry, the case studies below will provide insight to the dynamics involved in the transition from the Hindu joint family to the managing agency.

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31 Hazari states that his sample of 20 business groups is a accurate representation because it accounts for “caste, provincial origin, age...and techniques of control” (Hazari 1966, 24).
Case Study 5: Kirloskars

Laxmanrao Kirloskar was a Maharashtrian Brahmin born in 1869. He came from a religious family that laid heavy stress on education. The Kirloskars lacked both business connections and capital. Since Laxmanrao had little capital, he took a small loan from his friend and attempted to set up a plant that would manufacture bicycles. He was unable to secure any more capital and began to repair bicycles instead of manufacturing them. In order to raise greater amounts of capital, Laxmanrao converted his company into a joint stock concern in 1920. Kirloskar soon set up a managing agency consisting of family members to administer this joint stock company. Through managing agency contracts, Kirloskar placed other members of his joint family in charge of oil and electricity companies. As late as 1958, seven joint stock companies were controlled via managing agencies by the Kirloskars (Hazari 1966, 261-263; Tripathi 1990).

Analysis: Laxmanrao’s early career involved a struggle against a formidable obstacle: difficulty in obtaining capital to finance his business. Laxmanrao was unable to secure capital to finance his plans for manufacturing bicycles. He was forced to go into the less capital intensive business of repairing bicycles instead. It is significant to note that for a period of 30 years, Laxmanrao had only two sources of capital: profits from his business or loans from friends. He could not turn to informal institutions such as a merchant network because he did not belong to one of
the merchant castes, and he could not turn to formal credit institutions such as Western style banks, because these were not sufficiently developed at the time. Laxmanrao launched a joint stock company in order to raise the necessary capital for his business. While Laxmanrao did not possess a majority of the shares in this joint stock company, he was able to retain control via a managing agency contract. Laxmanrao was able to utilize the managing agency to control the joint stock company because a sufficient number of the members of the Kirloskar family were willing to become managing agents and support him in his venture. Laxmanrao’s brothers and son had sufficient experience in Hindu joint families and thus had a grasp of the dynamics of the relationship between different branches of the joint family. This experience proved useful when they used managing agency agreements to branch out the family business into new areas such as electricity and oil. If the Kirloskars had not been familiar with the dynamics managing numerous branches of a family centrally, it is likely that they would have lacked the skills to manage numerous joint stock companies.

Case Study 6: The Mafatlals

The Mafatlals belong to the Kanbi caste. The Kanbis have traditionally been engaged in agriculture, although in the seventeenth century some Kanbis settled in urban centers and became weavers and traders. Mafatlal began his career as a

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32 It is likely that a Muslim entrepreneur from a non-mercantile caste would have faced similar obstacles.
peddler at the age of thirteen in 1886. He eventually took up a side job as mill-boy in a cotton mill. In 1905 he launched a joint stock company known as Shorrock Spinning and Manufacturing Company. Shares for the company were bought mainly by other members of the Kanbi caste. A managing agency run by Mafatlal and his close associates controlled the joint stock company. By the 1930s Mafatlal and his sons had expanded family’s business empire to include numerous mills, ginneries, and an insurance company. These new additions to the Mafatlal’s business empire were controlled through managing agency contracts and by the 1970s, Mafatlal’s sons and grandsons controlled ten joint stock companies via such contracts (Hazari 1966, 207-208; Tripathi 1990, 105-114).

Analysis: The history of the Mafatlals offers an example of successful utilization of both caste networks and the Hindu joint family. While the Mafatlals may have initially lacked capital, they were able to tap into the resources of fellow Kanbis. Since the majority of the shares of the Shorrock Spinning and Manufacturing Company were bought by Kanbis who had close ties with the Mafatlals, it was easy for the Mafatlals to maintain a cordial relationship with the shareholders of their company. Due to ties of caste, the shareholders of Shorrock Spinning and Manufacturing Company trusted the Mafatlals, and granted them near-complete power over the company via a managing agency agreement. The success of the Shorrock Spinning and Manufacturing Company enabled the Mafatlals to branch out into new areas.
A key reason the Mafatlals were able to successfully expand and retain control of their business empire from 1905 to the 1970s is that they were able to incorporate members of the joint family into the business. The sons and grandsons of Mafatlal held the family’s wealth collectively. Although each of them may have managed a particular section of the family’s business empire, they were able to coordinate as a unit.

Case Study 7: The Lalbhais

The Lalbhai family is one of India’s oldest business families and has a very rich history. The family settled in the Gujarat region in the last quarter of the sixteenth century. Under the leadership of Shantidas Jhaveri, it acquired a considerable fortune in the second decade of the seventeenth century. The family members were jewelers to the Mughal emperors of the time and had access to the imperial court. The family augmented its earnings by lending money to the Mughal nobility and gradually moved into the field of banking. The Jhaveri family was partitioned into six branches in 1814 after the death of the then family head, Wakatchand. The sons of Wakatchand continued to participate in the traditional venues of banking and retail, and maintained friendly relations amongst each other.

One of the six branches was headed by Dalpatbhai, who made significant gains through speculation in cotton during the American Civil War. His sons Lalbhai, Jagabhai, and Manibhai grew up under prosperity and continued their
father’s banking business. The family wealth and business were managed collectively by the brothers. Lalbhai took over the family business when his father Dalpatbhai passed away in 1885. In 1897, Lalbhai launched the Sarsapur Manufacturing Company. Lalbhai raised the necessary capital from distant relatives and members of his caste. The three brothers owned equal shares in the managing agency firm and appointed a cousin as chairman of Saraspur Manufacturing Company. In 1905 the brothers floated Raipur Mills, and both mills made enormous profits during World War I. Lalbhai succumbed to a heart attack at the age of 49 and sons and nephews continue to jointly run the cotton mills. In the 1930s the family acquired Ahemdabad Cotton Mills. This company was acquired to provide management experience for some of Lalbhai’s nephews (Tripathi 1990, 88-102). In the late 1950s the Lalbhais retained control over nine joint stock companies via managing agencies (Hazari 1966, 247).

Analysis: The Lalbhais in many ways represent the experience of many of the prominent joint families in Indian business. The family was in retail and trade for many generations and held its wealth jointly. The family fortunes were partitioned in 1814, nearly two and a half centuries after the family had moved to the Gujarat region. The brothers in each of the six branches had capital and business acumen; both of these assets ensured that they would remain a force to be reckoned with in the business world of Gujarat. One of the descendants of Shantidas, Dalpatbhai was able to use his capital to amass an even greater fortune by speculating during the
American Civil War. His sons used the family’s jointly held wealth and capital borrowed from their relatives to float cotton mills. The family entered industrial ventures only in the 1890s when it had been demonstrated that cotton mills were sufficiently profitable. The sons continued to hold the wealth jointly and managed the mills collectively as would be done in a Hindu joint family.

The Lalbhais used the managing agency agreement to control their joint stock companies. The Lalbhais managed the joint stock companies in a manner akin to running a joint family business: wealth was held collectively, a united front was presented to the rest of the world, the younger nephews were given mills financed by family wealth to quench their ambition, and management decisions were made collectively not individually. The transition to a managing agency was a most natural one; the managing agency was composed of family members and functioned just as a family firm. This assured the family that they would retain control over the mills.

In many ways the Lalbhais’ are typical of Hindu merchant families. They raised capital through traditional networks and their reputation allowed them to do this with ease. Lalbhais used the managing agency model to make the transition from retail to industry.
Case Study 8: The Birlas

The Birla family is of the Marwari caste from Rajasthan. The family has been engaged in the moneylending industry since at least as early as the eighteenth century. One of the members of the family, Seth Shivnarayan, migrated to Bombay in the 1863 and set up a money lending business there. He was later joined by his son and other members of the family. In 1896, the family business opened other branches, expanding its operations to cities such as Calcutta. The Birlas also expanded their trade to include precious metals, opium, textiles, and cotton. By the end of World War I, the Birlas had gained prominence and earned an annual profit of Rs. 8 million from their operations. The Birla family entered industry in 1916 by setting up a cotton mill. A joint stock company Birla Brothers was incorporated in 1918. The company had a paid up capital of Rs. 5 million and four of Seth Shivnarayan’s grandsons held an equal number of shares in the newly established company. In the 1920s the family launched other joint stock companies and expanded into the jute, cotton, and paper industries. In 1933 the family set up its first insurance company. During the World War II period, the family expanded into other industrial sectors, including automobiles, fans, vegetable oils, and other goods. Members of the Birla family maintain control of 50 joint stock companies through various managing agencies (Hazari 1966, 51-52; Jaju 1985, 17-26).

Shivnarayan migrated to another region but records do not indicate that he partitioned off a portion of the family fortune for himself.
Analysis: Although the Birla family has been in moneylending since at least the eighteenth century, they showed a marked reluctance to enter industry. It was only in 1916 that the family floated its first industrial venture. The family used the traditional Hindu joint family model to do business and was able to hold their wealth collectively as a result of the Hindu inheritance law. The Birlas amassed considerable amounts of capital through traditional venues such as banking and trade, and this capital was used to float joint stock companies to enter industry. Since the Birlas had numerous branches in their traditional business the concept of managing agencies was not alien to them. They were able to use this institution to maintain control over family's joint stock companies.

Case Study 9: The Khataus

The Khatau family belongs to the Bhatia caste. The Bhatias have been traders in the Kutch region of Gujarat and had networks extending into the Middle East and southern India. The Khatau family moved to Bombay during the first half of the nineteenth century. They dealt in cotton and textiles and were one of the prominent families in the Bhatia community of Bombay. They floated their first joint stock company, Khatau Makanji and Company in 1874. The shares for the company were worth over one million rupees. A managing agency firm dominated by members of the family was set up to run the joint stock company. The Khataus were very reluctant to enter areas of industry other than textiles and it was only in
1936 that the family acquired active interests in the cement industry. By the late 1950s the Khataus controlled eleven joint stock companies through managing agencies (Hazari 1966, 199-200; Tripathi 1990, 76-85).

**Analysis:** The Khatau family belongs to a trading community and its roots lie in both trade and the cotton industry. The business history of Khataus conforms to the general pattern of transition from joint family businesses to managing agency firms that was followed by other Hindu families with a background in trade. Although the family had substantial amounts of capital in 1874, they launched a joint stock company to supplement their capital. A managing agency firm that consisted of family members was set up to retain control of this joint stock company. When the Khataus floated other joint stock companies, these were also controlled through family run managing agencies.

**Conclusion**

From the discussion above, we can draw some key lessons about gradual move from the Hindu joint family into the managing agency model. One lesson is that access to capital played a key role in shaping the history of the business family. Mafatlal and Kirloskar did not have initial fortunes to build upon. Both individuals launched joint stock companies as a means of raising additional capital. On the other hand, the wealthier families in our sample such as the Khataus and Birlas did

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34 Mafatlal was able to raise capital from his caste networks while Kirloskar’s joint stock company had its shares sold to the general public.
not use the joint stock company as a means of raising capital for their initial ventures but instead as a means of supplementing their business activities. Hindu inheritance law allowed families such as the Birlas and Khatus augment capital over centuries and so these groups did not have to struggle to raise their initial stock of capital.

Five of our case studies involve individuals who were raised in Hindu joint families. This experience provided them with the necessary experience to make a transition into the managing agency model.

The managing agencies allowed these families to retain control of numerous joint stock companies without having an ownership of the majority of shares in these companies.

We can also see from these case studies how potential entrepreneurs could be at a disadvantage. First, Muslim entrepreneurs would most likely lack the capital resources of families such as the Khataus or Lalbhais. They would have to search for other means of acquiring capital as Mafatlal or Kirloskar did. Second, we have seen from our case studies of partnerships that even if a Muslim entrepreneur such as Esmailji Sulemanji had access to sufficient capital, he would have a different set of skills from the individuals in our list of Hindu entrepreneurs. While the skills and experience acquired in a Hindu joint family could be translated into the skills used for a managing agency, an individual not raised such a family would not have those particular skills.

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35 There are no references in the literature about attempts by orthodox Muslim businessmen to adopt the managing agency system.
Thus we can see that on both counts Muslims faced more difficulties in transitioning into the managing agency than Hindus did. We have seen case studies that illustrate how Hindu families were able to use the managing agency system to raise capital, maintain control of numerous joint stock companies, and diversify into multiple business ventures. We have also seen case studies that demonstrated how the relative fragility of partnerships prevented Muslim businessmen from replicating the success of their Hindu colleagues. In the next chapter, we will look at statistical evidence in order to deepen our understanding of the dynamics of Muslim economic underdevelopment in colonial and post-colonial India.
Chapter 6: Methodology and Data Analysis

In previous chapters we explored the business institutions and inheritance practices of Hindus and Muslims. We also examined case studies in Chapter 5, which provided us with evidence in regards to the usage of different business institutions and also the adoption of joint stock companies through a managing agency.\(^1\) Thus far, our study has relied largely on qualitative evidence. We now turn to statistical evidence to compare the degree and extent to which the joint stock company was adopted by Hindus and Muslims. We will pay special attention to the adoption of the joint stock company by heterodox Muslims.

Two different sets of data will be used to assess the adoption of joint stock companies by the two communities. The first data set is from *Investor’s India Yearbook* (issues 1920 and 1940) and has the composition of board of directors of publicly traded joint stock companies in India. We will examine the proportions of Hindus and Muslims on board of directors to examine whether their respective proportions change over time. The second data set is from *Bombay Law Reporter* series (1900-1947) and consists of commercial cases that were presented before the Bombay High Court. We will use this data set to look at the type of business institutions used by Hindus and Muslims, with an eye toward determining whether

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\(^1\) The terms “joint stock company” and “corporation” will be used interchangeably throughout this chapter. For a brief discussion of the relationship between the two, see Chapter 5.
there is a movement in either of the groups towards the usage of joint stock companies. A brief discussion of both data sets follows below.

**Investor’s India Yearbook**

The *Investor’s India Yearbook* (issues 1920 and 1940) provides the names of all publicly traded companies in India for the respective years. The names of members of the board are also provided. The members of the board of each company were counted and classified into four categories: Hindu, Muslim, Zoroastrian, and European (i.e. British).² The companies were classified according to location of head quarters (North, South, East and West) in India and their respective industries. The industries were classified into the following five categories: finance, manufacturing, clothing, agriculture, and others.

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² This study, however, limits its discussion to a comparison between Hindus and Muslims.
The Muslim members of the board were further divided into 2 categories: heterodox and orthodox. Heterodox Muslims often have last names indicating caste origins. For example, a typical name could be Rehmat Ali Bohra or Yusuf Memon. All Muslims with last names indicating heterodox origin were counted and classified as heterodox. Muslims without these types of names were classified as orthodox Muslims. Because only some heterodox Muslims have names signaling their caste, the number of heterodox Muslims in our study serves as a lower limit.
The data from *Investor’s India Yearbook* series was used to obtain information about the distribution of Hindus and Muslims in the board of directors of companies and how this composition changed over time during the period of 1920 to 1940. These data also allowed us to determine the proportions of orthodox and heterodox Muslim members of boards of directors and the evolution of these proportions over time, during the period of 1920 through 1940.

The period between 1920 and 1940 is particularly significant because it witnessed a dramatic increase in Indian participation in industry. The total number of joint stock companies registered in India increased from 3,668 in 1918 to 10,657 in 1938. Meanwhile, the share of capital invested by Indian-controlled companies went up from 13% to 34% while the share of capital invested by European-controlled companies declined from 72% to 40% (Tripathi 2004, 175).³ By looking at the change in composition of board of directors we can see which group of Indians took advantage of the opportunities available during this period.

**Bombay High Court Records⁴**

This dataset includes every commercial case that went to the Bombay High Court from the period of 1900 to 1947.⁵ The cases were classified according to the

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³ The remaining capital, 15% in 1918, and 26% in 1938, was invested in companies controlled jointly by Indians and Europeans (Tripathi 2004, 175).
⁵ We exclude commercial cases involving promissory notes from our data set because these cases are not relevant to our study.
religion of defendant, industry, and institution used. The religion of the defendant was used to classify cases into four categories: Hindu, Muslim, Zoroastrian, and European. Six categories were created for industry: agriculture, retail, finance, manufacturing, clothing, and others. Finally, institutions in this data set were classified into five of the following categories: corporation, Hindu joint family, partnership, contract, and others. For many of the tests conducted below, the data gathered from the Bombay High Court is divided into two periods: 1900-1923 and 1924-1947. This is done in order to assess the differences between the respective periods.

**Data Analysis**

Before turning to a comparison of the use of business institutions by Hindus and Muslims, we can discuss the general patterns that emerge from a comparison of the 1900-1923 and 1924-1947 periods. Table 6.2a shows that for these two periods there was not a significant difference in the types of industries that were represented in court cases. (The category of manufacturing is an exception: the number of court cases in this category increased from 15 for the years 1900-1923 to 44 for the years 1924 to 1947).

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6 While partnerships are often formed on the basis of a contract, we make a distinction between a partnership and other agreements involving contracts. This is done in order to assess the use of partnerships by Hindus and Muslims.
Table 6.2a

*Frequency Table of Industries in Court Cases from 1900-1947*

<table>
<thead>
<tr>
<th></th>
<th>Agricult.</th>
<th>Clothing</th>
<th>Finance</th>
<th>Manufact.</th>
<th>Other</th>
<th>Retail</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900-1923</td>
<td>25</td>
<td>67</td>
<td>72</td>
<td>15</td>
<td>31</td>
<td>23</td>
</tr>
<tr>
<td>1924-1947</td>
<td>27</td>
<td>96</td>
<td>118</td>
<td>44</td>
<td>38</td>
<td>32</td>
</tr>
</tbody>
</table>

$\chi^2=7.835 \ p=0.166$, 5 degrees of freedom

Figure 6.2a

While Indian businessmen may not have made radical changes in sorts of industries in which they were involved, there was a significant difference in the composition of business institutions of 1900-1923 and 1924-1947 periods. There was a small drop in the number of court cases involving the use of contracts. While
there was increase number of court cases that involved a partnership or the Hindu joint family, the most dramatic increase came in the number of court cases involving corporations. This increase in the number of cases involving corporations (and decrease in the number of cases involving contracts) indicates that Indian businessmen were moving towards using more sophisticated institutions to conduct business. We shall see shortly that Hindus and Muslims diverged in their adoption of sophisticated business institutions.

Table 6.2b
*Frequency of Organizational Forms Observed in Court Cases, 1900-1947*

<table>
<thead>
<tr>
<th></th>
<th>Contract</th>
<th>Corporation</th>
<th>Partnership</th>
<th>Hindu Joint Family</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900-1923</td>
<td>84</td>
<td>51</td>
<td>49</td>
<td>38</td>
<td>28</td>
</tr>
<tr>
<td>1924-1947</td>
<td>76</td>
<td>101</td>
<td>78</td>
<td>72</td>
<td>33</td>
</tr>
</tbody>
</table>

$\chi^2 = 15.041$ p = 0.0046, 4 degrees of freedom
A Comparison of Hindus and Muslims

A look at the business institutions used by Hindus and Muslims reveals that despite their involvement in similar industries both groups tend to use different sets of institutions. We can see from Table 6.3 and Figure 6.3 that for 1900-1947, cases involving Hindus and Muslims tended to come from the same industries. An analysis of Table 6.3 yields a chi-squared of 9.536, which produces a p-value of 0.09. Since p > 0.05, we fail to reject the null hypothesis and conclude that no significant difference exists between the industries of Muslims and Hindus.
Table 6.3
Frequency Counts of Religion versus Industry

<table>
<thead>
<tr>
<th></th>
<th>Agriculture</th>
<th>Clothing</th>
<th>Finance</th>
<th>Manufacturing</th>
<th>Other</th>
<th>Retail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td>41</td>
<td>150</td>
<td>168</td>
<td>49</td>
<td>60</td>
<td>49</td>
</tr>
<tr>
<td>Muslim</td>
<td>12</td>
<td>13</td>
<td>22</td>
<td>10</td>
<td>9</td>
<td>6</td>
</tr>
</tbody>
</table>

χ²=9.536, p=0.09, 5 degrees of freedom

Figure 6.3

While Hindus and Muslims tended to be involved in similar industries, the data suggests that they used different institutions to conduct business. Table 6.4 gives us χ²=46.649 with p<0.0005. We can see from Table 6.4 and Figure 6.4 for 1900-1947, contracts tended to be the most popular method of business with both Hindus and
Muslims. This may be because contracts may have been the most effective method for conducting relatively simple transactions between two parties. Of the remaining cases involving Muslims, the partnership was utilized as the institution of business in 50 out of 77 or nearly two-thirds of the time. On the other hand, corporations were utilized in only 21 out of 77 such cases. The relatively low frequency of the use of corporations by Muslim businessmen is significant in light of the fact the corporation was an institution fluid enough to be used frequently in all industries except retail and agriculture (see Table 6.5 and Figure 6.5). The frequent use of partnerships vis-à-vis corporations indicates that throughout first half of the twentieth century, Muslim businessmen by and large stuck to their traditional organizational forms and did not start using the corporate form to any significant degree.

A look at non-contract cases involving Hindus shows that they tended to use the corporation more frequently than either the Hindu joint family or the partnership. The Hindu joint family was used in 108 of 411 non-contract cases while the corporation was used in 133. The more frequent use of corporation vis-à-vis the Hindu joint family by Hindu businesses suggests that during the first half of the twentieth century a significant portion of the Hindu business community had moved away from the Hindu joint family as a means of conducting business and instead adopted the corporation. Furthermore, we can see from Table 6.5 that the Hindu joint family was not considered as an effective institution for use in manufacturing

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7 Cases in which institution type was not mentioned have not been included in this count.
and instead the corporation or the partnership was used. The Hindu joint family was relegated to industries traditional to Hindu merchant castes, such as finance and retail.

Table 6.4
*Institutions Used by Hindus and Muslims, 1900-1947*

<table>
<thead>
<tr>
<th></th>
<th>Contract</th>
<th>Corporation</th>
<th>Partnership</th>
<th>Hindu Joint Family</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td>203</td>
<td>133</td>
<td>113</td>
<td>108</td>
<td>57</td>
</tr>
<tr>
<td>Muslim</td>
<td>51</td>
<td>21</td>
<td>50</td>
<td>2</td>
<td>4</td>
</tr>
</tbody>
</table>

χ²=46.649, p<0.0005, 4 degrees of freedom

Figure 6.4
Table 6.5
Frequencies of Industry and Institution in High Court Data

<table>
<thead>
<tr>
<th>Industry</th>
<th>Contract</th>
<th>Corporation</th>
<th>Hindu Joint Family</th>
<th>Partnership</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>21</td>
<td>3</td>
<td>6</td>
<td>5</td>
<td>2</td>
</tr>
<tr>
<td>Clothing</td>
<td>59</td>
<td>30</td>
<td>15</td>
<td>11</td>
<td>12</td>
</tr>
<tr>
<td>Finance</td>
<td>15</td>
<td>43</td>
<td>17</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>17</td>
<td>17</td>
<td>1</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Other</td>
<td>18</td>
<td>17</td>
<td>4</td>
<td>10</td>
<td>6</td>
</tr>
<tr>
<td>Retail</td>
<td>3</td>
<td>1</td>
<td>21</td>
<td>10</td>
<td>4</td>
</tr>
</tbody>
</table>

$\chi^2=119.402 \ p<0.0005$, 20 degrees of freedom

Figure 6.5

Frequency of Industry and Institution in High Court Data
Data from the *Bombay Law Reporter* also points towards an increase in the use of corporations by Hindus. Table 6.6a shows that approximately 16.4% of commercial cases with a Hindu defendant involved use of a corporation during from 1900 to 1923. This figure goes to 29.4% for the 1924-1947. Table 6.6b shows us that a hypothesis test by confidence intervals comparing both periods yields a p-value of .00165, indicating a statistically significant rise occurs in the proportion of court cases involving Hindus.

We do not see similar increase in Muslim commercial cases involving use of corporations. Table 6.6a shows us that from 1900 to 1923, 15.6% of commercial cases involved use of corporations. This figure increases to 16.7% for 1923-1947. When subjected to a hypothesis test involving confidence intervals comparing proportion of Muslim cases for the two periods, we find a p-value of .45044, which indicates that no significant rise occurs across the two periods.

The data collected from *Bombay Law Reporter* also supports the contention of this study that over time a gap in the use of corporations by Hindus and Muslims emerged. We can see from Table 6.6b that for 1900-1923 there is no significant difference in proportion of cases involving corporations for either Hindus or Muslims. But in 1924-1947 there is a statistically significant gap.
Table 6.6a
Corporation Use by Religion and Date

<table>
<thead>
<tr>
<th>Year</th>
<th>Corporation</th>
<th>Total</th>
<th>Proportion</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1900-1923</td>
<td>38</td>
<td>232</td>
<td>0.164</td>
<td>0.0184</td>
</tr>
<tr>
<td>1924-1947</td>
<td>95</td>
<td>323</td>
<td>0.294</td>
<td>0.0159</td>
</tr>
<tr>
<td>Muslim</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1900-1923</td>
<td>10</td>
<td>64</td>
<td>0.156</td>
<td>0.08466</td>
</tr>
<tr>
<td>1924-1947</td>
<td>10</td>
<td>60</td>
<td>0.167</td>
<td>0.07479</td>
</tr>
</tbody>
</table>

Table 6.6b
Hypothesis Test by Confidence Interval for Hindu and Muslims

<table>
<thead>
<tr>
<th>Populations</th>
<th>p-value</th>
<th>Null Hypothesis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindus and Muslims of 1900-1923</td>
<td>.293975</td>
<td>Cannot reject null</td>
</tr>
<tr>
<td>Hindus and Muslims of 1924-1947</td>
<td>.039295</td>
<td>Reject null</td>
</tr>
<tr>
<td>Hindus of both periods</td>
<td>.00165</td>
<td>Reject null</td>
</tr>
<tr>
<td>Muslims of both periods</td>
<td>.45044</td>
<td>Cannot reject null</td>
</tr>
</tbody>
</table>

The greater use of joint stock companies by Hindus may also be seen in the composition of board of directors of publicly traded companies. We can see from Table 6.7 and Figure 6.7 that in 1920 that Hindus were over-represented on the board of directors, while Muslims were under-represented, vis-à-vis their respective
proportions in the Indian population. Table 6.7 gives us a statistically significant $\chi^2$ value of 22.78, indicating that there is was a considerable degree of Hindu over-representation and Muslim under-representation on boards of directors.

Table 6.7

<table>
<thead>
<tr>
<th></th>
<th>Observed</th>
<th>Expected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td>403</td>
<td>358</td>
</tr>
<tr>
<td>Muslim</td>
<td>69</td>
<td>113</td>
</tr>
</tbody>
</table>

$\chi^2=22.78$, $p=0$ degrees of freedom=1

Figure 6.7

---

8 The expected proportions of Hindus and Muslims on boards of directors for the years 1920 and 1940 were based on data from the *Census of India 1921* (I:II, 40-41) and *Census of India 1931* (I:I, 422-423) respectively. The *Census of India 1931* data was utilized because no census was taken in India in 1941.
The gap between Hindus and Muslims grows over time, as Table 6.8 and Figure 6.8 indicate. In 1940 Hindus continue to be over-represented on board of directors while Muslims continue to be under-represented. The increase in $\chi^2$ value to 147.2 indicates that the gap between both groups grew from 1920 to 1940.

Table 6.8  
*Number of Hindus and Muslims in Board of Director Positions 1940*

<table>
<thead>
<tr>
<th></th>
<th>Observed</th>
<th>Expected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td>1043</td>
<td>866</td>
</tr>
<tr>
<td>Muslim</td>
<td>103</td>
<td>279</td>
</tr>
</tbody>
</table>

$\chi^2=147.2, \ p=0$ degrees of freedom=1
Let us turn to the question of the increase in proportion of Hindus and Muslims in the boards of publicly traded companies. We can see from Table 6.9 and Figure 6.9 that during the period 1920-1940 there was a statistically significant difference in the percentage increase between Hindu and Muslim directors. Table 6.9 demonstrates that the number of Hindu directors grew more rapidly than the number of Muslim directors. While the 1920-1940 period saw a dramatic increase in both the total number of joint stock companies registered in India and investment by Indian businessmen, we can see that Hindu businessmen took advantage of these changes to a greater extent than did their Muslim colleagues.
Table 6.9
Number of Hindus and Muslims in Board of Directors Positions by Year

<table>
<thead>
<tr>
<th></th>
<th>1920</th>
<th>1940</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hindu</td>
<td>403</td>
<td>1043</td>
</tr>
<tr>
<td>Muslim</td>
<td>69</td>
<td>103</td>
</tr>
</tbody>
</table>

$\chi^2 = 10.53, \ p=0$  degrees of freedom=1

Figure 6.9

From the analysis of Hindu and Muslim composition of board directors we can draw some important lessons. First, a significant gap existed in the extent to which Hindus and Muslims were represented on boards of directors in 1920. This indicates that before the joint stock company gained broad popularity across India,
Hindu businessmen were utilizing it as a vehicle for industrial ventures to a much greater extent than Muslim businessmen. Second, by 1940 the gap between Hindus and Muslims on board of directors became more pronounced.

**Distribution of Muslims on Boards of Directors**

A closer look at the composition of Muslims on boards of directors of publicly traded companies reveals that it was influenced by the regional locations of the companies and industries. We turn first to the impact of regional location on distribution of Muslims on boards.\(^9\) We can see from Table 6.10a indicate that region played a statistically significant role in determining the distribution of Muslims on boards of directors. Table 6.10b shows us that Muslim presence on boards of directors tended to be weakest in Northern and Eastern India, while it was strongest in Western India.\(^10\) This may have been because the heterodox Muslim population tended to reside in Western India rather than in Eastern or Northern India.\(^11\)

\(^9\) This was tested via ANOVA with the dependent variable being percentage of Muslim directors and the independent variable being region.

\(^10\) Muslim under-representation in the industry in northern provinces such as Punjab and Baluchistan and eastern provinces such as Bengal has been noted before (Talha 2000, 66-69).

\(^11\) The number of observations was insufficient to obtain a statistically significant result for southern India.
Table 6.10a
ANOVA Comparing Region of Company to Proportion of Muslim Directors

<table>
<thead>
<tr>
<th>Source</th>
<th>Type III Sum of Squares</th>
<th>Df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corrected Model</td>
<td>.823</td>
<td>3</td>
<td>.274</td>
<td>42.587</td>
<td>.000</td>
</tr>
<tr>
<td>Intercept</td>
<td>.635</td>
<td>1</td>
<td>.635</td>
<td>98.612</td>
<td>.000</td>
</tr>
<tr>
<td>Region</td>
<td>.823</td>
<td>3</td>
<td>.274</td>
<td>42.587</td>
<td>.000</td>
</tr>
<tr>
<td>Error</td>
<td>9.818</td>
<td>1525</td>
<td>.006</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>11.556</td>
<td>1529</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corrected Total</td>
<td>10.641</td>
<td>1528</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

R² = 0.77

Table 6.10b
Regional Differences in Percentage of Muslim Directors

<table>
<thead>
<tr>
<th>(I) Region</th>
<th>(J) Region</th>
<th>Mean Difference (I-J)</th>
<th>Std. Error</th>
<th>Sig.</th>
<th>95% Confidence Interval</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Lower Bound</td>
</tr>
<tr>
<td>North</td>
<td></td>
<td>-.022*</td>
<td>.008</td>
<td>.036</td>
<td>-.044</td>
</tr>
<tr>
<td>East</td>
<td>South</td>
<td>-.037</td>
<td>.014</td>
<td>.051</td>
<td>-.074</td>
</tr>
<tr>
<td></td>
<td>West</td>
<td>-.061*</td>
<td>.005</td>
<td>.000</td>
<td>-.075</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East</td>
<td></td>
<td>.022*</td>
<td>.008</td>
<td>.036</td>
<td>.001</td>
</tr>
<tr>
<td>North</td>
<td>South</td>
<td>-.015</td>
<td>.016</td>
<td>1.000</td>
<td>-.056</td>
</tr>
<tr>
<td></td>
<td>West</td>
<td>-.038*</td>
<td>.009</td>
<td>.000</td>
<td>-.063</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East</td>
<td></td>
<td>.037</td>
<td>.014</td>
<td>.051</td>
<td>-.0001</td>
</tr>
<tr>
<td>South</td>
<td>North</td>
<td>.015</td>
<td>.016</td>
<td>1.000</td>
<td>-.027</td>
</tr>
<tr>
<td></td>
<td>West</td>
<td>-.024</td>
<td>.015</td>
<td>.619</td>
<td>-.062</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>East</td>
<td></td>
<td>.061*</td>
<td>.005</td>
<td>.000</td>
<td>.046</td>
</tr>
<tr>
<td>West</td>
<td>North</td>
<td>.038*</td>
<td>.009</td>
<td>.000</td>
<td>.014</td>
</tr>
<tr>
<td></td>
<td>South</td>
<td>.024</td>
<td>.015</td>
<td>.619</td>
<td>-.015</td>
</tr>
</tbody>
</table>

* The mean difference is significant at the .05 level.
Table 6.11a indicates points to a significant relationship between industry and percentage of Muslim directors. In Table 6.11b all pairs of industries have significant differences with respect to proportions of Muslim directors. The Muslim presence is strongest in the publicly held financial companies and weakest in companies dealing with agricultural goods. The paucity of Muslim directors in companies dealing with agricultural goods may be explained by European domination of sectors such as tea and jute. These two industries comprised a large portion of the category of agriculture in the *Investor’s India Yearbook*. (Bagchi 1972, 174-181).

---

12 The share prices of joint stock companies in Eastern India (particularly in the jute industry) increased by up to ten times their normal value during the years 1918-1920 and were promptly sold by their European owners. Hindu businessmen (belonging to the Marwari caste from Western India) such as the Ghanshyamdas Birla and Sarupchand Hukamchand (Goswami 1985, 231) bought these companies. Birla (Jaju 1985), Sarupchand (Taknet 1985, 80-81; Timberg 1978, 216-217), and the other Hindu businessmen belonged to families that had preserved their fortunes over many centuries through the effective use of Mitakshra inheritance laws. It is likely that Hindu businessmen from Eastern India and Muslim businessmen failed to take advantage of this opportunity because their respective inheritance codes (Dayabagha and Hanafi) did not permit their families to accumulate sufficient capital to buy these companies.
Table 6.11a

*ANOVA Comparing Industry to Proportion of Muslim Directors*

<table>
<thead>
<tr>
<th>Source</th>
<th>Type III Sum of Squares</th>
<th>Df</th>
<th>Mean Square</th>
<th>F</th>
<th>Sig.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corrected Model</td>
<td>.376</td>
<td>4</td>
<td>.094</td>
<td>12.607</td>
<td>.000</td>
</tr>
<tr>
<td>Intercept</td>
<td>.632</td>
<td>1</td>
<td>.632</td>
<td>84.652</td>
<td>.000</td>
</tr>
<tr>
<td>Industry</td>
<td>.376</td>
<td>4</td>
<td>.094</td>
<td>12.607</td>
<td>.000</td>
</tr>
<tr>
<td>Error</td>
<td>7.799</td>
<td>1045</td>
<td>.007</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>8.779</td>
<td>1050</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corrected Total</td>
<td>8.176</td>
<td>1049</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

$R^2 = .046$
Table 6.11b
Least Significant Difference Comparison of Industries’ Percentage of Muslim Directors

<table>
<thead>
<tr>
<th>(I) Industry</th>
<th>(J) Industry</th>
<th>Mean Difference (I-J)</th>
<th>Std. Error</th>
<th>Sig.</th>
<th>95% Confidence Interval</th>
<th>Lower Bound</th>
<th>Upper Bound</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>Clothing</td>
<td>-0.038*</td>
<td>0.007</td>
<td>0.000</td>
<td>-0.052</td>
<td>-0.025</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Finance</td>
<td>-0.067*</td>
<td>0.013</td>
<td>0.000</td>
<td>-0.093</td>
<td>-0.041</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>-0.010*</td>
<td>0.007</td>
<td>0.186</td>
<td>-0.024</td>
<td>0.005</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>-0.026*</td>
<td>0.010</td>
<td>0.008</td>
<td>-0.045</td>
<td>-0.007</td>
<td></td>
</tr>
<tr>
<td>Clothing</td>
<td>Agriculture</td>
<td>0.038*</td>
<td>0.007</td>
<td>0.000</td>
<td>0.025</td>
<td>0.052</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Finance</td>
<td>-0.029*</td>
<td>0.013</td>
<td>0.030</td>
<td>-0.055</td>
<td>-0.003</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>0.029*</td>
<td>0.007</td>
<td>0.000</td>
<td>0.015</td>
<td>0.043</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>0.012*</td>
<td>0.010</td>
<td>0.206</td>
<td>-0.007</td>
<td>0.032</td>
<td></td>
</tr>
<tr>
<td>Finance</td>
<td>Agriculture</td>
<td>0.067*</td>
<td>0.013</td>
<td>0.000</td>
<td>0.041</td>
<td>0.093</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clothing</td>
<td>0.029*</td>
<td>0.013</td>
<td>0.030</td>
<td>0.003</td>
<td>0.055</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>0.057*</td>
<td>0.013</td>
<td>0.000</td>
<td>0.031</td>
<td>0.084</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>0.041*</td>
<td>0.015</td>
<td>0.006</td>
<td>0.012</td>
<td>0.070</td>
<td></td>
</tr>
<tr>
<td>Manufacturing</td>
<td>Agriculture</td>
<td>0.010*</td>
<td>0.007</td>
<td>0.186</td>
<td>-0.005</td>
<td>0.024</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clothing</td>
<td>-0.029*</td>
<td>0.007</td>
<td>0.000</td>
<td>-0.043</td>
<td>-0.015</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Finance</td>
<td>-0.057*</td>
<td>0.007</td>
<td>0.000</td>
<td>-0.084</td>
<td>-0.031</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other</td>
<td>-0.016*</td>
<td>0.010</td>
<td>0.108</td>
<td>-0.036</td>
<td>0.004</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>Agriculture</td>
<td>0.026*</td>
<td>0.010</td>
<td>0.008</td>
<td>0.007</td>
<td>0.045</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Clothing</td>
<td>-0.012*</td>
<td>0.010</td>
<td>0.206</td>
<td>-0.032</td>
<td>0.007</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Finance</td>
<td>-0.041*</td>
<td>0.015</td>
<td>0.006</td>
<td>-0.070</td>
<td>-0.012</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Manufacturing</td>
<td>0.016*</td>
<td>0.010</td>
<td>0.108</td>
<td>-0.004</td>
<td>0.036</td>
<td></td>
</tr>
</tbody>
</table>

* The mean difference is significant at the .05 level.
Heterodox and Orthodox Muslims

The active role played in business by members of heterodox Muslims castes (the Khojas, Bohras, and Memons) has been discussed earlier.\(^1\) We mentioned that while heterodox Muslims profess Islam they use Hindu commercial institutions and are governed by Hindu inheritance law. A comparison of the heterodox Muslim population with the remainder of the Muslim population will be useful because it will allow us to assess what impact differences in inheritance laws and commercial institutions had when we control for religion.

In 1921 the heterodox Muslim population was approximately 300,000 (Timberg 1969, 106) out of a total Muslim population of approximately 68.7 million (Census of India 1921, 74).\(^2\) Thus the proportion of the heterodox Muslims during in 1921 was 0.4% of the total Muslim population. Unfortunately caste based data was not taken after the 1921 census so we will assume that the proportion of heterodox Muslims was the same in 1940. The expected values for the number of heterodox Muslims on the board of directors for 1920 and 1940 are calculated on this basis. The data suggests that for both 1920 and 1940 heterodox Muslims had a disproportionately large number of positions on the board of directors.

---

\(^1\) Heterodox Muslims are discussed in greater detail in Chapter 5.
\(^2\) Heterodox Muslims tended to be concentrated in Western India.
Table 6.12a

Number of Heterodox and Orthodox Muslims in Board of Director Positions 1920

<table>
<thead>
<tr>
<th></th>
<th>1920(Observed)</th>
<th>1920(Expected)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heterodox Muslims</td>
<td>42</td>
<td>.276</td>
</tr>
<tr>
<td>Orthodox Muslims</td>
<td>27</td>
<td>68.724</td>
</tr>
</tbody>
</table>

$\chi^2=6307.58, \ p=0$ degrees of freedom=1

Figure 6.12a

Number of Heterodox and Orthodox Muslims in Board of Director Positions 1920
Table 6.12b
Number of Heterodox and Orthodox Muslims in Board of Director Positions 1940

<table>
<thead>
<tr>
<th></th>
<th>1940(Observed)</th>
<th>1940(Expected)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heterodox Muslims</td>
<td>43</td>
<td>.412</td>
</tr>
<tr>
<td>Orthodox Muslims</td>
<td>60</td>
<td>102.588</td>
</tr>
</tbody>
</table>

\[ \chi^2 = 4419.56, \ p = 0 \]  degrees of freedom = 1

A look at the distribution of court cases involving heterodox and orthodox Muslims shows that the groups tended to be involved in different industries. Table 6.13 shows that orthodox Muslims had a greater number of cases in industries such
as agriculture and finance, while heterodox Muslims had a greater number of cases in the clothing industry. Despite their involvement in different industries, a comparison of the business institutions used by heterodox and orthodox Muslims will be useful because it will allow us to observe the extent to which both groups moved away from their traditional business institutions and towards the adoption of the corporation.

Table 6.13

<table>
<thead>
<tr>
<th>Industry</th>
<th>Heterodox</th>
<th>Orthodox</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>1</td>
<td>11</td>
</tr>
<tr>
<td>Clothing</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>Finance</td>
<td>4</td>
<td>18</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>4</td>
<td>6</td>
</tr>
<tr>
<td>Retail</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Other</td>
<td>2</td>
<td>4</td>
</tr>
</tbody>
</table>

$\chi^2=12.74$, p=0.025, 5 degrees of freedom
A comparison of business institutions used by heterodox and orthodox Muslims in Table 6.14a shows us that from 1900 to 1923 both groups relied upon similar institutions. If we exclude contracts from our analysis, we can see that both groups tend to rely heavily on partnerships: 16 of the 25 cases involving orthodox Muslims used the partnership as a business institution, while 6 out of 9 cases with heterodox Muslims had the partnership as the institution of business. This is consistent with the results we obtained earlier from Table 6.4: Muslim businessmen tended to rely heavily on partnerships as a means of conducting business.
Table 6.14a

Institutions Used by Heterodox Muslims and Orthodox Muslims, 1900-1923

<table>
<thead>
<tr>
<th></th>
<th>Contract</th>
<th>Corporation</th>
<th>Partnership</th>
<th>Hindu Joint</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heterodox</td>
<td>4</td>
<td>2</td>
<td>6</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Orthodox</td>
<td>25</td>
<td>8</td>
<td>16</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

$\chi^2=1.735$, $p=0.62918$, 4 degrees of freedom

Figure 6.14a

Institutions Used by Heterodox Muslims versus Orthodox Muslims, 1900-1923

However a comparison of the business institutions used by the two groups from 1924 to 1947 reveals that there was a significant difference in the types of institutions used. We can see from Table 6.14b that orthodox Muslims continued to
use the partnership very frequently: in 18 out of 23 non-contract cases the partnership was utilized. However, they were less likely to use the corporation: in only 2 out of 23 non-contract cases was the corporation utilized. Heterodox Muslims tended to rely less on the partnership and more on the corporation than did orthodox Muslims: they utilized the partnership in 10 out of 19 non-contract cases, while using the corporation in 8 of these cases. It appears from the data in Table 6.14b that the heterodox Muslims had decreased their traditional reliance on the partnership and were transitioning towards greater use of the corporation; this was not the case with orthodox Muslims.

Table 6.14b
*Institutions Used by Heterodox Muslims and Orthodox Muslims, 1924-1947*

<table>
<thead>
<tr>
<th></th>
<th>Contract</th>
<th>Corporation</th>
<th>Partnership</th>
<th>Hindu Joint Family</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heterodox</td>
<td>1</td>
<td>8</td>
<td>10</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Orthodox</td>
<td>11</td>
<td>2</td>
<td>18</td>
<td>0</td>
<td>3</td>
</tr>
</tbody>
</table>

$\chi^2=15.641, \ p=0.003547, \ 4 \text{ degrees of freedom}$
Table 6.15a shows us that the proportion of cases in which heterodox Muslims used corporations increased from 15.4% during the 1900 to 1923 period to 40% for the 1924 to 1947 period. These statistics are buttressed by results obtained in Table 6.15b, which show us that a comparison of usage of corporations by heterodox Muslims during both periods points towards significant differences in use of this institution during the two periods. Similar comparisons of heterodox and orthodox Muslim populations illustrate that while both groups may have used the corporation in similar degrees from 1900 to 1923, both groups used it in different degrees from 1924 to 1947. While the figures for orthodox Muslims in Table 6.15a
point towards a decrease in use of the corporation, more rigorous statistical testing in Table 6.15b does not indicate a statistically significant change in use of corporation by orthodox Muslims between 1900-1923 and 1924-1947.

Table 6.15a
*Corporation Use by Religion and Date*

<table>
<thead>
<tr>
<th>Year</th>
<th>Corporation</th>
<th>Total</th>
<th>Proportion</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Het. Muslim</td>
<td>1900-1923</td>
<td>2</td>
<td>13</td>
<td>0.154</td>
</tr>
<tr>
<td></td>
<td>1924-1947</td>
<td>8</td>
<td>20</td>
<td>0.400</td>
</tr>
<tr>
<td>Orth. Muslim</td>
<td>1900-1923</td>
<td>8</td>
<td>51</td>
<td>0.156</td>
</tr>
<tr>
<td></td>
<td>1924-1947</td>
<td>2</td>
<td>40</td>
<td>0.05</td>
</tr>
</tbody>
</table>

Table 6.15b
*Hypothesis Test by Confidence Interval for Heterodox and Orthodox Muslims*

<table>
<thead>
<tr>
<th>Populations</th>
<th>p-value</th>
<th>Null Hypothesis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Het. and Orth. Muslims of 1900-1923</td>
<td>.327015</td>
<td>Cannot reject null</td>
</tr>
<tr>
<td>Het. and Orth. Muslims of 1924-1947</td>
<td>.028185</td>
<td>Reject null</td>
</tr>
<tr>
<td>Heterodox Muslims of both periods</td>
<td>.042815</td>
<td>Reject null</td>
</tr>
<tr>
<td>Orthodox Muslims of both periods</td>
<td>.197945</td>
<td>Cannot reject null</td>
</tr>
</tbody>
</table>

**Conclusion**

The data above provides us with some important insights in regards to the questions posed by this study. Let us first address the adoption of the corporation by
Hindus and Muslims. We can see from above Table 6.9 had a chi-squared value of 10.53 for a significance of $p=0.001$. This indicates that during the 20 years from 1920 to 1940 the Hindu proportion of the board of directors of publicly traded companies in India showed significant growth, whereas we cannot detect a similar growth in the Muslim proportion on the board of directors of Indian companies.

As discussed earlier, the 1920-1940 period saw two important trends: a sharp increase in the number of joint stock companies registered in India, and a dramatic increase in the Indian share of capital invested in these companies. From the changes in composition of the board of directors of these companies, we can discern that Hindu businessmen contributed to both trends. On the other hand, the Muslims of India did not partake of this growth.

The results of Table 6.9 are buttressed by those of Table 6.6b. We can see from Table 6.6b that there is a significant difference in use of corporations by Hindus during the 1900-1923 and 1924-1947 periods. On the other hand there we cannot reject the null hypothesis for a similar comparison of Muslim cases. This suggests that there may have been a growth in use of corporations by Hindus but not in the Muslim population. While a comparison of Hindu and Muslim cases for the 1900-1923 period indicates that there was not a significant difference in usage of corporations between both groups, a comparison of Hindu and Muslim cases for the 1924-1947 period indicates a significant difference in usage of corporations. This
supports the central thesis of this work that the Hindus were quicker than the Muslims in adopting the corporation.
Chapter 7: Conclusions

Summary of Results

This work was devoted to an examination of the causes of the economic underdevelopment of India’s Muslims vis-à-vis Hindus. Muslim underdevelopment in India is a relatively recent historical phenomenon and must be seen in light of the introduction of large scale industry to India after the middle of the nineteenth century. Large scale industry required greater capital inputs than was common. It needed durable business institutions that could manage industries for the long term. The managing agency arose as a response to both of these needs and much of India’s industrialization and the spread of the corporation in India took place under the aegis of this institution.

There were two reasons for the underdevelopment of India’s Muslims. First, it was more difficult for Muslims to transition from the Islamic partnership to the managing agency than it was for Hindus to make their transition from the Hindu joint family. This allowed Hindus to adopt the managing agency (and subsequently corporations) at a faster rate than the Muslims. Second, Muslims had greater difficulty acquiring capital than did Hindus, because Islamic inheritance laws encouraged capital fragmentation, while Hindu inheritance laws encouraged capital accumulation. This acquired enormous significance because India’s capital markets were undeveloped. Let us examine our two reasons for the causes of Muslim
underdevelopment in greater detail. We will begin with the adoption of managing agencies.

The introduction and spread of the managing agency was discussed in Chapter 5. We noted that even though joint stock companies had been introduced in India first in the late seventeenth century and again in 1829, it was only during the late nineteenth century that joint stock companies began be used frequently in India. This is due in part to the fact that they were launched under the aegis of managing agencies. Hindus and Muslims responded differently to the introduction of managing agencies: the former adopted this institution to a much greater extent than the Muslims were able to. We also noted how the differences in the abilities of Hindus and Muslims to adopt this institution can be traced to the differences in the commercial institutions used by both communities. The Hindu joint family was a durable institution and its members could branch out into new areas with relative ease. The Hindu joint family shared these characteristics with the managing agency giving Hindu businessmen an advantage in its adoption.

Case studies of families such as the Birlas and Lalbhais were used to illustrate how the skills acquired in Hindu joint family businesses could be transferred over the effective utilization of managing agencies. Managing agencies provided two key benefits to Hindu families: First, the managing agency contract allowed Hindu families to retain control of the numerous joint stock companies they had launched without having to own a majority of the shares in these companies.
Second, members of the joint family could manage the different joint stock companies under a managing agency just as they would manage the different branches of a Hindu joint family business.

The Islamic partnership did not share characteristics such as durability with the managing agency. Consequently Muslim businessmen found the managing agency to be a more alien institution than their Hindu counterparts did. We saw through case studies in Chapter 5 that while Muslim businessmen such as Najoo Khan may have been skillful at setting up partnerships and engaging in short term business ventures, their experience did not provide them with the skills that were needed to effectively run managing agencies.

Let us now turn to the second cause of the economic underdevelopment of India’s Muslims: the differences in the inheritance laws of the Hindus and Muslims. Chapter 4 showed, the application of Islamic inheritance laws led increased capital fragmentation amongst Muslims. The mechanisms used by Muslims had limitations of their own: the *hiba-bi'l-'iwad* could no longer be utilized during the nineteenth century because British-Indian courts insisted upon immediate transfer of property, while the *waqf-alal-awlad* often locked up much of a family’s capital in one venture. By the same token, Hindu inheritance laws allowed many Hindu families to avoid partitioning their estates and thus accumulate capital. This acquired enormous significance because India’s capital markets were underdeveloped during the nineteenth and early twentieth centuries, and a potential entrepreneur had to rely on
either his familial or caste networks in order to raise sufficient capital to launch industrial ventures. A Muslim entrepreneur seeking to enter industry was at a disadvantage vis-à-vis a Hindu entrepreneur because his familial and caste networks did not have the same resources as did the latter’s. When Muslim merchants did attempt to set up industrial ventures, they were handicapped by a lack of available capital. Muslim-founded enterprises such as Koilpatti Mills and the Petai Sugar Refining Co. Ltd. suffered from under-financing and were eventually purchased by Hindus who had adequate capital.

The inheritance laws of Hindus and Muslims also affected the respective functioning of the Hindu and Muslim businesses. Islamic inheritance laws limited the life span of Islamic partnerships: since the assets of a partner had to be given to his heirs following his death, the heirs had a vested interest in dissolution of the partnership. Accordingly, every new partner increased the chances of the partnership’s dissolution. Thus Islamic inheritance law made it difficult to include large numbers of partners in a business. It also discouraged the development of economies of scale in Muslim businesses. On the other hand, Hindu inheritance laws allowed heirs to collectively hold assets of the propositus and so Hindu joint family businesses did not have to dissolve at the death of each coparcener.

The importance of role played by the respective business institutions and inheritance laws of Hindus and Muslims can also be assessed by taking a closer look at the economic success achieved by heterodox Muslims. We have seen from Table
6.12a and Table 6.12b that heterodox Muslims were represented well beyond their proportions on the board of directors of publicly traded companies in India. We have also seen from Table 5.4 and Table 5.5 that heterodox Muslims also played a disproportionately important role in Pakistan’s industrial life. Given that heterodox Muslims used the Hindu joint family and practiced Hindu inheritance law but professed Islam, we can infer two points from their economic success: First, Islam as a faith does not preclude economic development. Second, it was the business institutions and inheritance laws used by group and not its religion per se that affected the group’s ability to adopt managing agencies.

**The Question of Islam and Underdevelopment**

A considerable literature exists on discussing the relationship between Islam and underdevelopment.\(^1\) In many crucial aspects, this work differs from previous attempts to examine the relationship between Islam and underdevelopment.

First, this study posits that the causes of underdevelopment among Indian Muslims are not to be found in the nature of Islamic theology or the belief system(s) of adherents of Islam. Hence, this work breaks from the notion suggested by Weber (Turner 1974, 1996; Crone 1999; Schulchter 1999) and others (Guiso et al. 2003, 228; Voigt, 2005) that Islam is incompatible in some way fundamental way with economic progress. If Islam had been the sole cause of Muslim underdevelopment,

\(^1\) For a more detailed analysis of this literature see Chapter 2 of this study.
then the Muslims of India would have lost ground to the Hindus much earlier than the late nineteenth century. Bernard Lewis ([1982] 2001, 2002), David Landes (1999), and others (Alamdari 2004, Griffin 1999, Murray 2003, 399-401) have suggested that cultural insularity played a key role in bringing about Muslim underdevelopment. Yet, the economic underdevelopment of Indian Muslims could have led to their ostensible cultural insularity, rather than the other way around. ² This work posits that the causes of the underdevelopment of Indian Muslims are not found in any supposed hostility Indian Muslims displayed towards Western culture but, instead, in Islamic business institutions and inheritance codes, which prevented Muslim merchants from transitioning towards the usage of Western business institutions such as the corporation.

Second, this work’s central thesis also disagrees with previous literature that suggests that specific interest groups such as the British (Ahmad 1991, Chughtai 1974) or the Muslim elite (Haq 1989, Kibria 2001) worked to deliberately bring about the underdevelopment of Indian Muslims. It is true that the British conquest of India brought about crucial changes such as the introduction of large scale industries with large capital requirements and the introduction of Western business institutions. But the causes of Muslim underdevelopment lie in the reaction of Muslims to these changes. Hindu institutions such the Hindu joint family and the Mitakshara

² Proponents of the notion that cultural insularity has led to underdevelopment in the Islamic world ignore the extent to which Islam borrowed from Greek and Persian cultures during its formative phase (Arberry [1967] 1971, 13-14).
inheritance laws allowed Hindu businesses to successfully move from their traditional business model towards a new business model capable of incorporating large scale manufacturing with large capital requirements. On the other hand, the nature of the Islamic partnership and Islamic inheritance codes made it difficult for Muslim businessmen to move towards a new business model. Numerous scholars have also suggested that Western imperialism has played a key role in the decline of the Islamic world (Alnasrawi 1991; Amin, 1978; Ayubi 1993; Frank 1998; İslamoğlu-Inan 1987; Owen, 1981). While this study does not discuss the Islamic world in its entirety, its findings suggest that Islamic business institutions and inheritance practices rather than Western imperialism may have played the key role in hampering the economic development of many regions of the Islamic world.

**Impact of Islamic Institutions in the Middle East and India**

These findings of this study resonate with previous studies of the underdevelopment of the Middle East which attribute the region’s underdevelopment to similar institutions (Kuran 2003, 2004b, 2005a 604-606). We noted in Chapter 2 that three institutions, namely, Islamic inheritance laws, the strict individualism of Islamic law, and the *waqf*, hindered institutional innovation in the Middle East and
dampened prospects for economic modernization. Let us briefly compare the impact of the first two on underdevelopment of the Muslims of both regions.  

Earlier we saw that Islamic partnerships lacked durability and were also ineffective at accommodating economies of scale. The lack of durability of Islamic partnership in both regions stems in part from Islamic law’s reluctance to grant legal personhood to business institutions. We have noted that this played a key role in restricting the size and scope of Islamic partnerships in both regions. It also proved to be an additional disadvantage to the Muslims of India: they were unable to adopt the managing agency model as effectively as the Hindus. The Muslims of the Middle East were prevented from the adopting Western business institutions by a different obstacle: the legal framework of the region gave choice of law to Christians and Jews but not to Muslims. Thus Muslims had to continue using Islamic commercial and legal institutions, even as the former adopted Western institutions (Kuran 2004a).

The application of Islamic inheritance laws also restricted the size and scope of Islamic partnerships in both regions. This had a dynamic consequence: Islamic partnerships in both India and the Middle East appear to have gone through minimal structural evolution. A second result of the application of Islamic inheritance laws was the fragmentation of estates of Muslim families in both India and the Middle

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3Unlike the Middle East, in South Asia waqfs were usually utilized for religious rather than commercial purposes (Kozlowski 1995). We have noted above that the waqf-alal-awlad was first utilized for estate preservation during the late nineteenth century. It is beyond the scope of the present paper to present a comparative analysis of the waqfs of South Asia and the Middle East.
East. We have noted throughout this work that the fragmentation of estates put Muslim entrepreneurs at a disadvantage vis-à-vis their Hindu counterparts because the latter’s inheritance laws encouraged capital accumulation. The Muslim entrepreneurs of the Middle East may not have been at a disadvantage vis-à-vis their Christian and Jewish counterparts in this regard because the effects of the application of the inheritance laws of the latter were similar in many respects to the effects of the application of Islamic laws of inheritance (Kuran 2004b, 84).

The innovation of the managing agency was a solution to the new requirements put forth by the emergence of the economies of scale. The Hindus of India were at an advantage vis-à-vis the Muslims in their ability to adopt the managing agency because the Hindu joint family shared some important characteristics with the managing agency while the Islamic partnership did not. The Hindus had a second crucial advantage over Muslims: the Hindu inheritance system encouraged capital accumulation whereas the Islamic inheritance system led to the fragmentation of estates. While Hindus were able to tap into familial and caste networks and raise capital, Muslims were unable to do so.
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