



# **FARMERS, FARM LAWS AND WAYS FORWARD**

A REPORT FOR  
The Food and Land Use Coalition India

AUTHOR

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India Country Platform

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# PREFACE

Three Laws, collectively called “The Farm Laws” were promulgated in June 2020. These laws were officially described as farmer friendly market reforms. They were, however, repealed on 30<sup>th</sup> November 2021. These two actions of the Government throws up a number of questions related to agriculture, food and nutrition security, farmer incomes and sustainability. This paper is an attempt to answer a few of these questions. Some of these ideas need further analysis and elaboration.

Food and Land Use Coalition India (FOLU-INDIA) asked the author to write a report on the three Farm Laws in March 2021. Since the Laws (initially promulgated as Ordinances in June 2020, and passed by the Parliament in September 2020) were being commented upon by various experts, farm leaders, farmers’ groups and others, it was considered prudent to try and scan all published views on the subject before writing this report. In the meantime, some farmers’ unions launched an unprecedented, long and peaceful agitation against the three laws. While this agitation was going on, the Supreme Court (January 2021) stayed the operation of the laws and appointed an expert committee to make recommendations on the subject. While the court was seized of the matter, the Prime Minister announced the Government’s decision to repeal all the three laws on 18<sup>th</sup> November 2021. These were subsequently repealed by the Government on 30<sup>th</sup> November 2021 by Act 40 of 2021 (Repeal). This Act repealed the three farm laws passed by Parliament in September 2020. These are: (i) the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, (ii) the Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, and (iii) the Essential Commodities (Amendment) Act, 2020

The report on the farm laws titled “Farmers, new farm laws and ways forward” was submitted as a draft for review to FOLU on 29<sup>th</sup> July 2021. After receiving inputs from expert reviewers, a revised draft was sent for further review by FOLU on 16<sup>th</sup> October 2021. A final document was prepared and a launch was planned for 18<sup>th</sup> November afternoon. The announcement by the Prime minister on 18<sup>th</sup> morning changed the scenario. It was felt that the report should be released with a ‘post script’ on what next after the repeal. The original report finalised *before the repeal of the farm laws* is included in Part II of this document. This part is being retained primarily for reference, though some of the ideas contained in the Way Forward section is being re-iterated and reinforced in Part I of this report

Given the complexity of agriculture in India and the ways in which any change in agricultural policy affects millions of farmers and consumers, there is no ‘single way forward’. The idea of this paper is to generate well-informed and meaningful discussions on the farm laws and find possible and acceptable pathways forward. This paper is a short-term effort, limited by time and resources. Therefore, the ideas proposed are suggestions that will need further analysis and elaboration.

I hope this paper will serve as a useful background for further deliberations and policy decisions on the subject!

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## ABBREVIATIONS

AAGR	Average Annual Growth Rate
APC	Agriculture Prices Commission
APMC	Agricultural Produce Market Committee
BJP	Bharatiya Janata Party
BPL	Below Poverty Line
CACP	Commission for Agricultural Costs & Prices
CAG	Comptroller and Auditor General
CAGR	Compound Annual Growth Rate
CIG	Commodity Interest Groups
CII	Confederation of Indian Industry
CSR	Corporate Social Responsibility
DGFT	Directorate General of Foreign Trade
EC Act	Essential Commodities Act, 1955
ECA	The Essential Commodities (Amendment) Act, 2020
e-NAM	National Agriculture Market
FAO	Food and Agriculture Organization
FAPFS	The Farmers (Empowerment & Protection) Agreement on Price Assurance & Farm Services Act, 2020
FCI	Food Corporation of India
FICCI	Federation of Indian Chambers of Commerce & Industry
FPC	Farmer Producer Company
FPO	Farmer Producer Organisation
FPTC	The Farmers' Produce Trade & Commerce (Promotion & Facilitation) Act, 2020
FRP	Fair & Remunerative Price
GOI	Government of India
GrAM	Gramin (Rural) Agriculture Markets
GDP	Gross Domestic Product
GST	Goods and Services Tax
GVA	Gross Value Added
ICDS	Integrated Child Development Services
ICRIER	Indian Council for Research on International Economic Relations
ICT	Information and Communications Technology
LPG	Liberalization, Privatisation, Globalisation
MDM	Mid-Day Meals
MEP	Minimum export tax
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act

MPLADS	Member of Parliament Local Area Development Scheme
MSP	Minimum Support Price
NCF	The National Commission on Farmers
NCT	National Capital Territory
NDA	National Democratic Alliance
NFSA	National Food Security Act, 2013
NGO	Non-government organisation
OECD	Organisation for Economic Co-operation and Development
PAN	Permanent Account Number
PLA	Punjab Legislative Assembly
PMGSY	Pradhan Mantri Gram Sadak Yojana
PDS	Public Distribution System
PM-KISAN	Pradhan Mantri Kisan Samman Nidhi Yojana
PPP	Public Private Partnership
PRAM	Primary Rural Agriculture Markets
RLA	Rajasthan Legislative Assembly
SHG	Self-help Group
TPDS	Targeted public distribution system
UMF	Unified Market Platform
UT	Union Territory
VPO	Village Producer Organisation
WTO	World Trade Organisation



# PART I

## FARM LAWS REPEAL: WHAT NEXT?

## The Context

Government of India issued three ordinances on 5<sup>th</sup> June 2020 which were collectively called new Farm Laws. These three, viz., (i) the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, (ii) the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, and (iii) the Essential Commodities (Amendment) Act, 2020 were subsequently passed by both houses of Parliament and notified after receiving the assent of President of India (as required under the Constitution) on 27<sup>th</sup> September 2020. The Supreme Court of India stayed the operation of these Acts in January 2021 and appointed an expert committee to suggest a way forward. The Committee is reported to have submitted its recommendations in March 2021. This report is however, not yet available in the public domain (as on 16<sup>th</sup> March 2022. It has since been made public by one of the members of the Committee). The court was in the process of hearing the matter when the Prime Minister announced the decision of the Union Government to repeal all the three Acts (18<sup>th</sup> November 2021). The Acts have been repealed after due process in the Parliament and after obtaining the President's approval (30<sup>th</sup> November 2021).

## What does this imply?

The current position is: status quo ante as on 4<sup>th</sup> June 2020. This means that the Essential Commodities Act 1955 remains, sans the amendment of 2020, retaining its old and restrictive provisions. The other two Acts, the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 (FAPFS ACT), and the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (FPTC ACT), cease to exist. The Agricultural Produce Market Committee Acts (APMC Acts) of the states will continue to operate in the respective states and contract farming will continue to be governed by informal or by mutual agreements under the Indian Contract Act. Union Government may not be, so it seems, in a hurry to bring back any of these legislations given the political implications. Though the opposition to the three farm laws were primarily focussed on the FPTC Act, the decision to repeal all the three seems to be driven more by political considerations than by administrative expediency. Prime Minister has also announced the decision to constitute a broad-based expert committee to promote zero-budget based agriculture, to change cropping patterns as per the changing needs of the country and to make MSP more effective and transparent. Though the Committee is yet to be constituted, it is expected to have representatives of the central

government, state governments, farmers, agricultural scientists, and agricultural economists. Given the range and extent of consultation expected, this committee, when constituted, may take quite some time to make its recommendations. It appears therefore, that the ball is back in the courts of the state governments for the time being.

## Critical Issues

Does this delay signal the end of reforms in agriculture? Not yet, it appears to be a pause! There are a number of critical issues in agriculture to be addressed by both union and state governments. These, broadly, are:

a) The commitment to double farmers' incomes: Even if the target of doubling farmers' incomes in real terms is not met, legitimate expectations of higher incomes by farming households will remain an aspirational issue for farmers and a widely debated political, social and economic issue. Economic sustainability of farming and wellbeing of farmers have to assume centrality in the new policy planning space. While food inflation and consumer prices will continue to be important, farmers' well-being can no longer be put on the backburner. Multiple pathways to increase farmers' incomes are likely to be explored.

- b) Enabling markets to function effectively: markets remain an integral part of agriculture both from consumer and farmer points of view. Increasing reliance on market mechanisms to manage supply and demand and use market mechanisms for price discovery and price signalling is a development imperative. Reforms should start with ensuring that farmers should have the freedom to sell their produce anywhere in India (even abroad) at any time and to anyone. This was one of the key premises of the FPTC Act. This freedom needs to be ensured by state and union governments. Access to a unified National Market (physical, digital or '*phygital*') has to be made barrier free. A regulatory framework to ensure smooth functioning of such a unified National Market, including e-Nam is required.
- c) Better value capture by farmers: price information is key to better price realisation by farmers. If timely and reliable price information is to be made available to farmers, a transparent price discovery mechanism supported by on-line real-time reporting is required. These systems have to be built in a blockchain model and accessible to all stakeholders.
- d) Incentivising regeneration/preservation of natural resources by farmers: Incentive systems will have to be redesigned to shift the

focus to nature friendly farming and regenerative agriculture. A renewed focus on rainfed areas with emphasis on 'low input sustainable agriculture' has to become an important part of agriculture and rural development.

- e) New pathways to nutrition security: the green revolution's primary focus was National Food Security through high input agriculture. Currently malnutrition (particularly under-nutrition) has become the major concern. Policy prescriptions and interventions need to factor in nutrition considerations (healthy and varied diets) at the regional/local levels.
- f) Sustainability of agriculture from an ecological perspective is most likely to dominate the narrative on farming. Sustainability of soil and water, carbon neutrality, lower GHG emissions (including enteric emissions from bovines) etc have to be built into the incentive policy for agriculture.
- g) State Governments have articulated their constitutional right on matters relating to agriculture by referring to list II of the Seventh schedule of the constitution. States will now be compelled to assume larger responsibilities on these subjects.
- h) Redesigning Minimum Support Price (MSP) regime and public distribution. Given the political focus

on MSP, the recommendations of the Shanta Kumar committee and the increased importance of millets in the food system, a change in the design of MSP and PDS are warranted.

- i) Decentralisation and increasing role of local governments and space for innovation. When local considerations take precedence, decentralised decision-making systems will have to come into play.
- j) Growth of start-ups in the agriculture and food technology space is likely to disrupt conventional agricultural practices. This could trigger a change in state owned extension and technology transfer systems.
- k) With a number of private players entering the agricultural space, new regulatory systems may have to be put in place.
- l) The institutional architecture for agriculture may have to undergo a change to deliver new solutions in new formats. Farmer owned institutions will spring up even without government support. Advances in Information Technology will open new ways of delivering information from Government, private players and the market. Farmers will access these according to their choice and convenience and demand better and quicker services.

## **Environment, Society and Governance:**

Prime Minister Modi has committed India to be a net zero carbon economy by 2070. PM announced in COP 26 (26<sup>th</sup> Conference of Parties) to the United Nations Framework Convention on Climate Change (UNFCCC). "India has set a target of net-zero by 2070. We have also highlighted the need for lifestyle for the environment and also called for a Pro Planet People movement - a movement that is crucial to combat climate change and connects every individual with climate."

This statement has been reinforced by a declaration in the Union Budget 2022 of moving towards "chemical free natural farming". In addition, there is a renewed focus on millets in the budget speech. The direction is clear, pathways will emerge. Ecological considerations will weigh heavily on policy prescriptions in the future, particularly in agriculture, energy and transport.

No wonder therefore that Environment, Society and Governance (ESG) has

become a buzz word in investment scenarios across the world. Investors are increasingly applying these non-financial factors as part of their analytical processes to identify material risks and growth opportunities. For agriculture in India, the following could be key factors in the 'ESG compact'. These are likely to emerge as important elements in the policy space. (Table A below)

## **Pathways forward**

Considering the challenges Indian economy and agriculture face, the following pathways merit consideration. (*detailed explanations are available in Part II of the paper*). These pathways are:

### **Getting the markets to function effectively**

Government should orchestrate and enable a gradual, well calibrated shift towards

- Increasing dependence on a unified national market to manage supply,

**Table A**

<b>Environmental</b>	<b>Social</b>	<b>Governance</b>
Climate adaptation strategy	Women in agriculture	Compliance
Bio diversity	Health & Safety	Institutional Ethics
Water conservation/ efficiency	Product responsibility	Transparency
Non-conventional Energy/ Energy Efficiency	Equity considerations	Equity in Policy instruments
Carbon intensity	Degrees of freedom	Incentive structures
Agro-ecology management	-	Farmer Institutions

- demand and price discovery, including re-activation of forward and futures markets for price signalling
- Setting up a long term, predictable import-export regime including stable import tariffs and export incentives/ disincentives
  - Fine tuning policies to encourage diversification of crops to respond to market needs and ecological considerations
  - Long term policy to promote much required private investments in agriculture, particularly in technology, logistics and retail
  - Enabling policy and regulation for land lease , land consolidation and contract farming while protecting the interests of farmers.

The above requires further elaboration and analysis when policy interventions are being made. (Also see part II of the paper)

## Legal

After repealing the three 'farm laws', Government of India has not yet made any move towards any consultation on the process forward. It appears that reforms in agriculture have been put on the back burner, at least in the short run, more for political considerations than anything else. However, reforms cannot be pushed back for ever. In the larger interests of the farmers and consumers, changes in the legal framework will have to be made sooner than later; some by the State

Governments and some by the Union Government.

## What can the Union Government do?

The Union Government has the constitutional mandate on Inter-state trade, the Essential Commodities Act and the Foreign Trade Regulation & Development Act. It can, and should, consider the following:

### **A law enabling free inter-state trade and commerce**

Item 42 in list I (Union List under the Seventh Schedule of the Constitution of India) refers to Interstate trade and commerce. Currently, there is no law which enables inter-state trade and commerce in agricultural products across unified Indian market.

Instances of state governments placing ad-hoc restrictions on agricultural commodities going out of a particular state or coming into a state are frequently reported. The damage, caused by such restrictions on farmers, is neither documented nor are farmers / consumers compensated. Government of India should introduce a legislation enabling the following:

- Uninterrupted movement of agricultural produce across the country
- Assured freedom to farmers to sell anywhere, anytime and to anyone and receive the best price possible
- Enabling electronic sale and physical delivery of such goods

including through e-Nam or e-Commerce

### ***Amending the Essential Commodities act to make restrictions predictable and transparent:***

One of the biggest challenges in the agricultural marketing space is the uncertainty of restrictions likely to be imposed 'at will' under the Essential Commodities Act. These can range from imposition of stock limits to restrictions on price and sale. There are no market indicators to predict when such restrictions are likely to be imposed. These decisions are most often based on perceptions of price rise as 'understood' by government officials or in response to a 'cacophony' on price rise. Any reform on agricultural markets has to start with reasonable predictability on what the private trade can do or not do. The amendment to the Essential Commodities Act 2020 was a step in the right direction. This was criticised as giving away Government's powers to control prices by the critics of the policy. What the amendment did was (i) to bring predictability in imposition of controls in times of extraordinary price rise and (ii) exempt exporters, food processors and others involved in value addition from these provisions. The Government should, in our view, bring back a provision to assure predictability of Union or State Government invoking various provisions under the EC Act.

### ***Amend the Foreign Trade Regulation & Development Act***

One law which needs reform is the Foreign Trade Regulation & Development Act 1992. Hailed as the first Act to be passed in the context of economic reforms of 1991, this Act replaced the Imports and Exports (Control) Act 1947, but still retains the power to impose restrictions on imports and exports. Imposition of ban on exports (onions should be an interesting case study) at frequent intervals is done under the provisions of this Act. Once such a ban is imposed, there cannot be any exports till the ban gets lifted. This makes India an unreliable exporter in the global market and makes exporters jittery in terms of getting into long term export contracts. In such a scenario, they hesitate to buy and store such commodities, thereby making the farmers lose value in the value chain and making India an unreliable exporter, losing better unit value realisation. Neither a ban on exports nor the imposition of stock limits have a provision in place to assess the loss to farmers, not to speak of compensating them.

A policy prescription of mandatorily assessing the losses caused to farmers by such ad hoc administrative decisions by an independent agency would reduce the tendency to use these powers at will and cause losses to farmers.

### ***Make price reporting mandatory***

Information asymmetry in prices has remained the key to arbitrage management in the market. In spite of express provisions in APMC Acts, price discovery is neither transparent nor properly disseminated. A legal provision to report prices, mostly real time and on line, to a state level portal with open (read only) access with links to a national portal should pave the way for better informed decisions by the farmers and the Government. Ideally, Government should also have 'anonymised' information on large private stocks of key commodities. A legal framework to make price reporting mandatory by all markets (including e-markets) can be set up at the central level.

### **What should the States do?**

#### ***Convert APMCs to Farmers' organisations***

Model APMC laws have been in circulation for long. State Governments have been hesitant to amend these laws though many of them have made a few selected amendments. APMCs have become revenue earners for the states and are mostly controlled by the trade. Government of India would do well to insist that the management of these be with farmers (at least two thirds of the seats on the management committees at all levels should be reserved for farmers or farmer producer organisations). This single transformation is likely to bring real changes in the functioning of APMCs. In the light of the recommendations

of the XV<sup>th</sup> Finance Commission, incentives or even some of the allocations from the Union budget could be made conditional to the reforms in APMCs. In any case, competition in the unified market may see some innovations in the APMC regulation. The challenge, however, will be to ensure that farmers get a higher value as their share in the value chain. If the example of Bihar is anything to go by, mere change in the legal environment does not guarantee this.

#### ***Create a framework to encourage Contract Framing***

Contract farming is not always about land. Contract farming's most successful example is poultry. Contract farming arrangements bring with them access to better technology and extension, input support and assured buy back. Given the gaps in technology transfer and extension services in the Government system and the vagaries of the market, contract farming has proved beneficial to farmers particularly in perishable commodities or where the bulk of the demand is for processing. True, the ecosystem is still evolving and cannot be called the best, but current arrangements have been beneficial, though it could have been better. For processors, contract farming assures a minimum quantity of raw material of the right quality with right parameters of food safety. They would want to engage with the farmers on a longer-term basis. Therefore, such arrangements are best managed bilaterally. Since a referee is needed in

any game, a neutral body needs to be specified in case any dispute arises. Litigation is often the last resort in all such contracts. One should not forget the immense potential for contract farming in horticulture, fisheries, livestock, nutraceuticals, medicinal and aromatic plants etc.

### **Create an ecosystem for Farmers' Collectives**

FPOs are effectively new generation cooperatives. Government has fixed a target for registering 10,000 additional FPOs. Excessive emphasis on targets in institution building come at the cost of quality. In any case, FPOs do face a large compliance burden in terms of adhering to the provisions of the Companies Act. The Producer Company model may not be suitable for a small number of farmers trying to pool in resources to reduce the cost of farming. Alternate institutional models suitable to farmers in different locations needs to be encouraged. While alienation of land in any form is a highly emotive issue, sharing of resources, pooling of produce, collective purchase of inputs and extension services etc., are found acceptable. State Governments can initiate creation of innovative institutions to help farmers get the advantage of size while retaining ownership of small plots of land.

### **Policy**

National policies on agriculture have focussed on food security,

nutrition and high input agriculture for justifiable and historical reasons. While this approach had relevance during the period in which it was formulated, new challenges in the form of environmental factors, farm incomes, climate variability and market dynamics have emerged in recent times forcing a rethink on some of these approaches. The ideas of 'more crop per drop' and 'water for every field' (*har khet ko pani*) has been driven mostly by technology options than by conservation measures. The fact that about half the net sown area remains rainfed even after years of investment in irrigation projects does force a rethink on water preservation, conservation and use strategies. The Green Revolution mindset that unlimited use of water (often aided by free power) is acceptable and can continue endlessly needs a 'reset'. New strategies on water management needs to emerge as policy options. The report of the committee headed by Mr Mihir Shah to suggest a new water policy for the country has reportedly many innovative and comprehensive solutions to offer (EPW 17<sup>th</sup> July '21). The question largely remains of adoption and implementation.

### **Vision: Food, Nutrition, Agriculture & Environment**

The policy vision for Food and Agriculture has historically centred around food security. Technology, be it hybrid or improved seeds, chemical fertilisers, or plant protection

measures was the bedrock of all policy interventions in agriculture, while Minimum Support Price and Public Procurement and Distribution were the mainstay of food security interventions. These need to be replaced by a new vision of pro-farmer, pro-poor, pro-nature and (I may add) pro-women policy for the future. These ideas do sound good on paper, but takes sustained efforts in ideation, design and implementation. There is nothing exceptional in the idea, these are professed policies of both centre and states. However, there is bound to be opposition from those who are beneficiaries of the current system, and hence planning the trajectory of transition is more important than the idea itself. Change is required in the design of policy instruments: to illustrate, conservation of water as a policy requires discouraging excessive and inefficient use of water and encouraging farmers, crops and farm practices which use less water. Ensuring better returns to farmers would include reduction in costs and better value realisation for them; pro-women would mean treating women as central to agriculture than managing the much talked about feminisation of agriculture. Food and nutrition initiatives need a more decentralised and 'local food' based approach than a centralised 'procurement & distribution' system. These would call for a radical transformation of the current incentive

structure for agriculture, food management system and water use policy. The scope of this paper does not permit a detailed outline of a way forward, but the above is to indicate the direction in which this compact needs to move.

### **Food systems-based sustainable agriculture**

Probably, the time has come to move towards a food system-based approach. Critics and 'agnostics' point out the difficulties in designing a food system approach given the current conditions in India. It is true that designing a full-fledged food systems approach in the complex environment of India's agriculture with varying resources, aspirations and challenges, is in itself a daunting task. The complexities of consumer behaviour and the challenges of quantification of supply and demand impose severe constraints on designing a comprehensive food system-based policy. But nothing prevents policy makers from taking a few initial, even if tentative, steps towards a food system-based approach. The policy, therefore, has to move towards a 'sustainable food systems' approach ensuring profitability for the farmer (economic sustainability) broad based benefits for society (social sustainability) and a positive or neutral impact on the natural environment (environmental sustainability).

## **Rainfed agriculture, livestock, poultry**

A sustainable food systems approach will necessarily give more emphasis to rainfed agriculture. The paradigm has to shift from 'irrigated high input agriculture' to more farmer and agroecology centric sustainable agriculture. As mentioned earlier, this transition has to be calibrated keeping economic, social and ecological considerations. Nutrition considerations would warrant a higher emphasis and higher outlays on livestock and poultry.

## **Compensation for loss**

Insurance schemes, even after many revisions, have not been able to meet the needs of the farmers. These schemes have generally been confined to crop losses in adverse weather events and have not found whole hearted acceptance by farmers for a number of reasons. In any case, there exist no insurance cover for income loss either due to market failure or due to policy interventions by Government. The income loss aspect of agriculture, which hurts farmers most, needs a more detailed analysis and corrective measures.

## **Negotiable Warehouse Receipts**

The instrument of 'negotiable warehouse receipts' was introduced with the setting up of the Warehousing Regulatory and Development Authority under the Warehousing Regulation

and Development Act 2007. However, even after more than a decade of its existence, the authority has not realised even a reasonable portion of its potential. It is time to take a close look at the functioning of this authority and make it count for the farmers.

## **Food loss & waste**

The cost of food lost in the agricultural value chain is passed on, mostly to the farmer and in a few cases to the consumer. There are different estimates of loss by different agencies with respect to agricultural commodities: perishables and others. What is significant, without getting into a discussion on the quantum or value of the loss, is that the levels of these losses are unacceptable and can be minimised. A small percentage reduction in the loss in the food chain is more cost effective than additional production. Adequate emphasis on reducing losses at various stages in the chain has been lacking and requires immediate intervention. Food wastage, however, though large, is a behavioural issue at the consumer level and needs serious attention.

## **Incentives**

The current incentive structure traces its origins mostly to the green revolution. Subsidies are provided for irrigation, consumption of chemical fertilisers, insecticides, and intensification of production of key crops (primarily rice and wheat). In

addition, there is Minimum Support Price for 23 notified crops, though implemented mostly for rice, wheat and sugarcane (mandated by law in the case of sugarcane). There are hardly any incentives for water conservation, rainfed agriculture and agro-ecology related services. This incentive structure has to shift to a more nuanced and balanced one if sustainable agriculture has to be promoted and net carbon neutrality achieved.

### **Redesigning the Minimum Support Price mechanism**

Assured Minimum Support Prices are announced by the Government for 23 crops (of which sugarcane is under a mandated minimum price regime as mentioned earlier). These prices are calculated by the Commission on Agricultural Costs and Prices based on the cost of cultivation and a predetermined profit (50% or more) level. However, in effect, procurement at MSP happens only for wheat and rice and that too only in states with large surpluses and well-developed infrastructure. A shift to an equitable system would involve taking care of farmers who cultivate crops other than the 23 crops (these 23 crops account for only 28% of Agri-GDP) and reducing the high transaction costs of physical handling (as high as 40%) of these commodities. In addition, the current system has also led to excessive procurement of wheat and rice resulting in problems

of disposal. The food subsidy burden (a substantial percentage of this is consumer subsidy) is going up and reaching unsustainable levels. Attempts to export surpluses have met with complaints of violation of WTO rules since prohibited subsidies are involved. It will become increasingly difficult to continue with the current system in spite of persistent demands from farmers' unions for a mandatory MSP. This is not to say that farmers do not need price support, they do need financial support, but in a simpler and more equitable way covering more crops and benefitting small and marginal farmers. Therefore, MSP has to transform to a price support mechanism, different from an assured purchase mechanism. A redesign of the price support system is required, particularly in favour of farmers who grow nutri-cereals and pulses in rain fed conditions.

### **Shift to an Income Support Model and Direct Benefit Transfers**

Support to farmers will, given the conditions above, move to an income support model and will cover all small and medium farmers. Since subsidies on chemical inputs and 'personalised' irrigation systems will have to be tapered down, the shift to a Direct Benefit Transfer is inevitable. As underlined earlier, this transition has to be sequenced and managed well. While the budgetary outlays on overall support to farmers may go up temporarily, this new system will

be more equitable, efficient and WTO compatible.

### **Procurement delinked from MSP**

A redesign of the current MSP regime, as mentioned above, would warrant a delinking of procurement from MSP. While MSP has to operate as a price or income support mechanism, procurement for public distribution should use the market purchase route. Use of warehouse receipts, futures markets, decentralised operations etc. should bring a paradigm shift in these operations. Effective use of the market instruments for procurement will help the market function better.

### **Redesign PDS; Local for local**

A shift in the current Public Distribution System is also called for, to ensure better participation by local farmers and to ensure diet diversity. The 'basket of commodities' in the PDS needs to undergo a change to include more millets, pulses and the like. This is possible only if local 'purchase and distribution loops' are created within the PDS system. The redesign of the system should place higher emphasis on local produce, and provide for a more decentralised and innovative procurement and distribution.

### **Institutions**

A new paradigm for agriculture would also need a different set of institutions. Failure to create efficient

farmer focussed institutions has been one of the major problems in the transition. Almost all market reforms are perceived as pro corporate and anti-farmer. The trust deficit in various government institutions need a surgical fix. A restructuring of some of the other institutions in research, extension and marketing is also urgently required.

### **Set up a Consultative Agri council**

An agricultural council with representation from the states on the lines of the GST council is one of the suggestions which seems to have found resonance among some policy makers. It is an idea worth trying in spite of doubts about its efficacy. It may not become an empowered committee like the GST council, it will, at the least, provide a consultative forum for the states to come to an understanding on how agriculture can be re-organised for the benefit of farmers and the economy.

### **Create an expert advisory group**

An expert advisory group consisting of policy experts, scientists from various disciplines, market leaders, IT specialists, expert farmers etc should be set up to continuously advise the Government on agriculture related issues. Most problems arise from 'silo driven' thinking without cross fertilisation of ideas. A multi-disciplinary group can bring cohesion in policy.

## Data digitisation

Use of data in planning and in assisting farmers has remained an incomplete task. A clear policy on data collection, data stacking, ownership and rights of access and use needs to be put in place. The oft repeated slogan 'data is the new oil' and the rush of companies to access data has planted doubts in the minds of the farmers. Their concerns need to be addressed in terms of data privacy and public good. Government should be able to communicate to them the potential gains of data-based decisions.

## Conclusion

As new challenges appear in the form of climate and markets, Governments will respond to these in many ways. Farmers are becoming more aspirational, better informed and restless. The conventional idea that farmers need to do their bit for the food and nutrition security of the nation is fine, but they expect a fair compensation for their services, not only for the food, feed, fibre and fuel they produce, but also for protecting and nurturing the farming ecosystem.

In the new farming systems, especially in food and agro-ecology based systems, women will play a central role in the future. The discussion around feminisation of agriculture has to shift to women centric agri-food-nutrition-ecology systems. *A detailed analysis of the Farm Laws and way forward in the context of the conflicting views on the farm laws is at Part II.*



# PART II

This part was written *before* the Farm Laws were repealed.

Initial draft - 29<sup>th</sup> July '21

Final draft - 16<sup>th</sup> October 21

Farm laws repealed - 30<sup>th</sup> November 21

## PREFACE TO PART II

The Food and Land Use Coalition India (FOLU-INDIA) assigned a study on the three farm laws passed by the Indian Parliament in September 2020. The objective of these laws, as stated by the Government, is to provide more freedom to farmers and increase their income. The laws are intended to enable farmers to sell their produce wherever, whenever and to whomsoever across the country without any restrictions, thereby giving access to a unified market to maximise value capture. Though enacted with good intentions, no law in the recent past has met with so much resistance and opposition than these laws. The result was the suspension of the laws under Supreme Court orders.

Farmers, for whose benefit these laws have been enacted, have not welcomed these wholeheartedly. A number of farmers' groups protested at the borders of Delhi, the national capital, for more than a year. Such a sustained protest is rare in recent times. Opinion has clearly been divided on the issue: some fully in support, some opposed and others pointing out various flaws in the laws. To put the matter in perspective, agricultural market reforms have been in the making for nearly two decades and about a dozen committees have made recommendations to reform the agricultural marketing systems. But state governments have not been enthusiastic about such reforms. The Supreme Court of India took notice of the farmers' protest and appointed an expert committee to examine and submit a report. The report is before the court, and the matter remains under consideration.

This paper takes as its starting point the notion that any reforms in agriculture should lead to food and nutrition security and increased private investment in agriculture, not only for primary production but also value addition and the reduction of food loss and waste, including through infrastructure improvement and food processing. The focus, however, has to remain on the prosperity and well-being of farmers. The paper attempts a) an analysis of different stakeholders' viewpoints on the agriculture reforms, in particular the three laws; and b) an analysis of the possible positive and negative impacts of these reforms on the agriculture sector, especially the farming community, agri-business and other stakeholders.

The paper also suggests possible directions for future reforms, including against the backdrop of the Shanta Kumar Committee Report on reforming the procurement and public distribution of food grains. The short and medium-term options for incorporating sustainability in agriculture, improving farmers' livelihoods, facilitating value addition in the food supply chains and improving the efficiency of the public distribution system are briefly mentioned.

I hope this paper will serve as useful reference in any future attempt at market reforms.

**T. Nanda Kumar**

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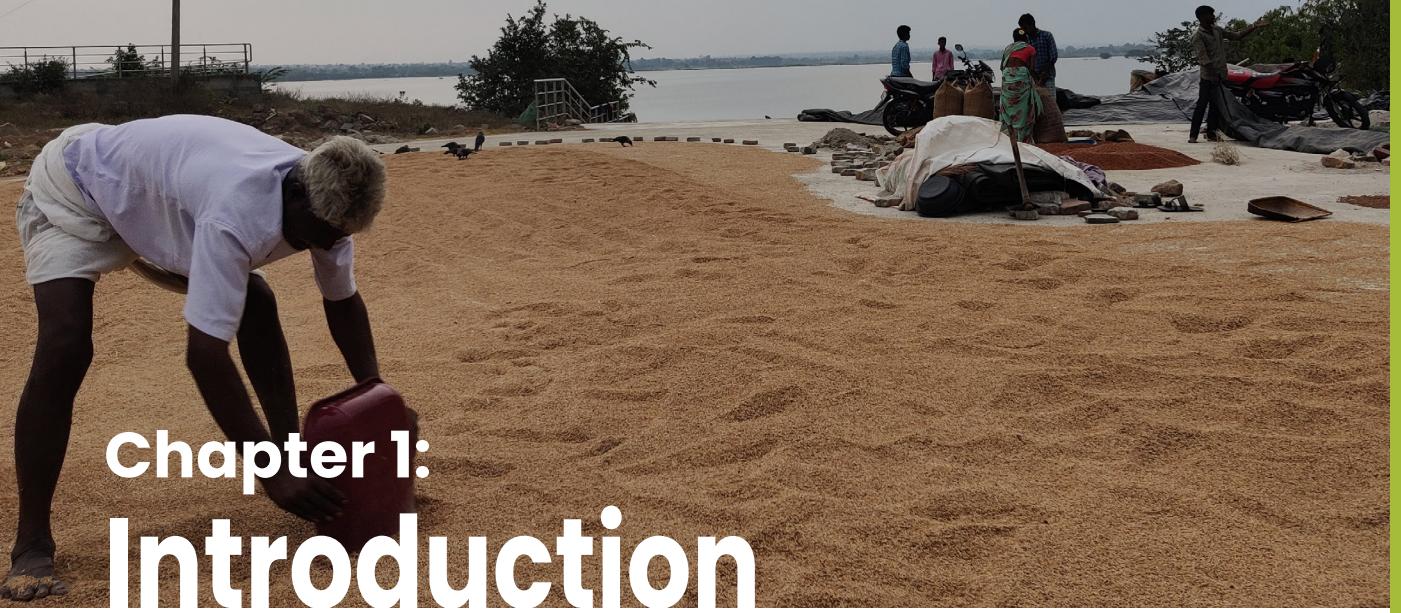
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### Authors



# Chapter 1: Introduction

The stimulus package under the *Atmanirbhar Bharat Abhiyan* concept<sup>1</sup> saw the setting up of an Agriculture Infrastructure Fund of INR 100,000 crores along with an indication of upcoming reforms in the agricultural sector, the largest in terms of its impact on India's citizens. To follow through with the reform agenda, the Government of India issued three ordinances on June 5, 2020, known as the 'Farm Laws'. These became Acts of Parliament after they were passed by both houses of Parliament and assented to by the President on 27 September, 2020. These acts are:

- The Essential Commodities (Amendment) Act, 2020 (No. 22 of 2020) (referred to as the ECA);
- The Farmers' Produce Trade and Commerce (Promotion and

Facilitation) Act, 2020 (No. 21 of 2020) (referred to as FPTC); and

- The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 (No. 20 of 2020) (referred to as FAFPS).

A brief explanation of these laws follows (the texts of the acts are in the Annexure).

The first – the EC Act Amendment – removes general restrictions on stocking limits for agricultural produce (barring exceptional cases such as war, famine, or extreme fluctuations in price beyond a pre-decided level, in which case the Union Government retains the right to intervene and impose stock limits) (Ministry of Law and Justice, 2020).

The second, the FPTC Act or Mandi (the common term used for agricultural

1 Also known as 'Self-Reliant India': a concept announced by Prime Minister Modi on 12<sup>th</sup> May 2020 and followed up by Finance Minister Sitharaman with detailed policy announcements and schemes later that week. See <https://www.investindia.gov.in/atmanirbhar-bharat-abhiyaan>.

markets) bypass Act, is intended to give farmers a choice to sell outside the state-mandated agriculture produce market committee (APMC) without any tax or restrictions on interstate/intrastate trade, and to allow traders and buyers to purchase produce without any trade licenses. This would be another step towards a unified national market.

Finally, FAFPS Act, or contract farming act, formalises and instates a structure for contract farming without the necessity of going through cumbersome legal procedures.

Overall, these laws aim to liberalise agricultural markets and to give farmers more freedom to choose where to sell their produce, to whom, and for how much.

The ordinances were hailed as the biggest economic reform since 1991 by some economists and policy analysts (leading to the description '1991 moment in agricultural reforms'). However, there were others who questioned the haste with which the legislation was promulgated as 'Ordinances' (June 5, 2020), without adequate consultation with stakeholders, particularly the state governments. The ordinances were later presented as bills in Parliament and were passed without any reference to any Parliamentary committee. The bills received the assent of the President and were notified as duly enacted laws on

September 27, 2020, thus completing the legislative process in less than four months.

Two more recent pieces of legislation have a bearing on farmers but are not discussed in detail in this report:

The Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 (No.13 of 2020) (the NCT Air Pollution Control Act) was notified on October 28, 2020. The ordinance lapsed, but was notified again on 13 April 2021 with some changes. The Electricity (Amendment) Bill, 2020 (to further amend the Electricity Act, 2003), remains a draft for consultation.

However, the Foreign Trade Regulation and Development Act, 1992 (enacted soon after the 1991 reforms), which replaced the Imports and Exports (Control) Act, 1947 was not amended as part of the package. This law empowers the Union Government to impose restrictions on exports as and when the government feels the need to do so. In September 2020 (three months after the ECA 2020 exempted exporters from stock limit provisions) the export of onions was banned under Section 3 of the above act. This provision continues to be used even now. The power to ban or restrict exports through quotas or minimum export prices (MEPs) is vested in the Director General of Foreign Trade (DGFT) under this act. The frequency with which the provisions of this act

are invoked is summed up by Ila Patnaik as follows: '*The most common victim of export bans are agricultural products. Between 2014 and 2019 (five years) the government changed the rules on export of onion 17 times. Rice, another Indian staple with export potential, saw 14 changes in export policy over the same period*' (Patnaik and Roy 2020a). There were sporadic and somewhat muted protests against the three ordinances between June and September 2020, citing lack of consultation and the haste with which they were enacted. Those who supported the ordinances repeatedly referred to the dictum "every crisis presents an opportunity" and that "a

crisis should not be wasted". Opinions were clearly divided. But when groups of farmers decided to take to the streets to protest, the full opposition to the laws became visible.

This report attempts to analyse the three bills from different vantage points: farmers' welfare, food and nutrition security and the overall sustainability of our food systems. While doing so, the report also discusses various opinions on the three farm bills. It also discusses a few policy issues which are not directly connected with the three bills, but are in the interests of farmers, consumers and the environment.



## Chapter 2: Setting the scene

**H**istory will judge whether the COVID-19 crisis was the right time to launch these agricultural reforms. Was it inadequate consultation that created the current impasse? Did state governments feel that their policy and legislative space was being encroached upon by the Union Government? Were farmers genuinely apprehensive of loss of ‘assured’ income (the minimum support price, or MSP for short)? Were they misled by opposition parties (as alleged by the ruling dispensation) who found an opportunity to stall further intended reforms, such as fertiliser subsidy rationalisation? Did the government miss an opportunity between June 5 and September 27 to hold wide-ranging consultations? These questions are still being debated in the print and electronic media and have been discussed extensively.

This debate has added to the lack of clarity, at least in the minds of some people, as to whether these acts are

good or bad for farmers. The answer to this question is complex. This paper attempts to look at this question in some detail. It is well known that the farm sector was not ‘freed up’ along with the other sectors of the economy in 1991. Even the post-1991 reforms (however incremental they may have been) barely touched the farm sector. Food security concerns and consumer price inflation lie behind the reluctance to reform the agriculture sector. Fear of food shortages seems to dominate policy thinking whenever a reform idea related to agriculture, agricultural markets, subsidies, land leasing, contract farming, etc., comes up for discussion. Wheat shortages in India (2006 and 2007) and the global food crisis (2008) have accentuated these fears. Also, the constitutional provisions governing agriculture did not give enough legislative space to the Union Government to introduce legislations in Parliament. The nature of state governments (political parties in power) also made it difficult for the Union Government to get alignment on some of these ‘sensitive’ reforms.

Though there have been many attempts at reforming the farm sector since 1991, most of these were in the nature of recommendations by expert or inter-ministerial committees (Annexure A). The major thrust of all these reports was reforming agricultural markets, with the underlying theme of 'one nation, one market'. Almost everyone agreed that such a move would benefit farmers and consumers, yet consensus was difficult and elusive for a long time. This was also the case for the introduction of Goods and Services Tax (GST) which took more than a decade of high-level consultations in State and Union Governments.

A look at the provisions of the Constitution of India enables us to understand the stand-off over constitutional propriety between some state governments and the Union Government. The 'conflict' (as argued by some legal experts) arises from the entries in Schedule VII (Article 246) of the Constitution of India:

- *List I* of the seventh schedule deals with subjects allocated exclusively to the Union Government. Item 42 in this list is 'Inter-State trade and commerce'.
- *List II* of the schedule deals with subjects allocated to the State Governments. The following entries are relevant here: (i) Entry 14: Agriculture, including agricultural

education and research, protection against pests and prevention of plant diseases; (ii) Entry 18: Land, i.e. rights in or over land; land tenures, including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; and colonization; (iii) Entry 26: Trade and commerce within the State, subject to the provisions of Entry 33 of List III; (iv) Entry 27: Production, supply and distribution of goods, subject to the provisions of Entry 33 of List III; and (v) Entry 28: Markets and fairs.

- *List III* of the schedule deals with the concurrent list and has the following entries. Entry 33: Trade and commerce in, and the production, supply and distribution of: (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products; (b) foodstuffs, including edible oilseeds and oils; (c) cattle fodder, including oilcakes and other concentrates; (d) raw cotton, whether ginned or unginned, and cotton seed; and (e) raw jute. Entry 34 lists the item 'Price control'.

Note that Entry 33 is the result of the Third Amendment Act to the Constitution 1954. The third amendment has an interesting

background. The amendment was considered by a Joint Committee,<sup>2</sup> which presented its report to the Lok Sabha on September 20, 1954. The Rajya Sabha passed the bill on September 28, 1954. The bill, after ratification<sup>3</sup> by the states, received assent from the President on February 22, 1955, and was notified on the same date. This amendment paved the way for the enactment of the **Essential Commodities Act, 1955** (EC Act). This was described as an Act to provide, *in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce, in certain commodities.* The ECA 2020, therefore, comes under the purview of Entry 33 in List III.

This report does not intend to get into the legal question of whether the Union Government has jurisdiction to pass

the farm laws or not. This question is rightly under the consideration of the Supreme Court of India where the matter has been raised. However, it is worthwhile to note what the Economic Survey of 2014-15 stated,

*"There are provisions/entries in List III of the Seventh Schedule (Concurrent List) in the Constitution which can be used by the Union to enact legislation for setting up a national common market for specified agricultural commodities...Once a law is passed by the Parliament to regulate trading in the specified agricultural commodities, it will override the state APMC laws, paving the way for creating a national common market. But this approach could be seen as heavy-handed on the part of the Centre and contrary to the new spirit of co-operative federalism".*

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2 The Joint Committee was chaired by Prime Minister Nehru. Seven members of the committee gave a dissenting opinion against the proposal to take away the powers of the State Governments, but favoured a five-year extension of the Essential Supplies (Temporary Powers) Act, 1946 through a suitable amendment of article 369 of the Constitution.

3 Article 368 of the constitution requires such ratification in certain cases of amendment to the constitution. Under the provisions of this article, the amendment shall also require to be ratified by the Legislature of not less than one half of the States by resolution to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent.



## Chapter 3: A brief history

**O**f the three farm laws, the EC Act is the oldest. As mentioned earlier, this law was enacted in 1955 during a period of severe shortages to control prices in the market and prevent speculative practices such as hoarding, black marketing, etc. A large number of control orders were issued, re-issued or repealed under this act by the Union Government and the State Governments. The control orders ranged from stock and price control to licensings and restrictions on movement of goods. The focus of most of these control orders was 'price control' from a government/consumers' point of view (the act remains in the administrative domain of the Consumer Affairs Ministry).

Many have argued that the ECA needs to be removed from the statute book. Several discussions and recommendations can be found in the public domain for its abolition. It gives wide-ranging powers to the

Union and state governments to issue orders for 'price control'. Instances of state governments banning movement of commodities from one state to another have often been reported. While such restriction orders have been justified in the interests of price control, the losses to farmers have never been estimated (officially), nor has any farmer been compensated for losses caused by such restrictions.

The ECA remains a powerful instrument in the hands of the governments (States and Union) to 'control' prices. Whether the multitude of orders passed under the act ended speculation and controlled prices is a matter of debate. Many experts have also questioned the effectiveness of such measures, but governments have been quite vocal in support of this act and have not hesitated to use it as often as required ('required' from government's point of view).

From the farmers' perspective, the ECA provisions have generally been used in favour of consumers and not

necessarily in farmers' interests (except specific farmer-focused control orders such as the sugarcane control order, seed control order, fertiliser control order etc.). It is, therefore, prudent to conclude that farmers have not benefited much from such licencing, movement or stock control orders. The ECA is an omnibus act covering varied items from sugar to coal, pharmaceuticals (drugs) etc., and gives wide-ranging powers to the Government to put in place regulations of various types (ref. section 3 of the Act). A recent addition has been face masks in the wake of COVID-19. It is unrealistic to assume that any government will be comfortable with a repeal of the ECA. If they decide to do so, they will look for a new omnibus legislation to deal with shortages and black marketing in emergencies. It could cover everything from food, fuel and fibre to pharmaceutical products and face masks. The balance of convenience, therefore, seems to rest in retaining the overarching framework of the ECA, while reducing ad-hocism and discretion. The current amendment seems to fit with this approach.

Nevertheless, the integration of markets across India has remained a long-cherished objective of governments, irrespective of their political composition. It is widely recognised that a national market without any state barriers is essential, both for consumers and farmers. Farmers are most likely to benefit from a pan-India

market if price discovery is transparent. Information asymmetry remains till today a powerful tool in the hands of middlemen/traders.

The concept of an agriculture produce marketing regulation in India dates back to the British Raj. Raw cotton was the first farm produce to attract the attention of the government due to the anxiety of British rulers to make available adequate supplies of pure cotton at 'reasonable' (emphasis supplied) prices to the textile mills of Manchester (UK) (the 'reasonable price to consumer' argument has continued from the British days). Consequently, India's first regulated market (Karanja) was established in 1886 under the Hyderabad Residency Order, the first legislation being the Berar Cotton and Grain Market Act of 1887, which empowered British residents to declare any place in the assigned district a market for sale and purchase of agricultural produce and constitute a committee to supervise the regulated markets. Similar regulations were put in place by then presidency towns like Bombay and Madras (Mumbai and Chennai are the current names). An important landmark in the agricultural marketing regulation in the country was the recommendation of the 1928 Royal Commission on Agriculture for the regulation of marketing practices and establishment of regulated markets. In pursuance of this, the Government of India prepared a Model Bill in 1938 and circulated it to all states; however, not much headway was

made until independence. However, there were attempts in states like Uttar Pradesh, where the farm leader politician Choudhary Charan Singh introduced an Agricultural Produce Market Bill (1938) in the Assembly. The bill was intended to safeguard the interests of the farmers against the "rapacity of the traders".<sup>4</sup>

During the 1960s and 1970s, most of the states enacted and enforced Agricultural Produce Markets Regulation (APMR) Acts. All primary 'wholesale assembling' markets were brought under the ambit of these acts. Well laid-out market yards and sub-yards were constructed, and a local Agricultural Produce Market Committee (APMC) was constituted for each market area to enforce regulation and manage the markets. These committees were local, decentralised, and made up of elected farmers and traders, and complemented by Government nominees. At one point, the World Bank also came forward to assist setting up APMCs and market infrastructure (e.g., in Bihar). The framework design therefore ticked all the right boxes, and was considered a good model. However, somewhere along the way, these objectives were lost sight of. APMCs had deteriorated and needed fixing, but they were not originally designed to be what they have become today, perceived by

many as exploitative and coterie driven. It became fashionable to paint APMCs as the sole 'villains' in the narrative on agriculture and its marketing. But if farmers have shown faith in them despite all their faults, there must be something right with them as well.

We examine, briefly, the historical context and the transformation of APMCs. These were created in the 1960s to ensure transparent price discovery, fair transactions, and prompt payments to farmers. They were set up at a time when even telephones were a luxury and real-time price information was non-existent. Absence of reliable price information offered significant arbitrage opportunities to traders who used to hold all the cards. Setting up APMCs was, therefore, the first major attempt at changing an exploitative and opaque system. The resources for setting up the infrastructure came from the cess/fees paid by the buyers and *not from the Government budget* (this was a major policy shift in those times). Many APMCs used their own funds to create supporting infrastructure, for e.g., rural roads to connect villages with the mandis.<sup>5</sup> The governance model of APMCs was designed as a democratic, decentralised system with physical auctions as the basis of price discovery and licensing of traders to

4 <https://www.indiainfoline.com/prime-ministers-of-india/charan-singh>

5 The biggest rural roads programme (PMGSY), recognised as a big game changer, came much later.

ensure payment. Over time, however, this system deteriorated (despite being designed with good intentions), and vested interests took over. Discretionary grant of licenses, multiple taxation, opaque price discovery models, cartelisation, etc., became embedded in the APMCs.

Why this damage? To start, the ‘revenue interests’ of the state governments: market fees became a source of extra revenue for them, to be used at their discretion, since this was not accounted for in the state budget resources. It remained in the bank accounts of the mandi board and was used for ‘discretionary’ development spending (there was no MPLADS<sup>6</sup> in those days) mostly under the Chief Minister’s orders. To be fair, it did improve infrastructure in rural India when funds like PMGSY<sup>7</sup> or MGNREGA<sup>8</sup> were not available. Since this was ‘revenue’ outside of the budget, State Governments could not resist the temptation of increasing the market fees to unsustainable levels and adding commodities which were not produced in the region. The trend continued and all agricultural produce that came into the market

area were made liable to pay market fees. What started as 0.5% or 1% fees went up effectively to 3–5%. In those states where Food Corporation of India (FCI) did most of the procurement, the burden was borne by FCI and, by implication, the Government of India.

Most APMCs devised new ways of increasing revenue by expanding the schedule of commodities, with scant regard to whether these were produced in their state or not. Most APMCs have a list of more than 100 commodities. ‘Azadpur mandi’ in Delhi had a list of 198 items on the last count, including butter and honey (who believes that farmers bring butter and honey for auction in the Delhi mandi?). Revenue collection and ‘rent seeking’ were made possible under these provisions. The story is not different in other states. The ‘revenue’ interests also prompted the ‘packing’ of these boards with government nominees. Not satisfied with this, administrators were appointed, superseding the boards, and farmers lost their voice and management control to the traders, commission agents, and to bureaucracy. Legal provisions for licensing of traders to

6 Members of Parliament Local Area Development Scheme is a scheme formulated by Government of India on 23 December 1993 that enables the members of parliaments to recommend developmental work in their constituencies with an emphasis on creating durable community assets based on locally felt needs

7 Pradhan Mantri Gram Sadak Yojna is a nationwide plan in India to provide good all-weather road connectivity to unconnected villages

8 Mahatma Gandhi Employment Guarantee Act 2005, is an Indian labour law and social security measure that aims to guarantee the ‘right to work’.

operate in the market yards were meant to ensure prompt payments to farmers but ended up being a source of cartelisation. The insistence on proper weighing and transparency in auctions were in the best interests of price discovery and the law stipulated that price be displayed prominently in the market yard. But, over a period of time, price discovery and display of prices became a sham. Managements made 'cosy' arrangements with traders and powerful 'commission agents', leaving the farmers in the lurch. The story of procurement under the MSP remained different since prices were largely known to all. In this large-volume business, traders kept their interests intact by increasing (often with government approval) their commissions, much to the chagrin of FCI. This 'mutual benefit' arrangement

ensured that all efforts to reform APMCs failed.

### **Views of various governmental committees/agencies on reforms in agriculture**

Over the last two decades, there have been multiple attempts, expert committees and reports outlining reforms to the country's agricultural marketing sector. To understand the extent of efforts made by the Government of India, we looked at the reports, model acts and recommendations of various committees,<sup>9</sup> starting from the Shanker Lal Guru Committee in 2000 and going up to the XV<sup>th</sup> Finance Commission's report in 2021 (see Table 3.1). A summary of the reforms suggested by various committees and outlined

**Table 3.1: Reform proposals reviewed for this report**

Expert committee set up by the Ministry of Agriculture, on "strengthening and developing of agricultural marketing" under the chairmanship of Shanker Lal Guru (2000)
Report of the task force on employment opportunities, chaired by Montek Singh Ahluwalia July 2001, Inter-ministerial task force constituted under RCA Jain, Additional Secretary, Ministry of Agriculture July 2001
Model APMC Act: September 2003
National Commission on Farmers (NCF) chaired by Dr. M.S. Swaminathan: 2004-2006: (The NCF submitted five reports to the Government between 2004 and 2006. The fifth and final report was in two volumes)
Model APMC Rules, 2007
Report of Committee of State Ministers, in charge of Agriculture Marketing to promote reforms, chaired by Mr Harshvardhan Patil (2013)
Economic Surveys from 2011-12 to 2020-21
The Agricultural Produce and Livestock Marketing (Promotion & Facilitation) Act, 2017 as a Model Act
Dalwai Committee "Doubling Farmers' Income" Report, 2019
15 <sup>th</sup> Finance Commission (XVFC) 2020

9 Refer Annexure A for details

in various policy documents on major thematic areas such as regulations in agriculture marketing, contract farming and the EC Act are given below. The list of committees and expert groups whose reports have been considered are listed below. A detailed overview is given in Annex-A.

## **Regulated markets (APMCs)**

APMCs did a good job in the beginning (though their success was limited to a few states) and ensured that farmers got connected to wholesale markets, albeit through intermediaries. Their impact on the rural (Gramin) markets, however, was negligible. Over a period of time, vested interests took over and farmers did not get the intended benefits. State Governments saw these as (off budget) revenue-generating agencies. In the process, the APMCs lost sight of two major objectives: ensuring the best possible price for the farmer and the development of rural marketing infrastructure for better price realization. The cost of intermediation went up and intermediaries thrived at the cost of the farmer. However, where procurement at MSP was strong, APMCs were able to create better infrastructure, though governance issues remained. Almost all the committees have recommended entry of private, co-operative and other agencies in the agricultural market space, *but on terms on a par with current APMCs*. Some have suggested abolishing the market fee and

'charging' for the services provided. The management of APMCs have been uniformly criticized for being pro-trader and non-transparent. Taking direct marketing out of the ambit of APMCs to enable direct buying by processors, large retailers etc., has also been recommended by many of the committees. In a nutshell, the recommendations (see Annexure A for details) are as follows (in no particular order of priority):

1. APMCs need reform in the interests of farmers. They must be made farmer friendly and development oriented.
2. Their governance structure needs to change and farmers must have a major say.
3. Some commodities (perishables) should be kept out of the purview of the current APMCs.
4. Direct marketing and contract farming should be out of its jurisdiction.
5. Licensing must be abolished and replaced with registration.
6. Private and co-operative sectors should be allowed to establish and operate (including levying a service charge) agricultural marketing infrastructure and supporting services.

7. Provision must be made for 'special markets' for specified agricultural commodities in any market area.
8. A single point market levy should be collected to eliminate multiple taxation and harassment.
9. *Gramin (rural) haats* (markets) need investment and should be kept out of the ambit of the APMCs. If required, they can be brought under a separate law/regulation.
10. Warehouses should be declared as deemed markets and no market fee should be levied.
11. Reforms should be aimed at creating a unified Indian market (and a connect to foreign markets) where farmers can get the best price.
12. India has moved from a food deficit to a food surplus country. Reforms in agricultural marketing should aim at future markets including those abroad.
13. Food Corporation of India/State agencies can continue to procure in APMC 'mandis'. This will ensure that the current 'mandis' do not lose business.
14. The policy framework should give farmers the liberty to freely market their produce anywhere, including direct marketing to processors or

other buyers, without paying any market fees.

The committees also made the following remarks/ observations:

### **Freedom to farmers: Direct marketing**

Direct marketing to consumers through various channels, such as 'farmers' markets', have had limited success due to lack of investment, promotion, and infrastructure. But they do provide a direct marketing channel between farmers and retail consumers. Direct marketing creates a premium for better quality and is shown to have enhanced productivity and profitability for farmers. These need to be scaled up using a sustainable business model. An appropriate framework should also be created for enabling the establishment of such markets. Direct marketing can help increase the availability of better-quality raw material for processing/value addition. This is easily scalable and can help improve value realization.

### **Contract farming**

In the context of emerging consumer trends and increased presence of processed foods in the market, a legal framework for contract farming is required. It was recommended that the model APMC law provide for contracts to be registered. Contract farmers were to be exempted from the compulsion of selling in the market

yard, thereby allowing the sponsor to pick up the produce from the farmer's field and to arrange proper transport. This would reduce quality loss and waste, and allow produce to be harvested at the appropriate time for optimal value. The model law also suggested a quick dispute resolution mechanism. Contract farming does take place in many parts of India even now (mostly verbal contracts, but a few under the Indian Contract Act), and some are successful examples of productivity and profitability gains.<sup>10</sup> A much simpler farmer friendly legal framework would be beneficial to all stakeholders. All committees uniformly emphasized the need to provide for strict safeguards against any type of alienation of farmers' lands in the process.

### **Essential Commodities Act**

There is a strong view that the law (EC Act 1955) has outlived its utility and is only contributing to rising transaction costs. Due to its restrictive provisions and the ad-hoc nature of its implementation, private investment in modern storage and marketing infrastructure, including in the areas of contract farming and direct marketing, have not been encouraging. The powers of the states to restrict the movement of agricultural products out of their territory granted by the ECA are incompatible with the principle

of a single market and work against farmers' interests. Many believe that if the Essential Commodities Act (1955) was repealed, it would make way for free market forces in a real sense. An emergency legal framework can be put in place for emergencies like war, natural calamities etc. Even if the act is not repealed, the list of items related to agriculture should be removed from the schedule.

### **No recommendation for a central law for markets**

To be fair to the committees, none of them have recommended enacting a common law by the Union of India or to create new trade areas outside APMC markets under the control of the Union Government.

### **Recommendations of the Parliamentary Standing Committee on agriculture**

The Standing Committee on Agriculture (2018-2019), Ministry of Agriculture and Farmers Welfare (Department of Agriculture, Cooperation and Farmers welfare) examined the issue of agricultural marketing with particular reference to *Gramin Haats* and made the following observations and recommendations:

1. The scarcity of marketing platforms for agricultural produce, and mismanagement and corruption

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10 Poultry is often quoted as the success story in this model. There are successful examples in tomato, potato etc., as well.

in APMC markets, have created a situation where farmers are being deprived of fruits of their hard-earned labour, leading to low price realisation for farm produce.

2. Under the Essential Commodities Act, there is a need to distinguish between genuine service providers and black marketeers/hoarders to encourage investment and better service delivery to farmers. It is recommended that contract farming sponsors and direct marketing licensees be exempted from the stock limit restrictions up to (a quantity equal to) six months of their requirement in the interests of trade and facilitating long-term investment.
3. The states should amend their APMC acts along the lines of the model act (described in Annexure A) and the reforming states may also notify rules, and may complete the process early.
4. The private markets should be treated on a par with the existing APMCs.
5. The committee would like the government to hold discussion with the State Governments to keep *Gramin Haats* out of the scope of the APMC Act.
6. The Committee observes that there is urgent need for radical reform of the APMC Act in the country if the government intends to provide justice for farmers. Remunerative pricing for farmers cannot be ensured unless the number of marketing platforms for farm produce are enhanced and functioning of APMC markets is made democratic and transparent. The Committee is of the view that there is need to involve all the stakeholders, especially the state governments, in the process of reforming the APMC Act. The Committee, therefore, recommends that the Government constitutes a Committee of Agriculture Ministers from all the states in order to arrive at a consensus and chalk out a legal framework for marketing agricultural produce in the country. The Committee is also of the opinion that provisions regarding entry fees and other Cess (additional tax) levied on transactions for agriculture produce should be abolished to help to reduce the corruption and malpractices prevalent in APMC markets. The Committee would like the government to hold discussion with the state governments to achieve this.
7. Various factors – such as distance to the nearest APMC market, the dominance of middleman in APMCs, lack of transportation facilities, etc. – are driving the majority of small and marginal farmers to use the services of local middlemen or shops to dispose of their surplus

agricultural produce at prices much below the minimum support prices (MSPs) announced by the government.

8. The APMC Acts which were enacted by various state governments to ensure a fair environment for supply and demand and a consequent effective price discovery for farm produce, to regulate market practices and attain transparency in transactions, have instead engendered a hotbed of politics, corruption and monopoly by traders and middlemen. The Committee observes that APMC markets across the country are not working in the interests of farmers, with limited numbers of traders reducing competition and

cartelisation, and unwarranted charges in the name of market fees, commission charges etc.

These observations of the Parliamentary Committee are relevant to the issue in view of its extensive treatment of the subject and the report's relevance in the legislative system.

### **Other suggestions from expert groups**

1. It is necessary to promote forward and futures markets in agricultural commodities and allow farmers groups to participate.
2. It is necessary to delink minimum support price (MSP).



## Chapter 4:

# What are the areas of controversy in the Farm Acts 2020?

The debate on these laws has been quite intense, with strong views being expressed by various groups supporting and opposing these laws. We have reviewed the opinions expressed by various experts, government spokespersons and farm leaders. These opinions can be categorised into three broad categories: in favour, against, and those who feel the need for reforms but do not agree with the process or some of the provisions of the new farm laws. This chapter attempts to summarise the various arguments and critiques on the subject, with more details contained in Annexure B.

### Timing of reforms

Proponents of the new farm acts argue that it is important to take note of the large deficiencies in the pre-existing agricultural laws (those outlined in Chapter 3, as identified by

the various committees). This group argues that the earlier marketing laws and institutions have promoted rent-seeking behaviour by APMC officials and middlemen (*arthiyas*), and feel that the APMC system lacks transparency. They feel that new regulations are necessary for the benefit of the farmers. They note that the earlier laws provoked deep-rooted reliance on middlemen—such as not being able to sell directly to most buyers and having them mediate in the case of contract farming—leading to less price realisation for farmers and higher prices for the consumer. As a solution, proponents would like to see agricultural markets liberalised with provisions for restricting government intervention, so as to win private sector confidence, which will lead to large investments in the sector.

Those opposed do not agree with the contention that all middlemen are products of this legal arrangement. They contend that middlemen will continue to exist even in the new system. They argue that none of the

committees recommended national legislation on market reforms and contract farming. They also argue that many states have adopted the model laws, including setting up private markets and permitting sales at farm gates. All their recommendations concern persuading or incentivising state governments to modify marketing laws and institutions. Even the latest (XV<sup>th</sup>) Finance Commission recommended incentivising states to undertake agricultural reforms. The Finance Commission recommended a sum of Rs 45,000 crores from the Union budget on this account

## Timing of the legislation

Proponents see these laws as a ‘course correction’ in response to earlier restrictive policies. They urge the government not to waste the opportunity brought about by a crisis (the COVID-19 pandemic). Opponents argue that these laws, although a necessary part of reforms needed in the agriculture sector, should not have been introduced as ordinances during the pandemic in a season characterised by a bumper crop and deficient demand leading to rural distress. The bills should be repealed and brought back, if required, after extensive consultation with all stakeholders and subjected to detailed scrutiny by parliament. Those opposed to the laws feel that they should be repealed and that the state governments should be free to do

what is in the interests of their farmers.

## Constitutional impropriety and state workarounds

A major argument against these laws stems from what the state governments call ‘constitutional impropriety,’ as agriculture is a state subject. However, others feel that these laws are within the purview of the Union Government as they concern the ‘supply and distribution’ of produce, an area in which the Union Government has powers to override the states. This is also the view taken by the Government of India. However, several non-BJP states have introduced their own set of laws in an attempt to bypass these three laws. Many feel they have the right to do this given that agriculture is a state subject. However, since the President has approved these three farm laws, these states may not get assent from the respective Governors to enact their laws. They will, however, serve their purpose as political statements to their constituencies. The first state to undertake such reforms was Punjab, whose state legislature enacted amendment bills to reverse the central laws. These were the Farmers’ Produce Trade and Commerce (Promotion and Facilitation), (Punjab Amendment) Bill and the Farmers’ (Empowerment and Protection) Agreement on Price Assurance (Punjab Amendment) Bill. These make it a punishable offence for anyone to purchase wheat or

paddy, the main crops grown in the region, at prices below the MSP. These states have also tried to protect their revenue interests by providing for the declaration of any 'trade area' as a regulated market. A regulatory provision to ensure timely payment to farmers is of great importance to farmers and governments.

## Farmers' fears

Farmers seem determined in their demands for repeal of the laws and a legal status for the MSP. Their fears over the laws seem to stem from the changes in the 'social contract' between the Union Government and farmers: several provisions, such as 'the definition of a trader and Farmer Producer Organisation (FPO), dispute regulation mechanism, and the contract farming price settings linked to the APMC price' do not serve both parties equally. This is a cause for concern that has erupted due to lack of consultation with relevant stakeholders. Farmers are apprehensive about the gradual weakening and eventual destruction of the APMC *mandis*, especially farmers in Punjab and Haryana who rely on these institutions for the sale of their produce at an assured price. Farmers fear that the new laws shift the balance of power in favour of big corporates, leading to a monopsony situation under a free market, which is why these laws have been called 'flawed', 'detrimental to farmers', and 'serving

corporate interests'. They fear that procurement at MSPs will slow down. They also fear losing their land to these corporate giants due to lack of (what they consider) adequate safeguards. All these concerns appear to have arisen due to lack of clarity, overlap with state laws, absence of stakeholder consultations, mistrust of the Union Government, and the haste in which these laws were introduced.

## Loopholes in the new farm laws

Experts have pointed to a number of obvious and some nuanced loopholes in the law. Those most overlooked concerning the APMC-Bypass law are:

- The lack of a prescribed mechanism or route for creating a single national market
- No provision for any degree of regulatory oversight for new markets, trade areas, and the perceived e-marketplace; a trade area being overseen by the Union Government creates dual control in the same region, which is bad from governance point of view
- Despite the use of 'transparency' in the mandi bypass Act there is no mention of a relevant mechanism for maintaining data of any sort while marketing and trading
- Non specification of the rights over

data that uses current or future technologies employed by the government and private, including agri-tech, players

- Re-intermediation of the supply chain due to the entry of agri-tech firms as large intermediaries between corporates and farmers
- The Mandi bypass Act also enables newly added trade areas to fall outside the jurisdiction of the APMC, separate from the pre-existing APMC 'mandis' or private marketplaces. All three bills together make the marketing of agricultural produce, along with practicing contract farming and allowing stock piling *almost invisible* and hence, outside the purview of regulation. In addition, the insistence on a Permanent Account Number (PAN) card for every trader in a non-APMC area will make many rural and tribal markets undertake operations in conflict with the provisions of the new act or render them non-operational. Most traders in small rural markets may not require/ have PAN cards
- The absence of any provision to prevent uncalled-for intervention raises genuine concerns about the unchecked power of the Union Government to intervene.

## Trust deficit in the Union Government

Opposition to these laws, be it political or otherwise, stems from a mistrust of the Union Government and its ability to make good on its promises (the promise of doubling farmers' income is a favourite example). This might be largely due to perception-management issues, but also has substantial underlying reasons. The fact that the government has agreed only to issue a written agreement, rather than a legal mandate, on protecting the MSP, is undermining farmers' trust leading to the fear of corporate control through these laws. These fears are accentuated unfortunately by some 'farmer unfriendly' statements by the ardent advocates of reform (India Today 2020).

## Impact on small and marginal farming communities

Proponents contend that the MSP and APMC mostly benefitted large farmers (some experts argue that the MSP benefits only a small percentage i.e. 6% of farmers, while many others have raised serious doubts on this number of 6%, arguing that this is much higher<sup>11</sup>). The Minister of Agriculture, in a letter to farmers, has pointed out that

11 The share depends on how the number of farmers is calculated. Different sets of government data use different definitions and arrive at different numbers. For example, see the Centre for Policy research paper "(Counting the Kisan: Harish Damodaran) and NSS REPORT NO. 587: Situation Assessment of Agricultural Households and Land and Livestock Holdings of Households in Rural India, 2019

various Farmer Producer Organisations in several states have welcomed these reforms with open arms, and that these laws are already empowering many of these organisations, as well as the small farmers that dominate the sector. Hence, proponents believe these laws have the potential to increase supply chain efficiency by shortening its length through the removal of intermediaries. This would benefit both farmers and consumers by reducing marketing costs through supply assurance (ECA limit restrictions amendments bring in predictability) and by enabling better price discovery in the process.

However, opponents predict that rather than taking the middlemen out of the equation, the new laws might, on the contrary, make them stronger, since corporates may not want to deal with farmers directly (experience in the field shows that they prefer operating through third parties). There are also concerns about markets perpetuating efficiency at the tremendous cost of widening economic inequality, which is why farmers are concerned about feeling secure even if the system is imperfect, much more than they wish to be 'free to sell wherever and to whomever' – a case of a leaking roof being better than no roof at all!

## Redressal Mechanism

There is substantial debate on the existence, or lack, of a fair redressal

mechanism. Countering those who claim a redressal mechanism is missing, proponents state that both the Contract Farming Act and the FPTC Act clearly state that farmers shall have access to the sub-divisional authority (SDM) and the District Collector in case of any disputes. Farmers and opponents, on the other hand, are quick to point out the absence of a fair redressal mechanism in these laws (as the provision bars the civil courts) stating that these laws erode the constitutional rights of citizens and threaten democracy itself. They cite Section 13 of the Farming Produce Trade and Commerce (Promotion and Facilitation) Bill as "disabling the right to legal recourse of all citizens and farmers unions" and "protecting the Government and any other person against legal actions for any crimes (*not authors' words*) committed by it 'in good faith"'; Section 15 as having "no legal recourse in courts and suspending fundamental rights"; and Section 19 of the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services as implying that "no injunction is to be granted by any court or authority" to substantiate this view.

## Impact on food security

Having reached the status of a food-surplus nation, many experts believe that these laws will not impact India's food security. They also argue that food and nutrition programmes such

as the Public Distribution System, Mid-Day Meals, ICDS etc., will continue undisturbed. However, those against these reforms have argued that these laws may take the country back to a stage of food insecurity. The argument stems from apprehension that the government is contemplating slowly withdrawing from its role, handing the food security of the nation over to the big corporates. They feel that the ECA 1955 helped maintain a smooth supply chain of essential goods at fair prices and supported farmers. These new laws are perceived to be directly linked to the food security of the nation's citizens and they fear the slow withdrawal of a secure channel for sustainable procurement and food production.

### MSP as a legal mandate

A major policy change demanded by farmers as part of their protests, apart from repealing the three farm laws, is making the MSP a legal mandate, even for the private sector. This proposition, most experts feel, is fraught with danger and may create unwarranted problems in the market, particularly in rural areas. Experts also point out that the MSP is an administrative policy issue and not a legally mandated one. They argue that if the MSP is higher than the sustainable market price, it could lead to a breakdown of

the private marketplace. A decision to mandate the MSP is likely to be a strong deterrent to investment and the private participation so necessary for the sector.

### Impact on supply chains and the role of the private sector

The new legal framework is intended to ensure supply chain efficiencies, thus reducing waste and value loss. Incentivising the private sector to play a larger role in the sector is likely to lead to smoother distribution due to better storage, processing and distribution facilities, which will translate into better and more stable prices for the farmer and the consumer. The private sector will also facilitate quality improvement as well as diversification into high value fruit and vegetables, and help meet importing country quality standards. However, there is a lingering fear of corporates eventually controlling the market by setting prices and stockpiling produce to create price volatility and create a monopsony situation. A recent study (Kapur and Krishnamoorthy, 2014) of the post-APMC abolition scenario in Bihar found concentration of market power by a small group of traders since large firms operated mostly through them. (See also BOX 1)

## **Box 1: Milk, poultry, sugarcane, and Bihar's agricultural reforms**

Milk and poultry are often cited as India's success stories. They both have no MSP and are not sold through APMC market yards. Proponents of the new laws showcase the example of milk as a commodity without an MSP that largely follows a contract price-setting mechanism and distribution model, with the power balance being tipped in the favour of farmers. They point out that milk's rate of growth is sometimes as much as triple that of other commodities, such as rice, and that there are no reported cases of the private sector usurping any land. An important factor in the case of milk is the power of farmer-owned institutions in the procurement, processing and sale, thanks to the genius of Dr. Kurien. Without these institutions, the milk story would have been different. Ignoring the role of institutions in any analysis will be a major mistake.

An IFPRI study in Bihar (2018) (*Kumar et.al 2018*) showed a positive and significant relationship between dairy co-operative membership and milk yield, net returns per litre, and adoption of Food safety Measures (FSM). In particular, it found that association with a dairy co-operative society tended to increase milk yield by 1.4 litre per day, net return by 24 percent, and adoption of FSM by 10.3 percent. The estimates, differentiated by farm size, revealed that the income gains brought about by dairy co-operative membership were higher for small-scale farmers.

Government of India spokespersons point out that the growth of an industry is only possible if it has positive externalities for the growth of other sectors too. They insist that these reforms are removing barriers that have existed in the agricultural sector for years and will allow different sectors to complement each other in the common endeavour to achieve growth in agriculture, with the farmers themselves being the largest beneficiaries through more investment and technological support. Using sugarcane as an example, they explain how weather fluctuations were leading to volatile production patterns each year, and how farmers were worried by this volatility. On top of this, they were not receiving their payments on time. However, with government support and direction, these farmers started collaborating with sugar mills to produce ethanol instead. Today, the government plans on obtaining 10% of the country's fuel requirements through home produced ethanol. Here again, sugarcane farmers are supported by a legal framework and a statutory minimum price.

Counter arguments point to the other side of these 'success stories'. Critics explain how Maharashtra opened up APMCs for private markets, but saw no proliferation of private markets at all, rendering it useless (The reasons for such a situation, if true, need careful analysis, which is beyond the scope of this study. The author's understanding is that some private mandies are functioning satisfactorily). Further, Kerala, which have no APMCs, has also not seen the coming up of any private markets that have improved the terms of trade in favour of farmers. Milk has also not been an unambiguous success, with farmers receiving less income for their produce from the private sector, especially in flush seasons, which led to farmers pouring their milk on the streets as a sign of revolt. The fact remains that intermediaries exist even in milk, despite it engaging with the private sector through contract farming at large. The milk example has to be seen in the context of large farmer owned co-operatives dominating the liquid milk market and not strictly from a 'free market' point of view.

Opponents have also cited Bihar as an example where the APMC system was dismantled in 2006 but did not bring any worthwhile benefit to farmers, who are getting lower prices for their product than those of Punjab and Haryana (and consequently below the MSP). Spokespersons point out that this critique overlooks the fact that farmers in Bihar did not receive the prescribed MSP even before 2006. However, maize farmers in Bihar seem to have benefited from the abolition of APMCs due to enhanced private trade and market pull from the livestock sector. These examples must be seen in the context of other institutional factors and not merely from a 'freedom to sell' point of view.

## Chapter 5:

# Key questions on the implications of the new farm laws

In this section we discuss major concerns and implications of the new farm laws based on the secondary research and keeping in mind the future of agricultural reforms in the country.

### Are the new Farm Laws constitutionally valid?

Opinion is divided on whether the FPTC Act and FAFPS Act will stand up to the scrutiny of constitutional propriety. A few state governments refer to *Supreme Court of India: Jayant Verma vs Union of India, 16 February 2018* to claim their sovereign right to legislate on all matters related to agriculture. They derive their legal authority from entries 14, 18 and 28 of List-II of schedule VII of the constitution. The Union Government, on the other hand, relies on entry 42 of list I and entry 33 of list III of the same schedule (VII)

to justify their position. The Supreme Court has not yet pronounced any judgement on the subject; it stayed the implementation of the laws and appointed an expert committee to submit recommendations<sup>12</sup> on the subject, which it is now considering. Once the Supreme Court passes an order, there is likely to be clarity in the matter. (Please see Part I for the current status: the laws have since been repealed)

While we do not attempt to comment on the constitutional question, the recent (2021 July *Rajendra Shah vs Union of India*) judgement of the Supreme Court on the question of the validity of the 97<sup>th</sup> Amendment of the Constitution (relating to co-operative societies: entry 32 in list II) has held that the Union Government cannot infringe upon the legislative jurisdiction of the state governments and cannot substantially alter their powers of legislation given to them under list II of Schedule VII. This could be a

12 The report had not been made public at the time of writing this report . It has since been made public by one of the members

pointer in this case and help the Union Government crystallize its views.

In spite of the legal nuances and constitutional propriety, it is well known that reforms in agriculture cannot be carried out without active support from state governments and acceptance by farmers. It is well established that in the Indian context, the idea of 'one nation, one market' cannot be implemented through a 'one-size-fits-all' approach. Given the large variations in geographical conditions, farmers' profiles, water availability, proximity to markets, weather conditions and cropping patterns, regulatory provisions need flexibility at the state level. However, such flexibility cannot be allowed to derail interstate trade or affect farmers' incomes. The Union Government cannot be expected to endlessly try to persuade state governments to reform agricultural marketing laws that are necessary in the interest of farmers and a unified pan-India market. While one could argue about its constitutionality, the frustration of the Ministry of Agriculture is also to be understood. It is worth noting that transfer of technology in agriculture (starting with the Green Revolution) has important lessons for 'diffusion of innovation' and how farmers accept or reject new ideas. A participatory 'trust-building exercise' prior to enacting these laws would have helped. This would have given policy makers enough inputs to decide whether to draft the legislation either as a model law or a 'central' law.

## Is this the end of the MSP regime?

There is apprehension among farmers that the Minimum Support Price operations will be scaled down substantially. Though the farm laws do not mention the MSP anywhere, farmers worry that implementing the recommendations of the Shanta Kumar Committee will be the next step in the reform process. A series of statements from 'pro-farm law' experts have added to this perception. The Shanta Kumar Committee had recommended, *inter alia*, that,

"FCI hand over all procurement operations of wheat, paddy and rice to states that have gained sufficient experience in this regard and have created reasonable infrastructure for procurement, 67 percent coverage of population should be brought down to around 40 percent, and move to gradual introduction of cash transfers in PDS, starting with large cities with more than 1 million population; extending it to grain surplus states, and then giving option to deficit states to opt for cash or physical grain distribution." (Refer FCI 2015).

It also recommended that the Food Corporation of India (FCI) become more business oriented with a proactive policy to liquidate stocks in OMSS/export markets whenever actual buffer stocks exceed the norms. This recommendation has revenue and

trade implications. Open market sales (OMS) are always lower than economic cost, involving a revenue loss and export at subsidised rates is WTO non-compliant. While disposing of excess stocks is an operational and financial requirement, the current format of OMS and subsidised export is unsustainable. Also, the ballooning increase in food subsidies, the increasing cost of procuring grain, the huge stockpiles of food grains in FCI and the call to move to direct benefit transfers in the fertiliser and Public Distribution System (PDS) sectors, have added to this fear. Supporters of the MSP include those who believe strongly that a minimum support price is a price assurance required by farmers and those who advocate a universal PDS. Admittedly, those who have stakes in the current arrangement, including commission agents, procurement staff and ration shop dealers, prefer the *status quo*. The three together do constitute a large constituency. However, speaking strictly within the framework of the farm laws, there is nothing in the legal provisions that indicate that the MSP will be discontinued or scaled down. The demand for a legal mandate for the MSP, despite the government being willing to give written assurance, seems to arise from a trust deficit accumulated over the years.

It is logical to conclude that excess procurement by government does create huge financial problems for them, apart from creating skewed and inefficient markets. Consider a

situation when more than 50% of the marketable surplus lands up in FCI warehouses and the private trade has less stocks. This could seriously upset the balance between private trade and public distribution. This imbalance could spur an unintended price rise in essential commodities forcing FCI to offload stocks at a loss. FCI has been reeling under the burden of excess stocks of food grains (despite large allocations in COVID times) and the carrying cost of this surplus is causing an unsustainable dent in government's finances. In addition, there is the vexed issue of leakage (estimated at 40–50% with some states at 60–70%) and other associated ills in the PDS (referred to earlier).

The value of MSP crops in total GVA is about 28% (see Table 2). This means that farmers who produce 72% of the value of agriculture are outside the MSP support system. These include fruit and vegetable growers, dairy and poultry farmers, fishers etc., mostly farmers with less land dealing in perishables where market risks are high. It is pertinent to note that growth rates for these segments of agriculture have been higher than for MSP crops, indicating their increasing relevance to agriculture GDP and consumers. It also brings home the fact that the market is demanding more of such commodities and farmers are responding to the market. These farmers need better support in terms of infrastructure, technology and price information.

A point to note is that farmers who produce MSP crops do not have equal access to procurement agencies. Many small and marginal farmers, particularly those in rainfed areas, do not get the benefit of the MSP. This regional disparity can be gauged from the data on percentage of procurement to production in the states.

MSP is admittedly a complex issue. In theory, it is simple; but over the last five decades, it has evolved into a confluence of powerful interests: APMC, MSP, PDS and the players around these. Therefore, any attempt to change the current MSP system is bound to attract strong opposition. Undoubtedly, change is required, but the following need to be considered:

In Punjab and Haryana (and some parts of Western UP) there is a very close link between APMCs and MSP creating a strong alignment between State agencies, APMCs, Arhatiyas (commission agents) and FCI. The bonds are so strong that in Punjab, even payments to farmers were being routed through middlemen till recently.

For new entrants like Odisha, Chhattisgarh etc, procurement at MSP is mostly done through Primary Agricultural Cooperative Societies (PACs) though they use available APMC infrastructure, thereby ensuring strengthening of grassroot organisations and direct payment

to farmers' accounts. This system, apart from delinking middlemen, has the added advantage of capturing data for better planning. States like Bihar which have no APMCs have not been able to increase procurement to any significant level, thereby denying the farmers even MSP. Private sector has not made any significant impact except in the case of maize (which gets almost no attention in procurement though an MSP crop). Studies by Devesh Kapur, Mekhala Krishnamoorthy (2018: A study of the agricultural markets of Bihar, Odisha and Punjab) show that Bihar farmers have not received higher prices for rice and wheat, nor has the impact of middlemen been reduced. Avinash Kishore (IFPRI) et al show that in the case of maize – where entry of private sector has been significant and there is market pull from livestock sector in other states – the repeal of APMC Act reduced transaction costs, brought in disintermediation, and improved farmer outcomes. The same did not happen for paddy and wheat (or for other crops)

The disposal of all purchases under MSP is the responsibility of the Union Government. Most of it goes into PDS, some excess quantities go for open market sales to private trade (there is an inherent subsidy here) and some have to be disposed of somehow (a recent announcement says 78,000 tons of rice will go into making ethanol!). Clearly, FCI is procuring way above its

requirement and storage capacity. At about 40% cost over MSP, this is a huge burden on the exchequer. Undoubtedly, MSP regime needs reform.

## Is this the end of APMCs?

Farmers fear that APMCs will die, albeit slowly, and private markets will take over. This could, according to them, signal the end of price discovery (however imperfect it may be at present) and the markets will become a monopsony controlled by large food companies. This apprehension arises from the various provisions of the FPTC Act, primarily Sections 4, 5 & 6. Section 4 provides that "any trader with a PAN number (or another document notified by the Union Government) can engage in inter and intra-state trade of scheduled produce in a *trade area* and make payments within a maximum of three working days from the receipt of delivery". (The Union Government can create a system of electronic trader registration and set the terms of trade for a trade area, if in the public interest). Section 5 provides for electronic trading and transaction platforms and states that "any trader with a PAN number or equivalent documentation as notified by GoI can establish an electronic trading platform for trade and commerce in a *trade area*", wherein the Union Government can specify the terms and conditions. Lastly, Section 6 of the FPTC Act states "No market fee or

cess or levy, by whatever name called, under any State APMC Act or any other State law, shall be levied on any farmer or trader or electronic trading and transaction platform for trade and commerce in scheduled farmers' produce in a trade area."

While the Government of India has been quick to point out that APMCs will continue, private *mandis* will enjoy huge cost and non-cost advantages since all purchase centres (warehouses, cold storage, and other premises) can be declared as *mandis* without paying any market fees. The savings in taxes and fees would be substantial. They can either pass these on to farmers, or provide them with better facilities. Even if they pay market fees, the private market operators can still give better services to farmers in the long run. APMCs, with their current inefficiencies, are bound to suffer. Reports from states like Telangana and Madhya Pradesh (Kasabe and Jainani 2020) indicate a huge fall in the revenue of the APMCs, post the new laws, strengthening the perception that these may eventually close down. The Government of India seems to agree with the suggestion that states may be allowed to regulate and tax the private *mandis* outside the APMCs to bring some parity. However, leaving 'trade areas' as 'unregulated' (there will be no effective regulation since the Union Government will have no field staff present) comes with great risks.

## **Will farmers get a better price in “trade areas”?**

Any person with a PAN card or equivalent can buy and sell in trade areas. They can be traders, intermediaries, agents, or corporates. There is no guarantee that corporates will jump in and offer higher prices to farmers. The experience of existing private *mandis* or corporate buying does not lend credence to the assumption that mere opening up of *mandis* for private investment will result in a better deal to farmers. Instead, farmers fear that with the gradual weakening and eventual closing down of APMCs, they will be at the mercy of traders and corporates who can control prices. The news reports<sup>13</sup> about a ‘corporate’ buying paddy at Rs.100/- per quintal above the MSP did not enthuse farmers, since the specifications were more stringent and the farmers had to provide the gunny bags as well. Net result: farmers got a price marginally lower than the MSP. Such publicity gimmicks do more harm than good. Farmers are also aware that many rural markets do not have enough buyers and the small traders operating in these markets do not give them a fair price. Their apprehensions, therefore, are based on experience and unless there is a clear strategy to change this experience, their fears will remain.

## **What happens to rural markets?**

Both the consultative committee of the Ministry of Agriculture headed by Shri. Hukum Dev Narayan Singh (2018-19) and the Committee on Doubling Farmers’ Income headed by Mr Ashok Dalwai (2019) placed great emphasis on strengthening rural markets. The Dalwai Committee suggested a separate regulatory and development mechanism for rural markets outside the APMC laws. But the FPTC Act seems to have neglected this important issue and has made it more difficult for farmers to sell their produce in rural markets. There are (probably unintentional) hidden dangers in some of the provisions of the FPTC Act. For example, consider this: Section 2(m)(f) defines ‘trade area’ as any other structures or places other than APMCs or other notified markets. Rural *Haats* will, by exclusion, fall into the category of trade area. A proviso to Section 4(1) stipulates that no trader (with the exception of FPOs and co-operative societies) can trade in agricultural produce unless he/she has a PAN identity.<sup>14</sup> Does this mean that small traders who operate in small rural markets (GrAMs) will cease to function since most of them may not have taxable income and hence no PAN card? Will they be violating provisions of Section 4 and be liable

13 <https://www.moneycontrol.com/news/business/karnataka-farmers-sell-paddy-to-reliance-retail-above-msp-6327771.html>, *Times of India* 10 Jan 21.

14 Permanent Account Number in the income tax provisions.

to be punished under Section 11<sup>15</sup>? In a strict interpretation of the law, all rural markets and other trading places will either come to a halt or operate illegally. Even states like Bihar and Kerala which have no APMCs will be in the category of trade areas. If this was not the intention, the case for a section-by-section discussion of the law and re-drafting becomes stronger. In any case the recognition that rural/village markets are important parts of the rural economy seems to be missing in the attempt to by-pass the APMC.

### **Will farmers be paid in full for transactions outside mandis?**

One major fear among farmers is that traders may offer a higher price in the trade area, take delivery and not pay them the full price. This fear arises from the following provisions of the FPTC Act: Section 3: "Any farmer or trader or electronic trading and transaction platform shall have the freedom to carry on the interstate or intrastate trade and commerce in farmers' produce in a trade area"; Section 4 relating to trade and commerce of scheduled farmers' produce; Section 5 relating to electronic trading and transaction platform; and Section 6 relating to market fees under State APMC Act, etc. in a trade area.

Farmers cannot easily identify a PAN card from any other identity card, nor can they access the full details of the buyer. Traders can open new buying centres in 'trade areas' and offer advance payments for farm produce with the promise of a higher rate. If they fail to pay the full amount on taking delivery of the produce, farmers may not even have full details of the transaction in order to approach the administration or courts to get justice. Since buyers do not need to register either in an APMC or 'trade area', 'fly by night' operators can enter the market and operate without being caught. A few instances of this have been reported from states such as Telangana and Madhya Pradesh. Such reports have further exacerbated fears on this account. The fact that state officials have no details of the traders either, and are helpless in such situations, makes it all the more worrisome. Established companies or traders of standing who have branch offices, buying centres or warehouses are more likely to be trusted by farmers. Will they trust anyone with a PAN card? Probably not. They would rather trust a trader or commission agent who operates in the area, despite the high commission. Absence of effective protection against payment default remains a major worry.

15 As per Section 11, "Whoever contravenes the provisions of section 4 or the rules made thereunder shall be liable to pay a penalty which shall not be less than twenty-five thousand rupees but which may extend up to five lakh rupees, and where the contravention is a continuing one, further penalty not exceeding five thousand rupees for each day after the first day during which the contravention continues."

## **Does barring civil court jurisdiction signal injustice to farmers?**

There exist specific provisions in the two laws barring jurisdiction by the civil courts.

The relevant sections of the **FPTC Act** are : (i) Section 13: "No suit, prosecution or other legal proceedings shall lie against the Central or the State Government, or any officer of the Central Government or the State Government or any other person in respect of anything which is in good faith done or intended to be done under this Act or of any rules or orders made thereunder"; and (ii) Section 15: "No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognizance of which can be taken and disposed of by any authority empowered by or under this Act or the rules made thereunder".

The relevant sections of the **FAFPS Act** are: (i) Section 18: "No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Registration Authority, the Sub-Divisional Authority, the Appellate Authority or any other person for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder"; and (ii) Section 19: "No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any dispute which a Sub-

Divisional Authority or the Appellate Authority is empowered by or under this Act to decide and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any rules made thereunder". *(The authors are of the opinion that Union Government is the proper word in place of Central government.)*

This appears to be an earnest attempt to provide for speedy disposal of complaints at the local level. It is well known that processes under the Civil Procedure Code are time consuming and frustrating. The provision to entrust Sub-Divisional Officers and District Collectors with powers of dispute resolution seems to have been done with the intent of speedy resolution. But these officers are also overworked and they may not give priority to such cases, resulting in inordinate delays. In addition, they are appointed to specific positions mostly with the approval of the political executive, who can try to exert pressure on them. But the barring of civil courts gives the impression that the government is trying to hand over judicial powers to the executive with a view to influencing outcomes in such disputes. This may not necessarily be true, but the perception comes from a general mistrust created by several governance issues. In any case, there is no justifiable reason to bar the jurisdiction of civil courts. Civil courts could come into play after conciliation/arbitration fails.

## **Do farmers stand to lose their land?**

The relevant sections of the FAFPS Act which provoke such fears are: (i) Section 8: "No farming agreement shall be entered into for the purpose of: (a) any transfer, including sale, lease and mortgage of the land or premises of the farmer, or (b) raising any permanent structure or making any modification on the land or premises of the farmer, unless the Sponsor agrees to remove such structure or to restore the land to its original condition, at his cost, on the conclusion of the agreement or expiry of the agreement period, as the case may be: provided that where such structure is not removed as agreed by the Sponsor, the ownership of such structure shall vest with the farmer after conclusion of the agreement or expiry of the agreement period, as the case may be"; and (ii) Section 15: "Notwithstanding anything contained in section 14, no action for recovery of any amount due in pursuance of an order passed under that section, shall be initiated against the agricultural land of the farmer".

The legal provision is unambiguous that under no circumstances will the land of the farmer be allowed to be alienated. While this is as unambiguous as can be, farmers seem to be concerned about section 14(7) of the FAFPS Act, which includes a provision to collect the amount payable as decided by the SDM (Sub-Divisional Magistrate) or DM (District Magistrate) as arrears of land revenue. This, in turn, takes the case to the provisions of the Revenue ('Public Demand' in some states) Recovery Act, which does not include such safeguards against 'attachment' of land. Farmers, therefore, want a 'reinforced' assurance of the same in the form of a provision to specifically bar any court action of attachment of land on account of any default. Their fears also arise from the suspicion that payments may not come on time and they may be compelled to sell or mortgage their land to meet their needs. They quote the experience of sugarcane farmers who, in spite of strict legal provisions regarding payment of sugarcane dues within 15 days of purchase,<sup>16</sup> often wait as long as three months or more for their dues. Sugarcane farmers have to

16 Sugarcane Control Order—Section 3(3-A): "Where a producer of sugar or his agent fails to make payment for the sugarcane purchased within 14 days of the date of delivery, he shall pay interest on the amount due at the rate of 15 per cent per annum for the period of such delay beyond 14 days. Section 3(8) provides 'Where any producer of sugar or his agent has defaulted in furnishing information under Clause 9 of this Order or has defaulted in paying the whole or any part of the price of sugarcane to a grower of sugarcane or a sugarcane growers co-operative society within fourteen days from the date of delivery of sugarcane, or where there is an agreement in writing between the parties for payment of price within a specified time and any producer or his agent has defaulted in making payment within the agreed time specified therein, the Union Government or an officer authorised by the Union Government in this behalf or the State Government or an officer authorised by the State Government in this behalf may either on the basis of information made available by the producer of sugar or his agent or on the basis of claims, if any, made to it or him regarding non-payment of prices or arrears thereof by the concerned grower of sugarcane or the sugarcane growers co-operative society as the case may be, or on the basis of such enquiry that it or he deems fit, shall forward to the Collector of the district in which the factory is located, a certificate specifying the amount of price of sugarcane and interest due thereon from the producer of sugar or his agent for its recovery as arrears of land revenue'".

go through cyclical uncertainties as to when their final payments will come. Depressed domestic prices, lack of export orders, absence of government support etc., are often advanced as reasons for non-payment. The government has stepped in with cash support to sugar mills on many occasions in the past. Despite these efforts, delays do occur. The government is aware of this situation. But farmers fear that non-payments or delayed payments will force them to sell their lands in times of need.

Apprehensions also arise from the provisions related to the supply of farm services. While farmers understand sale of agricultural produce of a specified quality, they fear that the provisions about supply of services is a backdoor for entry by corporate farming since these services may not be available to individual small farmers. They fear that corporate sponsors may be looking for farm sizes of 1000 hectares or over. While they may enter into individual contracts with a number of farmers, farm services may be the routed through a single entity and corporate and mechanized farming will take over.

## **Is there a price guarantee in the case of contract farming?**

There is no MSP for farmers involved in contract farming. In any case, that is not the intention. The Contract Farming Act (FAFPS Act) provides for various

options in terms of price. Section 5 provides that,

"The price to be paid for the purchase of a farming produce may be determined and mentioned in the farming agreement itself, and in case, such price is subject to variation, then, such agreement shall explicitly provide for—(a) a guaranteed price to be paid for such produce, and; (b) a clear price reference for any additional amount over and above the guaranteed price, including bonus or premium, to ensure best value to the farmer and such price reference may be linked to the prevailing prices in specified APMC yard or electronic trading and transaction platform or any other suitable benchmark prices; provided that the method of determining such price or guaranteed price or additional amount shall be annexed to the farming agreement."

The act also provides that the agreed price is 'locked in', either as a fixed price or as a variable price based on the prevailing price formula. In such a situation, the farmer knows the price in advance and hence can take a decision based on her or his costs and expected profit and not be subjected to a speculative investment. The price enforceable under Article 5(b) appears to be the bone of contention since it opens to dispute what exactly constitute "prevailing prices". These provisions, however, lack clarity from

a farmer perspective – hence the problem.

## Centralization of powers

State governments are seriously concerned that most of the power is now vested in the Union Government. In the FPTC Act, Sections 4(2), a proviso to Section 4, and Sections 5(2), 7, 9, 10, 12, 14, 17 and 18 vest almost all powers in the Union Government or its officers, such as the Agricultural Marketing Advisor or Joint Secretary in the ministry. The provisions of the FPTC Act provides for over-ruling “anything inconsistent with the Act”, even if they were in existence in the State APMC Act and rules earlier. The Union Government is also the arbiter of any difficulty or difference. In addition, the State Government cannot, under the new acts, insist on a registration, an escrow account or verification of a prospective buyer if he has a PAN card. These provisions create a new framework for trade regulation—an odd framework where APMC *mandis* will be regulated by the state government and other areas by the Union Government. The FPTC act also gives sweeping powers, as mentioned above, to the Union Government to regulate trade in the ‘trade areas’, i.e., outside the APMC *mandis*. This will, in our opinion, lead to a counter-productive and complicated ‘dual’ regulation of agricultural markets. In real terms, the trade areas will remain unregulated since the

Union Government will not have any field staff to monitor them. In effect therefore, the law will create a large ‘unregulated’ private market. Farmers are therefore apprehensive for the right reasons.

The Union Government seems to assume that electronic trading platforms, in particular, e-NAM, is the ‘magic solution’ to all problems in agricultural marketing. The core objective seems to be to create a national electronic trade ecosystem under the control of the Union Government. Subsequently, mandatory requirements like Aadhaar, digital payments, data harvesting etc., might come into play. This could further erode the role and functions of the state government. While the intention may have been to create a unified Indian market, the law as it exists may end up creating fragmented unregulated markets.

The FAFPS Act could have been anchored in the Indian Contract Act. The over-riding powers in Sections 16, 22 and 24 of the act, apart from the bar on the jurisdiction of civil courts, need to be done away with.

## Were the consultations on these new Farm Laws adequate?

While the Union Government reiterates that there have been consultations with all concerned over the last

two decades, there seems to be some recognition even within the government those consultations were inadequate and did not cover all stakeholders. While reforms to agricultural marketing have been recommended by many committees, lack of wide-ranging consultation on the various aspects of the law and the process followed in Parliament where a clause-by-clause discussion could have been possible even without reference to a consultative or select committee, seem to lend credence to this perception of inadequate consultation. In any case, most farmers' organisations and some state governments are on record that no effective consultation was done. An extensive consultation with a willingness to make suitable changes (as was being offered by agriculture minister) might have made the transition smoother and the laws more acceptable. It is reported that the following amendments were offered by the government in addition to a written assurance about the continuation of the MSP:<sup>17</sup>

1. State governments will be empowered to register private *mandis*.
2. State governments will have the right to levy a market fee in private *mandis*.

3. Civil courts will be involved in dispute resolution.
4. Alternate arrangements for contract farming will be made, including registration of contracts at the SDM (sub-divisional authority) level.
5. Provisions will be made to ensure that any structure made by the sponsor on farmland will be liable for mortgage/loans.
6. No loan will be given against the farmland to the sponsor—Attachment of farmland is specifically prohibited; these will be strengthened further.
7. An appropriate solution will be found to the Air Quality Management of NCR Ordinance 2020, concerning the provision of a penalty for stubble burning.
8. Free power to agriculture can continue, and a suitable solution will be found for the problem of stubble burning.

These assurances, if implemented, will change major portions of the FPTC Act and the FAFPS Act. Clearly, the Union Government seems to recognise the difficulties in the two laws and is willing to make the necessary

17 <https://www.hindustantimes.com/india-news/govt-send-proposal-to-farmer-unions-list-of-7-amendments-proposed-in-it/>

corrections. Could these changes have been done before introducing the bills in the Parliament and avoided a confrontation with farmers' unions? This question will continue to bother policy makers.

## **What about *Suo-motu* interventions by Union Government officials?**

In addition to overriding powers, the laws also provide for 'suo-motu' interventions by the Union Government. For example, Section 9(1) of the FPTC Act states, "The Union government can on its own motion or on a petition or on a reference from any Government Agency, take cognizance of any breach of procedures, norms, manner of registration, and code of conduct or any breach of the guidelines", suspend the licence or impose a penalty on the electronic platform defined under the FPTC Act. There are other provisions elsewhere allowing the Union Government to intervene at will. These 'intervening at will' provisions are against the principles of good governance and good business practices. To cite one example, no remedy is provided for compensation or protection to farmers in situations where the electronic platform is suspended for the alleged irregularities committed by the management.

## **Is this the end of free power to agriculture?**

The proposed amendments to the Indian Electricity Act (Section 18 of the proposed amendment) provide that "in section 65 of the principal Act, the words 'the amount of subsidy directly to the consumer and the licensee shall charge the consumers as per the tariff determined by the Commission' shall be inserted at the appropriate place". The idea, by itself, is not bad and is in line with the concept of direct benefit transfer: farmers will get cash support in lieu of free electricity. Their worry seems to be 'a possible cap' (given the finances of the state governments) on the amount of support, which could deprive large farmers of *unlimited* free power which they are getting at present. The distribution companies also appear to be comfortable with the status quo for reasons of their own. The concern does not appear therefore to be so much about cost, but about 'other freedoms' inherent in 'free power.'

## **Will minor infringements like crop burning attract severe penalties?**

The Commission for Air Quality Management in National Capital Region and Adjoining Areas Ordinance, 2020 (No.13 of 2020) provided for imprisonment for a period of five years and/or a fine of Rs. 1 crore for violating any provisions of the ordinance and

for disobeying any orders issued by the commission. Stubble burning is listed as one of these issues and the commission's jurisdiction extends to large areas within Punjab, Haryana, Rajasthan and Uttar Pradesh. The new ordinance (13<sup>th</sup> April 2021) has resolved this issue to a large extent by inserting a clause which states, "The Commission may impose and collect Environmental Compensation from farmers causing air pollution by stubble burning, at such rate and in such manner, as may be prescribed". This removes the previous penal provisions.

## Will the new farm laws affect India's fight against hunger and under nutrition?

According to the Global Hunger Index<sup>18</sup> (GHI), India falls into the 'serious'

hunger category (*Table 1*). Select indicators on public health such as malnutrition, stunting, wasting, and underweight categories suggest that between 2005–06 and 2015–16, overall health outcomes have improved in the country (*Figure 1*). However, the real point of concern can be the pace at which the country is moving and whether it can accelerate its efforts.

**Note:** In order of increasing hunger severity, the hierarchy is 'low' to 'moderate' to 'serious' to 'alarming' to 'extremely alarming'. The number in parenthesis is the total number of countries.

To understand the seriousness of the situation, we need to look at these numbers in more detail (*Figure 1*). Much more focused attention is required on children under the age of 5, the future of the nation, while continuing

**Table 1. Hunger levels in India**

Year	Rank	Hunger Category
2007	94 (118)	Alarming
2010	67 (84)	Alarming
2013	63 (78)	Serious
2019	102 (117)	Serious
2020	94 (107)	Serious
2021	101 (116)	Serious

**Source:** Global Hunger Index, Various Issues, <https://www.globalhungerindex.org/download/all.html>

**Note:** In order of increasing hunger severity, the hierarchy is 'low' to 'moderate' to 'serious' to 'alarming' to 'extremely alarming'. The number in parenthesis is the total number of countries.

<sup>18</sup> The Global Hunger Index (GHI) is a tool designed to comprehensively measure and track hunger at global, regional, and national levels (Concern Worldwide and Welthungerhilfe)

efforts to improve body mass index (BMI), particularly for women. Recently, the midday meal scheme has been improved, expanded and re-christened PM Poshan. It must also be placed on record that the Government of India has raised major objections to the methodology adopted in calculating the GHI. (Chandra 2021)

The new farm laws bring with them, for various reasons, some concerns regarding their eventual impact on the health and nutrition status in the country. It is important to note that these laws may not impact any of the hunger and nutrition programmes per se – the Public Distribution System, Mid-day Meals (MDM) or Integrated Child Development Services (ICDS) – as these are funded by respective ministries from the Union budget. For instance, in FY 2020-21 (RE), the amount budgeted for MDM (PM POSHAN) and ICDS was INR 12,900 crores and INR 20,038 crores respectively (Budget at

a Glance). However, if rural distress continues and farm incomes do not rise, a meaningful intervention in eliminating hunger and undernutrition will not be possible. One strong link between these initiatives is the supply of food grains from the Food Corporation of India to these programmes. Since government has made it clear that the MSP and PDS will continue, the question whether the laws will impact these programmes should not arise (see next section). Even if the PDS is scaled down as feared, neither the MDM (PM POSHAN) or ICDS are likely to be affected since these schemes can procure food locally (which might turn out to be a more effective option). Whether the money to sustain the MDM and ICDS programmes comes through a Food Corporation of India (FCI) food subsidy or any other budget provision, is immaterial. Therefore, nutrition and health outcomes should not per se be affected by the implementation of

**Figure 1. Select indicators of health and nutrition in India**



**Source:** NFHS 2005-06 and NFHS 2015-16, <http://rchiips.org/nfhs/>

**Note:** All India numbers for NFHS 2019-20 are unavailable, and are therefore not used in this graphic.

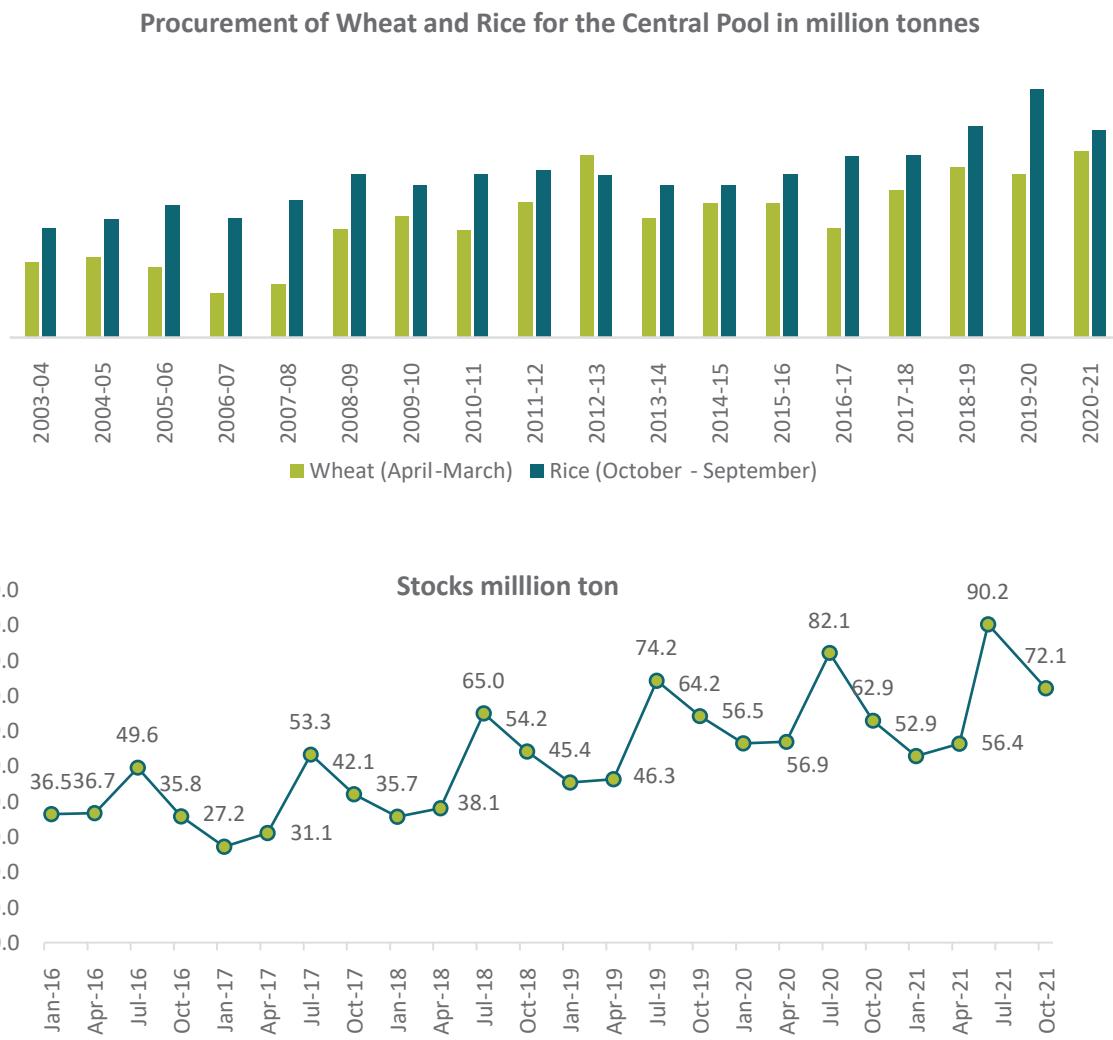
new farm laws in the country, except through its impact on farm incomes.

## Will the new farm laws affect the Public Distribution System (PDS)?

A careful reading of the three laws does not indicate any provision that can affect PDS. Concerns have been raised about the wording of

the second proviso of Section 2 (1A) relating to exemptions under the PDS. In particular, the words "for the time being in force" have been interpreted as an indication of the Government's intention to get out of the PDS. This is probably a misplaced apprehension. Data suggests that the GoI has continues to procure wheat and rice for the central pool (*Figure 2*). In 2019-20, 34.13 million tons of wheat and 52 million tons of rice were procured. In

**Figure 2. Procurement and stock position of wheat and rice for central pool in million ton**



**Source:** Department of Food and Public Distribution, GoI, <https://dfpd.gov.in/writereaddata/Portal/Magazine/procurementfiguresMarch2020.pdf>

**Note:** Data for rice 2020-21 were reported on 27.02.2021 1 MILLION= 10 LAKHS

2020–21, procurement increased to 38.9 million tons of wheat, and as of February 27, 2021, 43.3 million tons of rice were procured, leading to huge surplus stocks.

Therefore, it is safe to say that the laws per se will not impact the PDS. Any impact will come from policies arising out of the Shanta Kumar Committee or from the reported suggestions of NITI Aayog advocating a reduction of coverage of PDS under the National Food Security Act (NFSA) (Scroll 2021). When the government is forced to cut down big ticket subsidies to find additional resources for pressing priorities like public health, they may be compelled to reduce the food subsidy burden by (i) reducing the extent of coverage and/or (ii) increasing issue prices\*. The Shanta Kumar Committee recommends that the GoI review the current coverage of 67 per cent of the population under the NFSA (PDS). It specifically suggests that “that 67 per cent coverage of population is on much higher side and should be brought down to around 40 per cent, which will comfortably cover BPL {below poverty line families} families and some even above that”. The committee argues that if this change is not done, it would put an undue financial burden on the state exchequer.

NITI Aayog is reported to have made similar arguments in a discussion paper that “there should be a reduction in the coverage of

beneficiaries under the National Food Security Act (NFSA) from 75% of the population in rural areas to 60%, and from 50% to 40% in urban areas. The rationale: this will lower India’s food subsidy by ₹47,229 crore” (Scroll 2021), a reduction of about 25%. As the MSP goes up every year, with issue prices remaining the same, food subsidy can only go up.

We feel this is an inopportune time to make changes to the PDS. We recommend that there should not be any reform of the PDS system at least till end of 2022. It is necessary to undertake extensive impact evaluation studies before modifying the PDS. We agree, however, that changes are required in the coverage, entitlements, pricing and implementation under the NFSA. We are of the view that these changes should keep nutritional outcomes as the priority, rather than reducing the food subsidy bill. A nuanced and scientific approach is required for effective coverage under the NFSA and to not only provide the entitled population with rice and wheat, but also with more nutritious food like millets. The selection of these commodities can be based on the local conditions and food preferences.

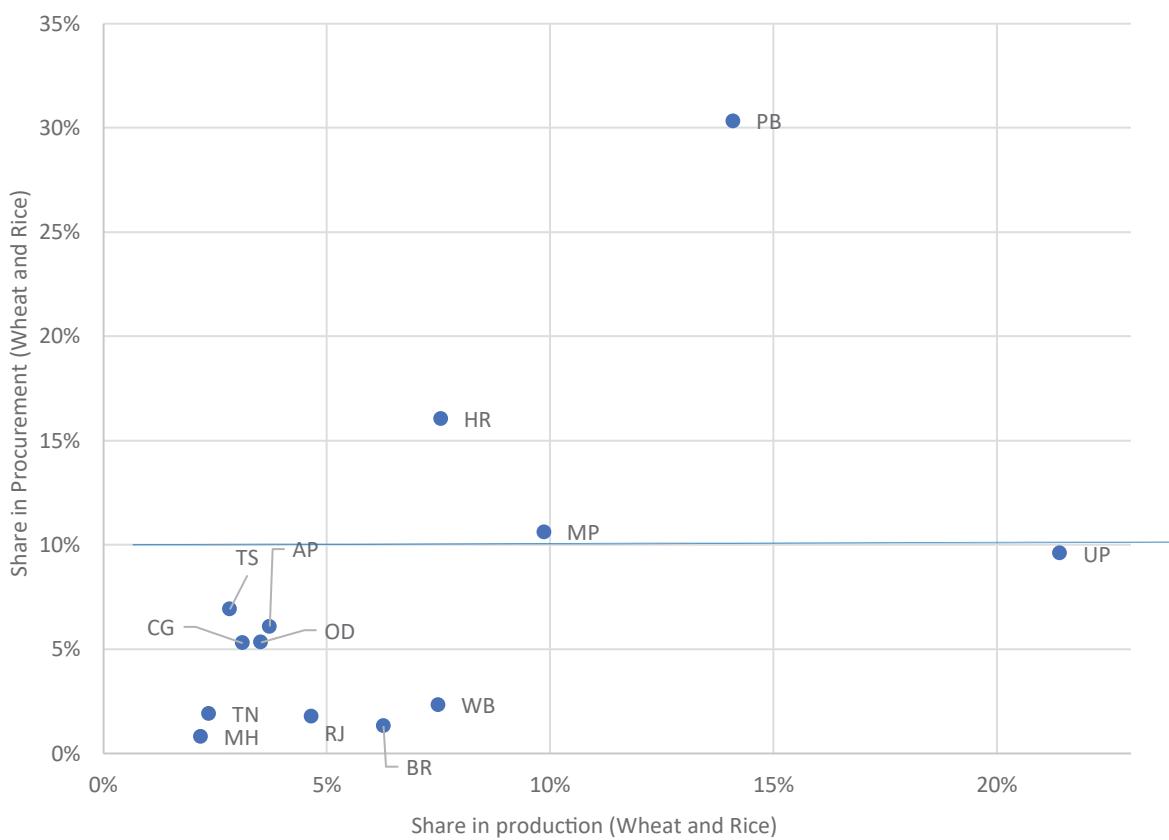
## **Will the new farm laws affect particular sets of farmers and particular regions?**

The farmers who are most concerned about these laws are those who grow

the 23 MSP crops (listed in Annexure E), especially wheat and paddy, and where procurement by state agencies is high (Figure 3). Table 2 gives us an idea of the share of MSP crops in total value of output from agriculture and allied (A&A) sectors. For rice, almost 70 per cent of procurement comes from the states of Punjab (30%), A.P (6%), Telangana (7%), Uttar Pradesh (9%), Chhattisgarh (9%), Odisha (9%) and Haryana (8 %). For wheat, 100 per cent of procurement is from the states of Madhya Pradesh (33%), Punjab (33%), Haryana (19%), Uttar Pradesh (9%)

and Rajasthan (6%). Apparently, these states have much to lose from the new farm laws, as is evident from the mobilization of hundreds of thousands of farmers from these states, specially from Punjab and Haryana. The link between procurement and the MSP is strong in Punjab and Haryana. Farmers who produce fruit and vegetables, dairy and poultry may either be neutral or even supportive of these laws in principle, provided some more assurances regarding easy transactions are provided as part of these acts/rules.<sup>19</sup>

**Figure 3. Production and procurement of wheat and rice, selected states**



**Source:** Department of Food and Public Distribution, GoI and RBI

**Note:** PB is Punjab, UP is Uttar Pradesh, MP is Madhya Pradesh, HR is Haryana, WB is West Bengal, BR is Bihar, OD is Odisha, RJ is Rajasthan, MH is Maharashtra, TN is Tamil Nadu, CG is Chhattisgarh, AP is Andhra Pradesh, TS is Telangana.

19 This observation is based on anecdotal evidence, conversations etc. from a few states. Some of the FPOs in Madhya Pradesh are supportive, for example.

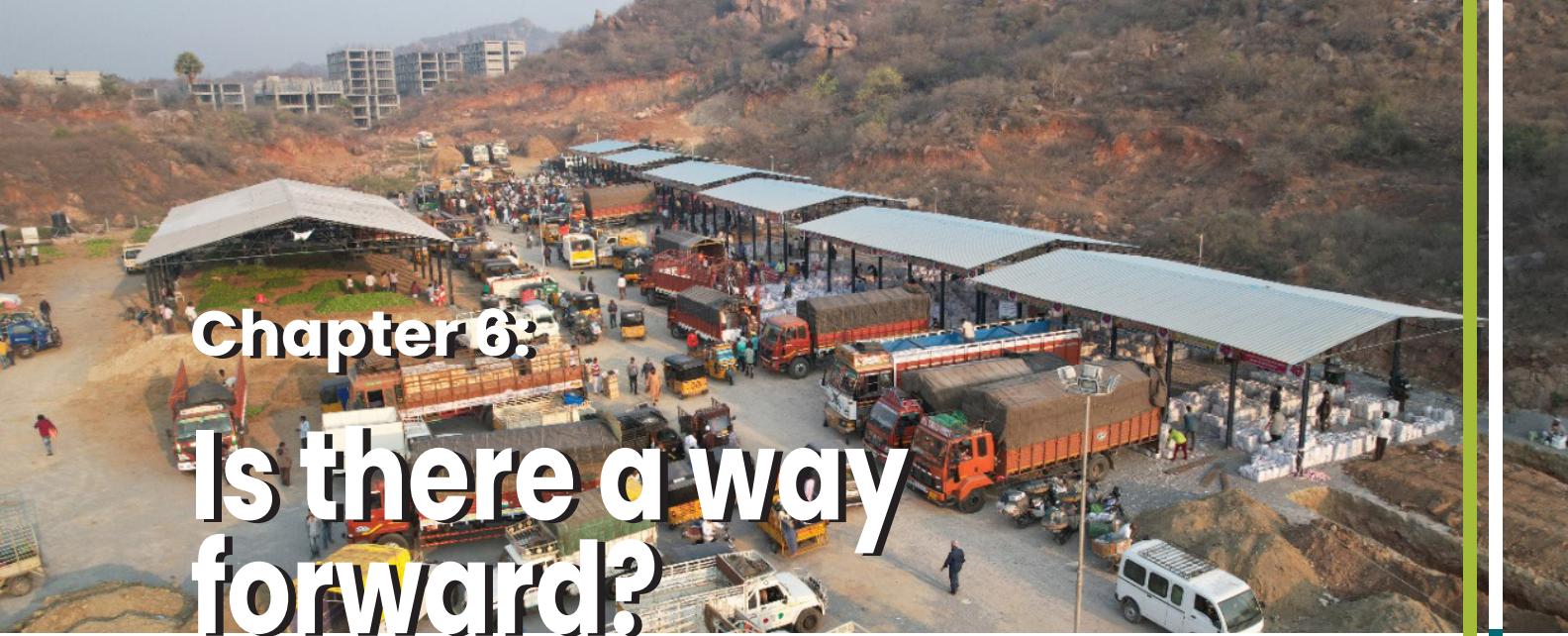
**Table 2. Share of A&A in Gross State Domestic product (GSDP) and procurement statistics for selected states**

State	Share of A&A in total GSDP	Share of rice and wheat in A&A Value of Output	Percentage of production procured by GoI (Wheat)	Percentage of production procured by GoI (Rice)
Punjab	25%	45%	71%	90%
Haryana	16%	36%	73%	91%
Madhya Pradesh	37%	44%	41%	.
Uttar Pradesh	22%	34%	13%	.
Rajasthan	25%	25%	15%	.
Telangana	14%	28%	.	90%
Andhra Pradesh	25%	16%	.	60%
Odisha	16%	23%	.	55%
<b>Source:</b>	MoSPI	MoSPI	RBI and FCI	
<b>Note:</b>	TE 2019-20	TE 2017-18	TE 2019-20	

**Note:** A&A: agriculture and allied sectors. "TE" stands for triennium ending

States which are heavily dependent on MSP crops in their value of agriculture and have a high procurement ratio are likely to be affected the most if physical purchases under MSP go down. It must be noted that high procurement through APMC markets is a Punjab, Haryana and Western Uttar Pradesh phenomenon. States like

Odisha procure paddy through primary agricultural co-operatives (PACs) using APMC infrastructure wherever available. Using PACs has distinct advantages in making payments directly to farmers, understanding the cropping and yield patterns and eliminating to a large extent the role of middlemen.



## Chapter 6: Is there a way forward?

The authors are conscious of the fact that the adverse impact of COVID-19 on the rural economy is far from over. The second wave seems to have made it worse. Available indicators suggest a serious shrinking of the rural economy during the last two years, leading to loss of employment and reduction in wages, in turn, resulting in a fall in incomes and demand. In view of the current situation in rural (and parts of urban) India, any downward revision in the level of government support is likely to exacerbate distress. In reality, the surplus stocks in FCI, an object of long-standing criticism by experts, have helped the poor get access to food in severe lockdown conditions. The current state of the economy, especially in the second wave and post-COVID phase, remains a worry.

At this time, the current (October 2021) stalemate over these laws is not good for the country, either for farmers or for consumers. While the government

and farmers' unions have their own reasons for sticking to their respective positions, the country is looking forward to a resolution of the issue as quickly as possible. The Supreme Court judgement on the issue, whenever it happens, is likely to provide clarity and a way forward in the matter. (the laws have since been repealed)

We too suggest a way forward, keeping in view the above considerations and the need for a long-term change to the present system. We are conscious of the fact that the timing of implementation is critical. The situation in June 2021 is vastly different from June 2020 when the three ordinances were issued. By the time this paper is published, the situation would have changed again, hopefully for the better. Given this dynamic setting, it is difficult to suggest 'time appropriate' measures. The way forward must be based on a coherent vision and blueprint, but without ignoring short-term considerations. We do not suggest that all changes can be done in one go – the timing of

each intervention and the sequencing of interventions need to take field conditions into account. The current period of impasse can be used to rethink a strategy for food, nutrition and agriculture.

Our recommendations are in three broad areas: legal, policy and institutional.

## Legal

### What happens to the new Farm Laws? To repeal or not to repeal?

The current legal status is that the farm laws stand suspended under the orders of the Supreme Court<sup>20</sup> while it considers the expert committee's report. When an order is passed by the Supreme Court, clarity will emerge on the legal contours of the issue. In the meantime, the Union Government had offered to suspend the three farm laws for eighteen months and continue consultations with farmers' groups. Farmers groups, however, are demanding full repeal. Currently, there is a stalemate, with government not inviting the farmers' unions for consultations and the farmers continuing with their protest.

The agreed position among many, including in the government, appears

to be that the laws need significant amendment. We believe that, of the three laws, ECA may not need change, since it is largely about government control on trade and not on farmers. FAFPS Act needs changes particularly with regard to farmer's rights. FPTC Act is the real contentious one needing a number of amendments. A lot will depend on how issues around FPTC and FAFPS are addressed.

There are, as expected, differing views on the issue of *repeal*. Some believe that government can be a gainer if they step back and repeal all the laws (or at least FPTC Act) and get into a wider consultation mode. There are others who believe that such a step will be a loss of moral authority for the Government and could create an unhealthy precedent for the future. The resolution to this impasse is a political call which the government of the day has to take. If the Supreme Court decides on legal questions and the report in the meantime, a solution might emerge. The question has become one of who blinks first. If viewed in that perspective, it will be a long haul before any solution emerges. May be the Supreme Court judgement will be the game changer.

Apart from the optics and political considerations, the consensus appears to be that the two of the

20 The Supreme Court of India stayed the three farm bills on 12<sup>th</sup> January 2021. (<https://www.thehindu.com/news/national/sc-suspends-implementation-of-three-farm-laws/article33557081.ece>)

three new farm laws need major amendments. It is possible for the Government to unilaterally declare suspension of the laws for the next 18 / 24 months and embark on a wider consultation process with an assurance that the option of repeal is open. Since the Government seems to have offered at least seven changes (this could result in more than seven clauses being amended, referred to earlier) in addition to other considerations, it does make sense for the Government to take the initiative for wider consultations with a variety of stakeholders, not only with the agitating unions.

To repeal or not to repeal is a politically sensitive question but can also be viewed as a larger issue of responsive governance. These laws were introduced as farmer friendly legislation. However, several experts and farm organisations feel that these are against farmers' interests. They seem to believe that these laws may do more harm than good to farmers. Given this strong perception, Government, on its own, had asked for consultations with farmers' unions. Any well-intentioned suggestion on a practical way forward runs the risk of being criticized by one set of people or both; but no suggestion is no solution. So, even at the risk of inviting criticism, we are proposing a way forward (as mentioned below).

The options, therefore, are:

- Repeal the two new laws (FAFPS and FPTC Acts) or only FPTC Act and reintroduce a new set of laws in Parliament after due consultation and using Article 252. A more complicated option is to use Art 368(2) to get out of the problem of the entries in Schedule VII. But this will involve a constitutional amendment to clarify the issue of division of powers and responsibilities as envisaged in schedule VII.
- Repeal the two new laws, legislate in Parliament only with reference to interstate trade ensuring freedom to farmers (which, clearly, is in the domain of the Union Government) and leave the rest to State Governments
- Amend the FAFPS Act and FPTC Act, to provide for legal space to state governments to modify the operational provisions which should include the seven assurances referred to earlier. Alternately, allow the state governments to notify these acts (with or without amendments) in their respective states on dates chosen by them within the next two years.
- Bring amendments to the existing laws in parliament after wider consultations, keeping the broad objectives behind these Acts intact.

We believe that democratically elected governments do respond positively to emerging challenges in the field. The recent change in the vaccination policy is an example. COVID-19 has brought unprecedented challenges to governance and placed severe stress on the economy. The entire might of government (both Union and States) and a large portion of their resources had to be committed to COVID response and will continue to be committed to post COVID revival at least for the next two or three years. Agriculture has performed in difficult COVID circumstances and there has been, fortunately, no real food crisis. However, farmers have suffered, especially those who could not access markets due to logistical constraints. Disturbing this delicate situation at this stage cannot be, and is not, the priority for the government. The effort should be to help farmers and farm workers get through this crisis.

The farm laws are being seen by farmers as the government's attempt to *exit large spaces, particularly regulatory, in agriculture, even to the extent of over-riding state legislations*. This perception, however skewed it may be, is a serious problem. Added to the current deficiencies associated with public health institutions, this intervention is sending the wrong signals to rural India. A rigid stance of 'no repeal, only amendments' may not help change this perception. It will not help the cause of agricultural

reforms either. How to win over the confidence of the farmers across the country remains a challenge. Should all three laws be repealed, and status quo ante restored? This is not a good option either, though not ruled out in a dynamic political situation. This might bring a temporary respite and buy time for further consultations and rethinking. Amending the laws after wide consultations seems to be the preferred option of the Union Government. This option is clearly possible for ECA though there is no need for any change.

The FAFPS Act can be amended (after consultations) and anchored in the Indian Contract Act, a central legislation. It is worth examining whether a contract farming provision can be introduced under the larger umbrella of the Indian Contract Act, giving a greater degree of protection to farmers. An example of such an intervention is the provision for Farmer Producer Companies in the Companies Act. If this is legally possible, an expert committee could draft such a legislation. This is a possible option which keeps the law in the domain of the Union Government. Another option is to resort to Article 252 of the Constitution if two or more state assemblies pass resolutions for such a central law. If the law turns out to be beneficial, other states will be keen to adopt the same. The option to leave it to state governments to pass their own contract farming laws remains open.

The real controversial piece of legislation is the FPTC Act, as the bulk of the opposition to the farm laws relate to this law. Amendments can be quite complex since many state level variations are to be accommodated. Also, many states have already incorporated the amendments suggested under the model laws, though not to the full extent<sup>21</sup> (Annexure F). The concept of a ‘trade area’ regulated by the Union Government is an impractical idea, and tantamount to creating *unregulated areas*. The policy makers seem to have ignored the complex structure of India’s agricultural markets. A tribal market in Jharkhand or Odisha is not the same as Khanna mandi in Punjab, nor is the ‘uzhavar santhai’ in Salem the same as Amreli mandi in Gujarat. The Dalwai committee and the Standing committee of parliament on rural markets have dealt with the issue of primary rural markets in detail. Both have argued for additional investments in the infrastructure of rural markets and have also suggested keeping them out of the ambit of APMCs. The new ‘trade areas’ is neither an acceptable nor a workable response to this recommendation. The FPTC Act, despite its declared objective of a national market, will not be able to enable the creation of a unified national market and the market will

remain fragmented. The amendments offered by the Union Government are so many in number that it may effectively lead to rewriting the law.

This is not to say that the inter-state trade and a unified national market should be left to the states.

- The Union Government should enact a law for regulating inter-state trade, *inter alia*, encouraging electronic trading (including e-Nam), prohibiting multiple taxation, providing for unrestrained freedom for farmers to sell anywhere in India and not be liable for taxation in any place other than where the transaction takes place.
- The union government can insist on or / and incentivise the following in the state APMC laws:
  - *Farmers should be free to sell their produce anywhere in the country. The state laws should not contain any provision which inhibits such freedom. Payment to farmers must be ensured and defaults dealt with effectively. Any tax or fee levied as part of any law should be payable only once.*
  - *No state government should have any power to ban any farm*

21 As per Lok Sabha unstarred question 291, “While Arunachal Pradesh has adopted the Model APLM Act, 2017 fully, States of Uttar Pradesh, Chhattisgarh and Punjab have adopted major provisions of Model APLM Act”. Link: <http://164.100.24.220/loksabhaquestions/annex/172/AU291.pdf>

*produce from being sent out of the state except on food safety, quarantine or disease-control grounds.*

- *States should put in place regulations for automatic registration of buyers (who fulfil pre-set conditions). Registration in a central registry may also be permitted for interstate or intra-state buying. No APMC should be permitted to practice discretionary licensing or allow formation of cartels.*
- *The laws should provide for daily reporting of all transactions in all (APMC and private) markets (other than small rural markets) through a dedicated portal. The price information should be mandatorily shared with state agencies, farmers and other stakeholders and kept in the public domain.*
- *Alternatives should be provided to farmers in rural markets to get better prices without mandating electronic trading.*
- *Simple, operable standards and specifications for easy electronic trade should be prescribed and certification agencies set up.*
- *Farmer Producer Organisations (FPOs) should be permitted to operate as producers and aggregators, exempting them from mandi taxes.*

In our view, repealing this law (FPTC Act) or passing an amended law on the above lines will be a pragmatic

course of action for the Union Government to follow. States can be allowed to align their APMC laws in line with the basic principles above. Alternately, the Government of India could resort to passing a new law using Art 252 if two or more states agree.

The real challenge is in ensuring that farmers get multiple selling options. This calls for a much larger involvement of the government in creating appropriate institutions, making rural markets function more effectively and investing in adequate infrastructure for storage and transportation. The Agricultural Infrastructure Fund of Rs. One lakh crore (appr. USD 13 billion) is an important element in this architecture. The challenge will be to implement it within the timeframe for farmers' benefit in areas where they are losing out for lack of facilities.

### **Amend the State APMC acts to make them farmers' organisations**

Most APMC acts provide for representation of farmers on the Board of Management, though restricted to about one third of the total members. At the local APMC level, however, farmers seem to get a marginally larger share. In a few cases, however, even the vice-chairman is nominated by the Government, indicating clear political patronage. In most APMCs, farmers are in a minority and do not

have a decisive voice in management. If APMCs and the Mandi Boards want to make a legitimate claim to represent farmers' interests, they need to be governed by farmers who are elected to these boards like any well governed bodies, corporate or otherwise.

- It is essential, therefore, to ensure that the governing bodies of mandi boards and local market committees have at least two-third elected representatives of farmers (such representatives should be farmers themselves who bring a minimum quantity/value of produce to a market yard under its jurisdiction). This could include representatives of co-operatives and Farmer Producer companies as well. Without this structural change, APMCs and Mandi Boards cannot claim to be farmers' organisations.

- All concessions, assistance or interventions from the Union Government should be subject to the democratic and farmer-owned governance structure of the APMCs. This would include procurement by FCI, concessional access to investment funds, grants for various developmental purposes etc.
- Also, commissions to middlemen & commission agents must be on contractual terms between farmers and the agents and not mandated or provided for by the APMC or Government.

Most of the APMCs are keen to maximise their revenue by adding commodities that qualify as agricultural produce to their schedule. The fact that most APMCs have lists of 100 plus items indicate this obsession with revenue. This makes them lose sight of the objective of taking care of farmers' interests. It needs to be ensured that these lists are pruned to include only the primary produce of that area and exclude all goods for which a market fee has been paid anywhere in the country. If data on the performance of APMCs in each state, particularly on the revenue earned commodity wise (MSP crops, fruits & vegetables, livestock etc.,) and source wise (government, private) is analysed, the real story will come out.

## POLICY

### Develop a vision and blueprint for food, nutrition and agriculture

It is time to shift to a food systems approach. Food systems (FS) encompass the entire range of actors and their interlinked value-adding activities involved in the production, aggregation, processing, distribution, consumption, and disposal of food products that originate from agriculture, forestry or fisheries, and parts of the broader economic, societal, and natural environments in which they are embedded. In the

Indian context, however, a sustainable food system (SFS) is needed that delivers food security and nutrition for all without compromising the economic, social and environmental bases to generate food security and nutrition for future generations. This means that: (1) it is profitable for the farmer (economic sustainability); (2) it has broad-based benefits for society (social sustainability); and (3) it has a positive or neutral impact on the natural environment (environmental sustainability). While it may be difficult to encompass a sustainable food system approach in one go, it is possible to look at the contours of such an approach from an economic, ecological and nutrition point of view as a starting point. This might be the appropriate time to go back to the drawing board with a 'post-Green Revolution' mindset.

Policy must change to a 'farmer first' mode and the focus has to shift to farmers' incomes and their prosperity, in line with the declared objective of the government of doubling farmers' income. Given that almost half of the population is still employed in agriculture and allied activities, while the sector only contributes about 16% of GDP,<sup>22</sup> policy must become more people centric rather than agriculture GDP centric.

India's levels of hunger and under-nutrition are unacceptable and continue to remain 'severe'. There is a close link between agriculture, farm incomes, hunger and undernutrition. This compact needs to be centre-piece of planning for agriculture. Targeted programmes apart, nutrition is also impacted by health, water supply, sanitation and education. Linkages with these must be strengthened. There must be a clearly articulated vision and strategy that involves all pieces of the puzzle. The sequence of implementation must be carefully drawn up to reduce any distress and to induce progress at the farm level. Laws must be seen as one of the enablers of this objective.

Environmental sustainability is likely to be the key in the not-too-distant future (one could argue that it is already overdue in India). There is sufficient data to indicate changing rainfall patterns and rising temperatures, resulting in water and moisture stress. The recent data put out by the Ministry of Earth Sciences (Assessment of Climate Change over the Indian Region 2020) underlines this. Policies that promote sustainability while increasing farmers' incomes must be the key priority.

We perceive the gradual evolution of a new architecture for agriculture emerging in the national policy

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22 Data from MoSPI averaged for 2017-18, 2018-19 and 2019-20.

framework, partly necessitated by considerations of market and climate. We note the following recent initiatives of the Union Government, which indicate a shift in policies related to agriculture: a pronounced shift to direct benefit transfer/income support; creating more space for private investment (particularly in infrastructure); giving freedom of choice to farmers; allowing technology to come through private enterprise; encouraging start-ups; reducing the footprint of government intervention, leaving more space for private entrepreneurship; and promoting use of data, the Internet of Things and artificial intelligence in agriculture. These changes bring new opportunities to farmers, but will also pose new challenges – particularly for those who are digitally challenged and technology averse. How the government reaches out and convinces the poor and marginalised farmers will be the litmus test!

### **Consider redesigning MSP as a Price Support Mechanism**

Government has categorically assured the continuance of the MSP. However, farm unions are adamant on a statutory backing to MSP. Government has maintained that it has been buying all produce offered to it at MSP so far and there is no reason to mistrust the government on this count and it is impractical to provide a 'legal guarantee' for MSP.

The issue is complex since MSP is currently delivered through physical procurement.

The current food subsidy is over Rs. 200,000 crores and is likely to go up year after year. The subsidy depends on the MSP, issue prices to the consumer, the carrying cost of surplus stocks, cost incurred by FCI in procurement (including APMC cess and commissions) and distribution costs. It is difficult to estimate the respective percentages of subsidy on account of consumers and on account of farmers. It is widely understood that the consumer subsidy is the substantial component and farmers receive only a very small portion of this subsidy. (Exact calculations are not readily available). This complexity raises serious questions about the MSP-PDS linkage.

It is well known that a major share of the benefits of MSP goes to those farmers and regions with large surpluses, who, with or without government support, maximise use of water, power and chemical fertilisers. This raises another serious question: does the current MSP regime disincentivize sustainable agriculture? Isn't it time for a correction in favour of sustainability?

We have no doubt that all small and marginal farmers need financial support, not just paddy and wheat farmers. If the commitment to double

farmers' income must be fulfilled, farmers need to get a fair return for their investment and effort. This effort has to be equitable across all geographies and farming activities.

Guarantee for an MSP or a mandated MSP under current operating conditions is not a solution. It has the potential to make things worse! Mandated MSP covering the private sector could give rise to a multitude of problems including the re-introduction of a pernicious 'inspector raj'. A legally enforceable guarantee that the 'State' will buy all MSP commodities is most likely to create huge administrative and legal problems unless a cash compensatory support is built in. The existing arrangement envisages that the State will do open ended procurement as long as farmers offer commodities at MSP. Failures are reported from those states (incidentally poorer states) where infrastructure is deficient and institutions weak. The above two options of a mandated MSP and/or a legal guarantee are not likely to find favour with the Government.

This takes us to a third option, of a price risk mitigation mechanism as cash compensation if market prices fall below a set minimum price. The Price Deficiency Payment Scheme (PDPS) was more or less the answer to this question. However, it had problems

of design and implementation. Many experts have studied the Madhya Pradesh experiment and written extensively about the lacunae in the system. But the idea of PDPS itself merits a fair try. A re-designed, simplified, easy to administer Price Deficiency Payment Scheme (PDPS) based on 'broader market indices' could be still a viable alternative. Such a scheme will be easy to implement and is likely to be more efficient. PDPS, as an option, deserves consideration.

Even a well-designed and efficiently implemented PDPS will leave out those farmers who do conservation agriculture in rainfed conditions, particularly in drought prone conditions. Ideally, the entire support system should shift to a Direct Income Support format. It may not be practical to make the transformation in one go, but can make a beginning by shifting about half or one third of all agricultural subsidies to a Direct Income Support Scheme (power subsidy included) and move towards an equitable and sustainable system in the next 5-10 years. While a drastic reduction in existing support systems may be difficult socially and politically, giving a higher quantum of support to those farmers who protect and regenerate natural resources should be the priority. Part of this support can also go to communities and regions who protect and regenerate natural resources.

## **Consider delinking procurement from MSP**

When the price support mechanism shifts to a cash compensation mode, what happens to procurement and therefore PDS? Procurement is possible (independent of MSP) for the needs of the PDS. In any case, if market prices are lower than MSP, price support mechanism kicks in. The presence of the largest buyer (viz, State) in different local markets should shore up the market prices and enable better price discovery. The state agencies can get into the market at critical times as open market buyers of large quantities of agricultural commodities needed for physical distribution. Ideally, they should enter during the peak harvest season, but not restrict themselves to any pre-determined time table. Most of these purchases can be done through Farmers' Cooperatives, Producer Companies etc. Trading platforms like spot markets, e-Nam etc., can be usefully deployed to procure food grains required for distribution. This would obviate the need to carry the burden of huge stocks. A large part of the procurement should be decentralised for higher efficiencies bringing in better value to local farmers. Deficit states can seek assistance in procurement from FCI or other state agencies. The Union Government can restrict itself to keeping buffer stocks and strategic

reserves and supplies (armed forces, remote locations etc.,) and take care of emergencies. A shift of this nature will save the government huge extra costs incurred in the handling, storage, transport and other charges incurred on these stocks without reducing the price to the farmer and without burdening the consumer. Whether such a format will get political acceptance is doubtful, but a well calibrated shift to decentralised model will be good for the farmers and the consumers. To illustrate, the economic cost of rice for FCI (20-21) is Rs.3607 per quintal against MSP of Rs. 2710 for rice (converted from Paddy MSP of Rs.1815) and that for wheat is Rs. 2739 against an MSP of Rs.1925 per quintal. The FCI incurs a food subsidy of Rs.80,799 crores for wheat (35 million tons) and Rs. 1,41,500 crores for rice (39 mil. tons) while the cost of food grains (almost equal to price paid) is Rs.66,000 crores and Rs1,05,795 crores respectively. (In addition, there is a payment of Rs 35-38000 crores to states for decentralized procurement of wheat and rice.) The equation for one kg emerges like this: out of cost of Rs.36 per kg of rice, the consumer pays Rs.3, the farmer gets Rs.27 and the rest (Rs 6) are costs. In the case of wheat, the numbers are 2, 19 and 6 rupees. If procurement is de-linked, there could be more preference and a better price for locally grown food and less transportation and storage costs.

## **Attempt a modification of the PDS: Local for Local!**

Shanta Kumar committee recommended a reduction in entitlement under NFSA. Their recommendation is that the number of beneficiaries be reduced from the current 67% of the overall population to 40% with a higher allocation of 7 kg per person for the entitled population per month instead of 5 kg at present. A reported NITI Aayog discussion paper suggests a reduction of the coverage from 75% to 60% in rural areas and from 50% to 40% in urban areas. This is expected to save a sum of INR 47,229 crores (more in later years). The recent economic survey suggests raising the issue prices of rice wheat and coarse grains from the current Rs. 3, 2 and 1 respectively to higher levels to reduce the food subsidy burden. These suggestions have been criticised on two counts: one, the exercise is primarily to reduce the financial burden of the Government and two, this is the wrong time to do it. In our opinion, this is an inopportune time to do any reduction in the scope and coverage of PDS. It is also not a good idea, at any point in time, to reform PDS on the basis of a target reduction in food subsidy. The focus should not shift from the national objective of reducing hunger and undernutrition. True, the system has a number of ills which need to be addressed at the earliest. For instance,

- Government could use this time to commission a comprehensive evaluation of the NFSA and its impact on hunger and undernutrition and draw a road map for reform with the clear objective of reducing hunger and undernutrition among the vulnerable sections of society while bringing in efficiencies. By the time such an evaluation and a reform plan are ready, some of the ill effects of the COVID impact would have been taken care of (hopefully). In such an exercise, the following should be considered:
  - Reducing substantially the leakages in the system.
  - Introducing pulses and edible oils as part of PDS for the "under-nutrition" groups
  - Eliminating (or substantially reducing) all inclusion and exclusion errors
  - Enhancing the share of local food in PDS (e.g., millets)
  - Shifting to 'local for local'; decentralised local procurement and distribution to give better support to local farmers and local produce.
  - Eliminating bogus cards and reducing 'round-tripping' by suitable reporting and social audits.

Government could, at some stage, consider abolishing central issue prices to give the states flexibility to decide on the issue prices and enhance the

basket of commodities. It is necessary to measure the impact of the PDS on hunger and under-nutrition every five years to enable the Government to make suitable changes in the programme to achieve the desired objectives.

There exists a strong justification to transfer a large part of the MSP/PDS programme to a decentralized state level intervention. The Union government could work on a model by transferring the consumer subsidy first and move on to a different form of support to farmers. Further funding can be linked to performance of the states in reducing hunger and undernutrition. These ideas need careful design and innovation to be acceptable and to succeed.

### **Compensate farmers for income loss due to policy interventions**

Most 'price control' measures are consumer centric. The word 'price control' has come to be associated with lowering of prices. Whenever prices rise, the government steps in with a liberal import regime (sometimes at a loss to the exchequer in terms of writing off of losses apart from revenue foregone) and a ban on exports (the 'humble' onion is the best example). The Foreign Trade (Development and Regulation) Act, 1992 has not been amended to prescribe any condition for export bans as has been done in

the case of the EC Act, leaving scope for ad hoc bans on exports. A recent ban on onion exports happened on 17 September 2020 almost immediately after the EC Act was amended in 'farmers' interest'. Farmers who were able to hold on to meagre stocks in the expectation of a better price became the unfortunate victims of such a decision. Unfortunately, there is not even an acknowledgement of farmers' losses due to such policy decisions, not to speak of any compensation.

Ideally, any ban on exports or restricting them through Minimum Export Prices should be done away with. If the idea is to make farmers 'trade ready', then allow them to ride the high price waves without any restrictions. If they are 'trade ready' and allowed free market access (including export markets), then they will learn how to handle low prices as well. Without this freedom, farmers' prosperity will be a distant dream. If in rare circumstances, exports have to be restricted, put in place a framework in the Foreign Trade (Development and Regulation) Act to provide for an unambiguous data-based decision (similar to the one in ECA) on export restrictions with a *mandatory provision to compensate farmers who stand to lose on account of such decisions*.

### **Enhance the use of negotiable warehouse receipts (NWR)**

The Warehousing Development & Regulation Act was enacted in 2007

to make provisions for negotiability of warehouse receipts. This includes registration of warehouses, promotion of scientific warehousing, improving fiduciary trust of depositors and banks, enhancing liquidity in rural areas and promoting efficient supply chains. However, after over a decade of its existence, the total loans against negotiable warehouse receipts (NWRs) touched a measly Rs. 440 crores against 1,40,000 NWRs (2019-20). While the Warehousing Regulatory Development Authority (WDRA) seems to have pushed for registration of warehouses, the main purpose of providing a fungible warehouse receipt mechanism – to help farmers get through distress periods during the harvest season – seems to have been lost sight of. This legislation should have ushered in disruptive changes and helped millions of farmers. It is crucial that the government revisit WDRA's functioning and make changes to ensure that the maximum number of farmers are able to use NWRs and ensure that warehouses above a certain threshold of surface area (excepting small rural ones) are required to be registered under WDRA and authorised to issue NWRs. A few critical elements like linkage/accreditation with banks, linkage to forward/futures markets etc., are missing in the chain. This needs to be fixed as a priority to help farmers take at least a modest share of trading margins. This needs further analysis and elaboration which is beyond the scope of this paper.

## Facilitate value addition in food supply chains

India's food processing industry reportedly grew at an average annual growth rate (AAGR) of around 8.4 per cent between FY14 and FY18 (more recent figures are in the same range, but not readily available). It contributes as much as 8.83 per cent and 10.66 per cent of gross value added (GVA) in the manufacturing and agriculture sectors respectively. Even so, only around 2% of fruit and vegetables, 6% of poultry, 21% of other meat, 23% of marine produce and 35% of milk (marketable surplus) gets processed. The transition to high-value processing depends on demand in the consumer market. Recent events suggest that the processed food industry is poised to grow at a higher rate due to changes in consumer preferences, as well as increased urbanisation, ease of cooking and health and nutrition concerns. Transformational change can occur if regulations and enforcement of rules push strongly in favour of 'safe food' and value addition at farm and household levels. This is not to imply that the strong traditional fresh food market is to be disturbed: fresh and frozen food will continue to rule Indian kitchens for years to come.

Processors need reliable access to quality primary produce. Pre-harvest quality considerations (like pesticide residues, and antibiotics in poultry) and post-harvest handling are critical

## **Box 2: Success stories from food processing.**

The following lessons have emerged from successful examples of processing industries working with farmers: (i) industry has provided the right quality seeds (genetic material) and done useful extension work on farms; (ii) they have also ensured availability of good quality fertiliser (or feed) and pest and disease control support, thereby reducing the loss to the farmer; (iii) they ensure that net farm returns are higher than for previous crops and practices; (iv) they agree on prices well in advance with built-in incentives; (v) harvesting schedules are decided in advance for ease of processing.

Studies by Ashok K Mishra (Arizona State University) in India and Nepal show that compared to independent baby corn farmers, contract baby corn growers got higher yields, spent less on fertilizer and irrigation and used fewer chemical fertilizers such as urea and DAP. Another study found and that ginger growers increased yields by 16%, 19%, and 15% respectively by participating in contract farming with input conditions (IC), with output conditions (OC), and with input and output conditions (BC). Ginger growers also increased profits by participating in contract farming.

**Source:** (*Khanal, Aditya R; Mishra, Ashok K*).

for processing. Choosing the right seed (genetic material) and following the correct agronomy practices are major steps in a processing value chain. A mutually beneficial form of contract farming is a must if the processing industry is to thrive (see Box 2). But the industry should not expect farmers to sell below market prices.

The contract farming law (FAFPS) was an effort in this direction of increasing the income of farmers and the share of processed food in the agricultural value chain. Issues concerning the current law have been discussed earlier. Contract farming needs to be encouraged for better value addition.

The following issues are not directly addressed in the laws, but we take a look at these in a larger view of agriculture and farmers' well-being.

## **Shift policies in favour of farmers who nurture the farming ecosystem**

Government's policies in food and agriculture have been centred around food security from the green revolution days. For a nation which endured a 'ship to mouth' existence not too far back in history, being food secure was not only an assertion of its independence but also a strong commitment to keep its people free from hunger. The resolve that India will feed its people and not depend on imports was re-asserted in 2008 (a global food crisis year) when public investment in agriculture was stepped up and a National Food Security Mission launched. This effort paid dividends and food production turned once again to a story of surpluses. The shortage of wheat in the country in 2005-06 was triggered by weather

events and this realisation made the government reinforce its focus on climate change and sustainability.

Sustainability of agriculture has to be seen from an economic (farmers should make profits), social (broad-based gains for society), and ecological (protection of natural resources) point of view. This is particularly important in view of the fact that about 55% (Census 2011) of India's population still depend on agriculture for their livelihood.

Sustainability of agriculture from an ecological perspective has become critical for India's farmers. Greenhouse gas emissions from Indian agriculture, including bovines, have the potential to become a contentious issue in global greenhouse gas reduction commitments. A strategy encompassing policy, technology and management of ecosystems will need to be put in place to address this.

More than global commitments, the impact of climate variability on India's rural economy has to be understood. For the farmer, the climate variability in her village makes more sense than a discussion on climate change in Rio or Kyoto. If government can focus discussions at the micro level, there might be better mitigation and adaptation efforts. The strategy of high input, high productivity agriculture has been showing adverse impacts on soil and water in many parts of the country. The GRACE satellite map and subsequent data on falling ground

water levels in northwest India illustrate this (Chen et.al 2014). The variability in rainfall patterns and in temperatures across India is another pointer to the future stress on plants and animals. More than 50% of our agriculture is rainfed and farmers in rainfed areas are particularly vulnerable to the vagaries of weather. Water stress is likely to be the major factor affecting agriculture, food security and farm incomes. Unsustainable use of scarce water resources has to be tackled as a priority.

While water saving and soil moisture retention technologies and practices have gained acceptance in recent times, government's policies have not yet shifted in favour of them. Subsidies for power, water and chemical fertilisers still make up a large portion of government expenditure on agriculture. Farmers who conserve water, soil moisture and soil carbon and those who use organic manure or grow less water-consuming crops are not rewarded by the system. Capital-intensive mechanical devices like sprinklers, drip irrigation systems, and devices like laser levellers are the preferred options. These schemes effectively leave out farmers who conserve and nourish natural resources in resource-poor areas, depriving them of financial support from government.

From an ecological and an equity point of view, we do need a policy transformation that promotes

conservation agriculture by rewarding farmers who use less resources, like soil nutrients and water. This is not to deny financial support to other farmers, but to shift the balance in favour of those who cause least damage or actually enhance water levels and the natural fertility of soils.

Farmers are likely to be hesitant to shift to sustainable methods of cultivation for fear of losing their current incomes and subsidies. Efforts in this direction have to be properly paced and well calibrated. The success of Zero Budget Natural Farming with local innovations in Andhra Pradesh has been cited internationally.<sup>23</sup> This experience may be worth studying for all relevant parameters for appropriate adoption elsewhere. Validation of the model with more data (particularly on cost reduction and productivity) will be required for wider adoption. The limitations of this model should also be spelt out to avoid any blind adaptation. Many such models with varying degrees of adoption will emerge in India. The strategy should be to move gradually towards a more nature friendly farming and not insist on one rigid national model as is the usual practice, be it government or advocacy groups. Farmer-oriented institutions which allow for grassroots

innovation should be set up, while existing ones which have outlived their utility should be listed for creative destruction. To begin with, incentives for activities and crops which cause damage to environment need to be gradually phased out. While it is a bad idea to put a number of mandatory restrictions on the choices that a farmer makes, the least government can do is stop incentivising crops and regions which use unsustainable levels of natural resources. The policy has to make a clear, well calibrated shift in favour of farmers who nurture the farming ecosystem.

### **Create a comprehensive policy to prevent food loss and waste**

Preventing food loss and waste is critical in the context of sustainability. Food loss is at an unacceptable level in India, particularly perishables, mostly due to inadequate and inappropriate storage and transportation but also due to unscientific practices. CIPHET (ICAR) estimates that post-harvest losses are to the tune of 6% in cereals, 8% in pulses, 10% in oilseeds and 15% in fruits and vegetables. Losses at the distribution level are also high. The estimated annual value of total losses is Rs 1 lakh crore. These losses can be reduced by

23 According to the Director General of the World Agroforestry Centre, “Zero Budget Natural Farming builds on agroecological principles, that are at the heart of sound integrative, systems science, with the promise of resilient and productive landscapes that offer the kinds multiple benefits for society and ecology that our planet sorely needs today from all of its landscapes. It, therefore, sets the pace and the agenda for all of us” (Mr Vijay Kumar, <https://www.un.org/en/food-systems-summit/champions-network>).

proper post-harvest management of agricultural and livestock produce. This in turn will improve farmers' income and livelihoods. Reducing food loss should, therefore, be taken up as a comprehensive (investment, technology, incentives) effort with well-defined and achievable outcomes. Food waste (almost criminal in many cases), on the other hand, needs to be tackled through consumer education supplemented with implementable disincentives.

### **Launch an action plan for Improving farmers' livelihoods**

The focus on doubling farmers' incomes is a welcome change that is long overdue. While there is a comprehensive report (Dalwai) on the subject, a well-co-ordinated action plan and an effective monitoring system covering all income generating activities in farmer households are not yet visible. Productivity increases alone are insufficient, and may even prove to be counter-productive in certain cases. Any effort to improve farmers' livelihoods cannot ignore issues of under/unemployment, hunger and under nutrition which, in turn, are caused by inadequate emphasis on drinking water, sanitation, nutrition and health<sup>24</sup>. While many programmes have been in operation for quite some time in these sectors, an effective convergence at the delivery end

seems to be missing. Sustaining the progress already achieved has been difficult since most programmes do not provide for continued financial support after the 'targets' are achieved.

Institutions at the grassroots level in particular play an important part in this effort. Some of the institutions which helped the country become self-sufficient in food have, over a period of time, lost their edge while others have become dysfunctional. While the Amul story is most talked about, there has not been any institution built on the Amul model in other sectors. While private sector has led many a revolution in sectors like IT and Telecom, agriculture has been left behind due to policy constraints and perceptions of higher risk. Farmers' organisations (in particular, Farmer Producer Companies) have not had spectacular successes except in a few cases. While self-help groups have been a major success story in rural India, the success could not be replicated in the farm sector. Reasons for this are not difficult to find. The new Ministry of Cooperation has its task cut out in restoring the cooperatives to its old vibrant self!

One key issue which needs to be addressed is the farmers' share in the consumer rupee. GCMMF (AMUL) is able to transfer more than 80% of the consumer rupee to the farmer in

<sup>24</sup> The multi-dimensional poverty index released by NITI Aayog in November 21 is a good reference for action

cash and services. It may not always be possible to replicate this success in other segments, but when the farmer knows that he is getting only 30–40 % of the consumer rupee, he has reasons to despair. Systems need to be built for better ‘value capture’ and ‘value sharing’ and trust. The example of Karnataka’s Unified Market Platform, wherein a real increase of 13% in average Mandi prices (2013–17) with the introduction of an e-platform and online trading is worth studying for emulation. While e-Nam conceptually attempts to do this, farmers will be enthused only when they actually see their incomes rising.

Improving farmers’ livelihoods (farm labour is also dependent on this) needs to be a key factor in the planning process. It is not about yet another scheme, but about making farmers’ interests part of the DNA of policy making. The range of policy decisions covering disaster relief, technology options, market conditions, exports & imports and incentives should consider the impact on farm incomes before a decision is taken. Inadequacies in infrastructure, transfer of technology, market access etc., are well known, but more important are delivery deficits even in existing schemes. In view of the limitations of this paper, we are not getting into more details, but we consider it important to include an assessment of the impact on farmers’ livelihoods in

*all policy matters and major schemes. ‘A do no harm policy’ followed by a ‘nurture’ policy will be a good beginning.*

## Institutional

### Set up a price/stock information network

Two major gaps in policy formulation are reliable data on privately held stocks and price information. While the Agmark-net Portal captures some price and arrival data from mandis, it is not reliable enough for urgent or long-term policy interventions. For want of any other dependable data, governments depend on this network. The absence of information on privately held stocks has also led to a number of uninformed decisions by Government. Introducing a mandatory provision to report price and volume in wholesale trade and stocks in all warehouses would help the government take data-based decisions. All warehouses (except small rural warehouses) should be mandated to report total stocks (anonymized for ownership data for trade confidentiality) on a weekly basis. Price reporting should be mandated on a common portal with open access to remove information asymmetry on prices. This network should report the prices discovered on futures/forward markets as well.

## **Design a data digitisation system which is farmer and ecosystem sensitive'**

Digitisation of land records has not been adequately emphasised in the context of ease of doing business for farmers. Its implementation remains incomplete and fragmented. Complete digitisation of land records is important from many perspectives, the primary one being ease of access to land records for farmers. There is a need to link land records with property registration; to standardize the format for land records; to link land ownership with Aadhaar; to use blockchain technology for land management, including land records; and to move towards 'land titling' systems. This needs to be done on priority.

There is a new project in circulation called IDEA (The India Digital Ecosystem of Agriculture), intended to create a Unified Farmer Service Interface. The National Agri Data Stack, as part of IDEA is designed to be a collection of technology-based interventions in agriculture, on which everything else will be built. The goal is to build innovative agri-focused solutions leveraging technologies such as artificial intelligence (AI), advanced analytics, blockchain, the Internet of Things (IOT) etc., to contribute effectively towards doubling farmers' incomes. The plan involves nurturing start-ups in the above areas focused on building technology solutions to

improve efficacies of farmers. The rationale is that diverse problems – such as inadequate access to credit and information, pest infestation, crop waste, poor price discovery, and poor yield forecasting – can be addressed through the use of digital technology. This will be done through market and state-based mechanisms that rely on improving four central areas: financing, production inputs, farming methods, and supply and distribution.

Details available so far indicate that the stack will effectively be a land-based data stack consisting of data on land location, area, type, irrigation status etc.; as well as on ownership (landowner details, Aadhar, revenue record entries, mobile number, bank and loan details etc.), with the possible addition of soil health, cropping patterns etc. Farmers have expressed concerns regarding data privacy, sale of their data to corporates and others, and misuse of their personal and financial data. There is also a major concern about AI-based advice and decisions being imposed on farmers. They are apprehensive that their freedom to take independent decisions and their concern for the farming ecosystem will be ignored in the process. It is necessary that states and the farmers are brought on board before any such attempt is launched on the ground. The initiative has to be sensitive to the federal character of agriculture and treat farmers as individual entrepreneurs delivering

food, nutrition and ecosystem services. Farmers need to be told clearly what is in it for them!

## Conclusion

Agriculture has to be viewed under a new lens: of agro-ecology, food systems, women centricity, farmers' prosperity and sustainability. Policies therefore will have to change and local conditions and farmers' aspirations get precedence in the design of any such policy.

Since regional conditions, prospects and challenges vary, a centralised 'one size fits all' approach is unlikely to work. Adequate legislative, planning and innovation space will have to be provided to the States and Agro-climatic regions to play their rightful role in the overall architecture for farmers' welfare and prosperity in the future. This would call for meaningful dialogues with the states and conversations with farmers before major reforms are brought about.

Since this paper is primarily about the farm laws, the road map for shifting to a food system-based approach which would call for more decentralised planning and operations is not discussed here. There are many other laws, rules, and regulations which will need changes to move to decentralised, farmer focussed production and consumption system. These laws may have to undergo changes to suit such a vision.

This paper has attempted to bring on board most of the arguments, concerns and considerations related to the three farm laws. In view of the complexity of the issues, there are many ways forward. Each one has some merits and a few weaknesses. The attempt has been to discuss various options and point to a direction in which the country needs to move. The best need not be the enemy of good, especially when 'the good' is a public good for the largest number of people.



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# Annexure A

## **Expert committee set up by the Ministry of Agriculture, on "strengthening and developing of agricultural marketing" under the chairmanship of Shanker Lal Guru (2000)**

The committee submitted its report in June 2001 and made, inter alia, the following observations/recommendations:

1. Regulated markets have helped in mitigating the market handicaps of producers/sellers at the wholesale assembling level. But, the rural periodic markets in general, and the tribal markets in particular, remained out of its developmental ambit.
2. Over a period of time these markets have, however, acquired the status of restrictive and regulated markets, providing no help in direct and free marketing, organised retailing, smooth supply of raw material to Agro-processing units,
3. In promoting vibrant competitive marketing systems, Government needs to examine all existing policies, rules and regulations with a view to remove all legal provisions inhibiting free marketing system.
4. *The Essential Commodities Act, 1955*, which has resulted in restrictions on storage and free movement of stocks, should be repealed to make way for play of free market forces in real sense. The Committee suggested promotion of direct marketing as one of the alternative marketing structures that

competitive trading, information exchange and adoption of innovative marketing systems and technologies. Monopolistic practices and modalities have prevented development of free and competitive trade in agricultural marketing, future markets, use of latest technologies in post-harvest technology and handling exports, Agro based industries, warehousing, etc.

sustains incentives for quality and enhanced productivity, reduction in distribution losses, improving farmer incomes with improved technology support and methods. The market will operate outside the purview of the Agricultural Produce Marketing Act and will be owned by professional agencies in private sector, wholesalers, trade associations and other investors.

5. Direct marketing by farmers to the consumers was experimented through *Apni 'mandi's* in Punjab and Haryana. The concept, with certain improvements, got popularised in Andhra Pradesh through '*Rythu Bazars*' and in Tamil Nadu as '*Uzhavar Santhaigal*'.
6. Forward contracts may be regarded as a direct marketing facilitator. The performance of the Indian commodity futures markets is varied across the commodities, exchanges and contracts. They are deficient in several aspects such as infrastructure, logistics, management, linkages with financial institutions, reliability, integrity, and an efficient information system, which do not encourage a large group of the market players in the commodity sector to trade in this market.
7. Although, technically the farmer is free to sell his produce in any mandi he likes, practically he has no liberty to sell his produce in

his village or to the retail chain, processor, bulk buyer directly. He/she has to take his/her produce to a regulated market where the sales and deliveries are affected. This has hampered development of retail supply chains and direct supply to the processing, consuming factories or other bulk purchasers.

8. Warehouses should be declared as deemed markets and no APMC market fee, sales tax, purchase tax, or octroi should be leviable on the goods stored. Similarly, provisions of Essential Commodity Act, Labour Act, Mathadi Act, Shop Establishment Act, or Industrial Disputes Act should not be applicable to these warehouses.

In short, the committee suggested:

- i Repeal of the EC Act
- ii Re-modelling APMCS
- iii Creating specialised markets outside APMCs
- iv Investing in infrastructure
- v Encouraging direct marketing by farmers and farmers groups

### **Report of the task force on employment opportunities, chaired by Montek Singh Ahluwalia July 2001**

Under items relating to agriculture, the task force made the following observations/recommendations:

1. The Essential Commodities Act provides an umbrella under which

States are enabled to impose restrictions on storage, transport and processing of agricultural produce. These controls have been traditionally justified on the grounds that they are necessary to control hoarding and other types of speculative activity, but the fact is that they do not work in times of genuine scarcity and they are not needed in normal times. It is an anomaly that we have laws that actually prevent the development of an integrated national market for agricultural products. After full consideration of this issue, we are of the view that the *Essential Commodities Act should be repealed.*

2. The existing laws governing the marketing of agricultural produce require that wholesalers must purchase agricultural produce only in regulated 'mandis' controlled by the Agricultural Produce Marketing Committee (APMC). Most farmers typically sell their produce to village commission agents who collect produce on behalf of the market commission agent who sells to wholesalers in the mandi. Although sale in the mandi is supposed to be by open auction to ensure fair pricing, in practice the price is determined in a highly non-transparent manner by negotiations between market commission agents and wholesalers. Lack of transparency is perpetuated by the fact that

produce is not graded before it is sold. The prices arrived at in this fashion are declared as the mandi price and the farmer receives the residual price after the commissions at multiple levels are deducted. Not only is the price determination non-transparent, the large number of middlemen, each of whom charges a commission, squeezes the realisation of the farmer resulting in a large gap between the farm-gate price and the retail price. Although originally designed to protect farmers' interests by creating regulated markets, the system has actually created a monopoly situation in which a small group of traders and agents are able to extract huge benefits. It is absolutely essential to liberalise the existing laws and allow competing markets to be set up.

#### **Inter-ministerial task force constituted under RCA Jain, Additional Secretary, Ministry of Agriculture July 2001**

The RCA Jain Task Force, constituted to look into the Guru Committee report, *inter alia*, recommended:

1. Private and co-operative sectors be allowed to establish and operate (including levy of service charge) agricultural marketing infrastructure and supporting services.
2. Permit direct marketing of agricultural commodities from producing areas without the

- necessity of going through licensed traders and regulated markets.
3. Enable 'Contract farming' by processing or marketing firms. The APMC within whose jurisdiction the area covered by contract farming agreement lies, should record the contract farming agreements and act as a protector of producer's and processor's interests with due legal support in its jurisdiction. Incidence of taxes by way of market fee, cess, duties, taxes etc. on procurement of agricultural or horticultural produce under the 'Contract farming' program should be waived or minimised.
  4. Promote forward and futures markets in agricultural commodities.
  5. Delink minimum support price (MSP) from procurement. Put in place a policy to allow market forces to determine the price and government to provide financial support through an insurance programme for protection of their incomes in falling markets. States should amend the APMC Acts accordingly.
- Model APMC Act: September 2003**
- The Union government circulated the Model APMC Act, 2003 for adoption by State Governments. The highlights of the Model act were:
- 1 The monopoly of [state] government regulated wholesale markets has prevented development of a competitive marketing system in the country, providing no help to farmers in direct marketing, organised retailing, a smooth raw material supply to Agro-processing industries and adoption of innovative marketing system and technologies. It is necessary to encourage private and co-operative sectors and provide a level competitive environment to them. There should be *no compulsion on the growers to sell their produce through existing markets administered by the APMC* (Section 14).
  - 2 The APMC should be specifically responsible for (Section 26 & 27):
    - i *Ensuring complete transparency in pricing system and transactions taking place in market area;*
    - ii *Providing market-led extension services to farmers;*
    - iii *Ensuring payment for agricultural produce sold by farmers on the same day;*
    - iv *Setup and promote public private partnership in the management of agricultural markets.*
  - 3 This model Law introduced a new Chapter on 'Contract Farming' to provide for:

- Compulsory registration of all contract farming sponsors;
- Recording of contract farming agreements;
- Resolution of disputes, if any, arising out of such agreement;
- Exemption from levy of market fee on produce covered by contract farming agreements;
- Provide for indemnity to producers' title or possession over his land from any claim arising out of the agreement;
- Provision made for direct sale of farm produce to contract farming sponsor from farmers' field without the necessity of routing it through notified markets;
- Provision made for imposition of single point levy of market fee on the sale of notified agricultural commodities in any market area within the state and discretion provided to the State Government to fix graded levy of market fee on different types of sales (Section 42);
- Provision made for resolving of disputes, if any, arising between private market or consumer market and market committee (Section 50).

**National Commission on Farmers (NCF), chaired by Dr. M.S. Swaminathan: 2004-2006: (The NCF submitted five reports to the Government between 2004 and 2006. The fifth and final report was in two volumes)**

Food and Agriculture Organisation (FAO) of the United Nations had submitted a report to NCF on market reforms in 2005: Excerpts:

A study was undertaken by FAO at the request of the NCF to study the possibilities of emergence of a *farmer-centric Indian common market* catering to over a billion consumers within the country and consumers abroad. The technical project was initiated to study the possibilities of removal of unnecessary restrictions on the movement of agriculture products both within and between states in India and measures that could be taken for better market integration. The study recommended:

1. The Essential Commodities Act was introduced during a period when India was not self-sufficient in food and controlling the movement and storage practices acted as an efficient check against dishonest business practices. However, given the fact that India has now created a respectable buffer stock of food grains against any disaster, thanks to the operation of the Food Corporation of India, there is scope for *re-looking at the actual utility*

*of the provision. There is reason to believe that the law has outlived its utility and is only contributing to the rising transaction costs.*

2. Although in the last few years both the State and the Union Governments have taken number of steps to reduce the rigour of the ECA and the number of commodities covered by it has been drastically cut down, the government still retains the right to bring any commodity under its purview, if need be. Out of the 15 commodities still kept in the list (as on date of the report, since revised), 11 are related to agricultural products. The mere threat of sudden Government action keeps the private sector participation in storage, transport, and processing at a low level.
3. The powers of states to restrict the movement of agricultural products out of their territory granted by the ECA are incompatible with the principle of a single market (*the classic case of West Bengal restricting movement of potatoes in 2014 on the grounds that stockists refused to supply potatoes at a government mandated price to the state government. State Agriculture Marketing Minister reportedly said that potato growers had also failed in their commitment of delivering 300 tons of potatoes to the government at a price of Rs. 12 per kg to be sold through fair price*
- shops. There are other instances of similar ad-hoc action at local levels). They may have served a purpose in helping to preserve local food security but at the cost of reducing food security for India as a whole and more importantly reducing the price for farmers. For these reasons the provision should gradually be phased out.
4. As regards collection of market fees under the APMC Act, it continues to be a major hurdle on the free movement of primary agriculture products *inter or intra state*. Often it results in double taxation. Moreover, its operation creates monopolies often leading to cartelisation of a few brokers or 'arhtiyas' and non-transparency in price setting to the disadvantage of the farmers.
5. The monopolistic operation of the market committee also acts as a disincentive to the private sector in setting up processing units for value addition, as they do not have direct linkage with the farmers, which would otherwise help them in getting raw materials of assured quality and quantity. *The policy framework should give farmers the liberty to freely market their produce anywhere including direct marketing to processors or other buyers without paying any market fees.* However, in case they want the facilities of the market yard, they have to pay a service charge, which should be sufficient to cover

the operation costs of the market committee.

6. It is therefore recommended that farmers, processor companies or other private operators may be allowed to operate their own wholesale market and charge a suitable fee for the service.
7. The reform of APMC would facilitate free movement of agricultural products between different States and from the jurisdiction of one market committee to another. However, this may result in loss of revenue to some of them. But if FCI and state agencies continue to use market yards for procurement, the loss of revenue will be negligible.

### **National Commission on Farmers (2005)**

National Commission on Farmers in its report (2005) recommended:

1. The Essential Commodities Act, 1955, and the Control Orders were relevant in situations of demand exceeding the supply. The demand-supply balance and the economic environment have changed in recent years, but the restrictions and controls are coming in the way of efficient functioning of the markets and the agricultural development in the country. The number of essential commodities has been reduced from a high of seventy in 1989 to
- only fifteen in 2005 (*currently it stands at 8*). It would be useful if the remaining agricultural products are also removed from the list of essential commodities. Alternatively, the ECA, 1955, may be put under suspended animation for the present and revived by Government notification if any emergency develops, for a limited time, for a specific commodity and in a specified area.
2. The Government needs to *abolish market fee* on primary agricultural commodities altogether and levying of separate charges for various services like loading, unloading, weighing etc. in the APMC yard and replace it with one consolidated service charge for use of the market infrastructure.
3. The transition from existing trade channels like commission agents should be brought about with care, so as to ensure that the new systems of farmers-purchaser linkages are both beneficial and sustainable.
4. At an all-India level, APMCs have generally failed to provide adequate infrastructure at the 'mandis'. The focus of the APMCs has been on regulation and not development of markets for the local products, introducing grading or encouraging local processing. The reform of APMC would facilitate free movement of agricultural

products between different States and from the jurisdiction of one market committee to another.

5. Direct marketing would enable the farmers to sell their produce to the processors or bulk buyers at lower transaction costs and maybe, at better prices than what they get from intermediaries or from the wholesale markets. Although this requirement has been waived on a case-by-case basis in some States under pressure from the industry, the market fee still must be paid even though the produce may not enter the APMC yard.
6. The Essential Commodities Act and other legal instruments including the State APMC Acts relating to marketing, storage and processing of agriculture produce need to be reviewed to meet the requirements of modern agriculture and attracting private capital in this sector.

### **National Commission on Farmers: A Draft National Policy for Farmers (2006)**

Harmonising the recommendations of the previous three reports, the fourth report of the NCF suggested a Draft National Policy for Farmers. Key recommendations are:

1. The Essential Commodities Act and other legal instruments including the State APMC Acts relating to marketing, storage and

processing of agriculture produce need to be reviewed to meet the requirements of modern agriculture and attracting private capital in this sector.

2. The role of the APMCs/State Agriculture Marketing Boards need to change.
3. The farmer wants different options for marketing his produce. The State APMC Acts need to be amended to provide for, among others, encouraging the private sector or cooperatives to establish markets, develop marketing infrastructure and supporting services, collect charges, allowing marketing without the necessity of going through APMC/licensed traders etc.

### **National Commission on Farmers : Fifth and Final Report (2006)**

NCF's fifth and final report (2006) reiterated the following:

1. The APMCs and State Agriculture Marketing Boards need to change their role from regulatory to *promotional and developmental*. These agencies should focus more on developing new markets for local products. Their entire functioning, management, operations, and disposal of surplus need a relook. The need is also to encourage and support the farmer's cooperatives and private sector to operate the wholesale

- agriculture produce markets and provide competition to APMCs.
2. Development of Agro-processing is important to increase farmers' income and also to create employment. It would, however, be necessary to introduce reforms in the agriculture sector to facilitate greater private corporate sector investments in Agro-processing not only in new units but also in modernizing the established units.
  3. Need to give more attention to remunerative prices for the farmers for their produce. APMCs and State Marketing Boards should understand their new developmental role.
  4. There is need for a greater say of farmers in managing the APMCs and a say particularly in the auction system. The farmer's interest should be uppermost in the working of the APMCs. Ungraded produce fetches low price. The need is to introduce grading at the farm gate itself.
  5. NGOs should also be permitted to buy agricultural produce directly from the farmers without going through the APMCs.

### **Model APMC Rules, 2007**

Across thirteen Chapters and 115 Sections, the Union government drafted the Model APMC Rules, 2007. The rules detail how Market Committees

will function (Chapter V), Contract farming done (Chapter VI), and levy of fees and its collection (Chapter VIII). These were largely based on the various recommendations mentioned above. These were circulated to State Governments for adoption.

### **Report of Committee of State Ministers, in charge of Agriculture Marketing to promote reforms, chaired by Mr Harshvardhan Patil (2013)**

This Committee was set up in March 2010 mainly to persuade various States/U.Ts to implement the reforms in agriculture marketing through adoption of Model APMC Act and Model APMC Rules, and suggested further reforms necessary to provide a barrier free national market for the benefit of farmers and consumers and also suggested measures to effectively disseminate market information and to promote grading, standardization, packaging, and quality certification of agricultural produce. The committee noted, "*Due to restrictive provisions of the essential commodities act.... private investment in large scale storage and marketing infrastructure including in the areas of contract farming, direct marketing has not been very encouraging.*" Excerpts from the report:

1. Due to the restrictive provisions of the Essential Commodities Act and various Control Orders issued thereunder, private investment in large scale storage and marketing infrastructure including

in the areas of contract farming, direct marketing have not been very encouraging. Under the present system, the marketable surplus of one area moves out to consumption centers through a network of middlemen and traders and institutional agencies. The existing regulation does not provide for a barrier free market in the country. There are many significant Inter-State barriers to trade, viz. (a) Taxation Related Barriers (variation in rates, applicability of VAT, levy of market fee at multiple point, etc.); (b) Physical Barriers (Essential Commodities Act, Check Posts, APMC Regulations, etc.); and (c) Statutory Barriers relating to licensing and registration of traders, commission agents. Therefore, there is a need to develop a national level single market for agricultural commodities by removing all the existing barriers of licensing, movement and storage.

2. The Government of India implements Essential Commodities Act to control and regulate production, manufacturing and distribution of essential commodities in the country in the event of short supply. The Act itself does not lay the Rules and Regulations but allows the States to issue Control Orders in the event of malpractices like hoarding and black marketing i.e., "Licensing of Dealers/Retailers for trade in food-grains"; "Restrictions on movement

of food-grains"; and "Regulation of Storage limits". Since 1993, the Union Government has decided to treat the entire country as a single food zone, but the States are still imposing such orders and restrict movements now and then.

3. State Governments often issue Control Orders promulgated under the Essential Commodities Act, 1955 adversely affecting trading in agricultural commodities such as food-grains, edible oils, pulses and sugar. Due to the restrictive provisions of the Essential Commodities Act and various Control Orders issued thereunder, private investment in large scale storage and marketing infrastructure including in the areas of contract farming, direct marketing have not been very encouraging.
4. Agricultural Produce Marketing Regulation Act and Essential Commodities Act need to be amended to ensure barrier free storage and movement of agricultural commodities across the States as storage and movement are very important marketing functions for maintaining regular supply and distribution of food products in the country from the point of production to the consumption centers. This will help to contain uneven price fluctuations and ensure optimum management of the supply chain.

5. The regulation of markets, however, achieved limited success in providing an efficient agricultural marketing system in the country because, over the years, these development-oriented institutions (e.g., the State Agriculture Marketing Boards, APMCs etc.) turned out to be more of revenue generating institutions than facilitating efficient marketing practices to benefit the farmers and other market participants. Apart from the market regulation programme, the Essential Commodities Act and plethora of Orders promulgated under this Act by the Center and States prevented development of free and competitive marketing system in the country.
  6. The regulatory framework needs to undergo a change by providing free hand to private sector to own, operate and manage markets/ alternate marketing system with backward and forward linkages. The Government may at best formulate rules of the game for the market players rather than controlling the system. The role of the Government should be that of facilitator only.
  7. In the changed scenario, the producer should be free to enter into direct sale without the involvement of other middlemen outside the market yard in the market area under the relevant provision of the concerned Act.
- This will facilitate direct marketing between the producers and processing factories with monetary gains to the producer-seller through improving competitiveness and to the consumers by way of reasonable prices.
8. Monopolistic practices and modalities of the State-controlled markets have prevented private investment in the sector. The licensing of traders in the regulated markets has led to the monopoly of the licensed traders acting as a major entry barrier for new entrepreneurs. The traders, commission agents and other functionaries organise themselves into associations, which generally do not allow easy entry of new persons, stifling the very spirit of competitive functioning.

### **Economic Survey 2011-12**

1. 'Mandi' governance is an area of concern. A greater number of traders must be allowed as agents in the 'mandis'. Anyone who gets better prices and terms outside the Agricultural Produce Marketing Committee (APMC) or at its farm gate should be allowed to do so. For promoting inter-state trade, a commodity for which market fee has been paid once must not be subjected to subsequent market fee in other markets including that for transaction in other states. Only user charges linked to services

provided may be levied for subsequent transactions.

2. Perishables could be taken out of the ambit of the APMC Act. The role of the agriculture market is to deliver agricultural produce from the farmer to the consumer in the most efficient way. A single point market fee system is necessary for facilitating free movement of produce, bringing price stabilization, and reducing price differences between the producer and consumer market segments. Another point to be highlighted is that the cleaning, grading, and packaging of agricultural produce before sale by the farmers have not been popularized by these market committees on a sufficient scale.
3. As the APMC was created to protect the interests of farmers it will be in the fitness of things to give farmers the choice of going to the APMC or not. In the light of this, the need is to pursue further reforms in the state APMC Acts.

### **Economic Survey 2012-13**

To bring about reforms in the sector, a model Agricultural Produce Marketing (Development and Regulation) (APMC) Act was prepared in 2003. Though the process of market reforms has been initiated by different state governments through amendments in the present APMC Act on the lines of Model Act, many of the states are

yet to adopt the Model Act uniformly. It is therefore necessary to complete the process of market reforms early in order to provide farmers an alternative competitive marketing channel for transaction of their agricultural produce at remunerative prices. Development of an agricultural marketing infrastructure is the foremost requirement for the growth of a comprehensive and integrated agricultural marketing system in the country.

### **Economic Survey 2013-14**

The plethora of government interventions that were used to build a marketing setup became barriers to trade. Removing market distortions will create greater competition in markets, promote efficiency and growth, and facilitate the creation of a national agriculture market. Thus, while the agricultural market is by itself not fully malleable to becoming a perfectly competitive structure, it can asymptotically approach it. Since agriculture provides the backward linkage to agri-based industries and services, it has to be viewed holistically as a seamless farm-to-fork value chain, comprising farming, wholesaling, warehousing, logistics, processing, and retailing including exports. For establishing a national common market, some reforms are needed:

Examine the APMC Act, EC Act, Land Tenancy Act, and any such legally created structures

whose provisions are restrictive and create barriers to free trade. Rigorously pursue alternate marketing initiatives, like direct marketing and contract farming. Examine inclusion of agriculture related taxes under the General Goods and Services Tax (GST). Develop and initiate competition in the Agro-processing sector and incentivize the private sector to scale up investments.

There has been limited success in establishing efficient agricultural marketing practices in India. In the context of liberalisation of trade in agricultural commodities and for the domestic farming community to reap the benefits of new global market access opportunities, there is a need to integrate and strengthen the internal agricultural marketing system. The APMC Act has not achieved the basic objective of setting up a network of physical markets. Some measures that would facilitate the creation of a barrier-free national market are:

1. Permit sale and purchase of all perishable commodities such as fruits and vegetables, milk, and fish in any market. This could later be extended to all agricultural produce.
2. Exempt market fee on fruits and vegetables and reduce the high incidence of commission charges on agricultural/horticultural produce.

3. Taking a cue from the success of direct marketing efforts of states, the APMC/other market infrastructure may be used to organise farmers markets. FPOs/ self-help groups (SHGs) can be encouraged to organise farmers markets near urban centres, malls, etc. that have large open spaces. These could be organised every day or on weekends, depending on the concentration of footfalls.
4. Include '*facilitating organisation of farmers markets*' under the permitted list of *corporate social responsibility (CSR) activities under Companies Act 2013*, to encourage companies engaged in agriculture and allied activities, food processing etc., to take up this activity under CSR and also help in setting up supply chain infrastructure.
5. All the above facilitators can also tie-up a link to the commodity exchanges' platform to disseminate spot and futures prices of agricultural commodities.

### **Economic Survey 2014-15**

APMCs levy multiple fees, of substantial magnitude, that are non-transparent, and hence a source of political power. They charge a market fee of buyers, and they charge a licensing fee from the commission agents who mediate between buyers and farmers. They

also charge small licensing fees from a whole range of functionaries (warehousing agents, loading agents etc.). In addition, commission agents charge commission fees on transactions between buyers and farmers. The levies and other market charges imposed by states vary widely. Statutory levies/mandi tax, VAT etc. are a major source of market distortion. Such high level of taxes at the first level of trading have significant cascading effects on the prices as the commodity passes through the supply chain.

Even the model APMC Act treats the APMC as an arm of the State, and, the market fee, as the tax levied by the State, rather than fee charged for providing services. This is a crucial provision which acts as a major impediment to creating national common market in agricultural commodities. Removal of this provision will pave a way for creating competition and a national common market for agricultural commodities.

Moreover, though the market fee is collected just like a tax, the revenue earned by the APMCs does not go to the State exchequer and hence does not require the approval of State legislature to utilise the funds so collected. Thus, APMC operations escape scrutiny. (Annexure C)

## **Economic Survey 2016-17**

The market risks that arise in agriculture trade, both domestic

and international are mainly due to uncertainty in the policies of agricultural trade and market policies pursued by the government from time to time. The agriculture markets under the Agricultural Produce Market Committee (APMC) Act of the State Governments, with around 2,477 principal regulated markets based on geography (the APMCs), and 4,843 submarket yards are regulated by the respective APMCs. The posts in the market committee and the market board—which supervises the market committee—are occupied by the politically influential, who enjoy a cosy relationship with the licensed commission agents, who in turn exercise monopoly power, at times by forming cartels. The farmers lose out in the APMC market dynamics.

There is need to remove all restrictions on internal trade on agricultural commodities and dismantle fragmented legislations that govern agriculture. At present, there are four legislations in existence/formulation to regulate agriculture markets:

1. *Model APMC Act to replace the present state legislations on markets;*
2. *Agricultural Produce Trading (Development and Regulation) Act, 2017;*
3. *A law that would regulate contract farming and'*

4. A law/regulation that would regulate e-NAM

Several legislations of the State and Centre ensure that the agricultural markets are fragmented and the benefits to the farmers remain low. The above legislations need to be dismantled and move towards a Common National Agriculture Market as envisaged in the e-NAM initiative. The perishable farm produce needs to be kept outside the purview of present APMC Act. The finance minister has stated that, "Market reforms will be undertaken and the States would be urged to de-notify perishables from APMC." This will give opportunity to farmers to sell fruits and vegetables through the government created electronic trading portal and get remunerative prices.

**Stock limits under the EC Act, 1955:**  
The stock limits imposed under EC Act end up curtailing demand for farm produce and so the price. However, the ideal situation relates to doing away with the stock holding limits along with the EC Act as envisaged in the 'Removal of Licensing requirements, Stock limits and Movement Restrictions on Specified Foodstuffs Order, 2016,' according to which all restrictions on permit/licensing requirements, stock limits and movement restrictions were to be removed.

### **The Agricultural Produce and Livestock Marketing (Promotion & Facilitation) Act, 2017 as a Model Act**

The Union Government circulated a new model APLM Act which included livestock marketing as well. This model act improved upon the earlier model acts and incorporated most of the recommendations mentioned earlier. The salient features of the Model APLM Act, 2017 are:

1. Abolition of fragmentation of market within the State/UT by removing the concept of notified market area in so far as enforcement of regulation by Agricultural Produce and Livestock Market Committee (APLMC) is concerned (State/UT level single market);
2. Full democratization of Market Committee and State/UT Marketing Board;
3. Disintermediation of food supply chain by integration of farmers with processors, exporters, bulk retailers and consumers;
4. Clear demarcation of the powers and functions between Director of Agricultural Marketing and Managing Director of State/UT Agricultural Marketing Board with the objective that the former will have to largely carry out regulatory functions, while the latter will be mandated with developmental responsibilities under the Act;

- 5. Creation of a conducive environment for setting up and operating private wholesale market yards and farmer consumer market yards, so as to enhance competition among different markets and market players for the farmer's produce, to the advantage of the latter;
- 6. Promotion of direct interface between farmers and processors/exporters/bulk buyers/end users so as to reduce the price spread bringing advantage to both the producers & the consumers;
- 7. Enabling declaration of warehouses/silos/cold storages and other structures/space as market sub-yard to provide better market access/linkages to the farmers;
- 8. Giving freedom to the agriculturalists to sell their produce to the buyers and at the place & time of their choice, to whom so ever and wherever they get better prices;
- 9. Promotion of e-trading to enhance transparency in trade operations and integration of markets across geographies;
- 10. Provisions for single point levy of market fee across the State and unified single trading license to realize cost-effective transactions;
- 11. Promotion of national market for agriculture produce through provisioning of inter-state trading license, grading and standardization and quality certification;
- 12. Rationalization of market fee & commission charges;
- 13. Provision for Special Commodity Market yard(s) and Market yard(s) of National Importance (MNI);
- 14. Providing a level playing field to the licensees of private market yard, private market sub-yard, electronic trading and direct marketing vis-à-vis the APMCs.

**Standing Committee on Agriculture (2018-2019), Ministry of Agriculture and Farmers Welfare (Department of Agriculture, Cooperation and Farmers welfare): Agriculture marketing and role of weekly gramin haats (January 2019)**

The Standing Committee examined the issue of 'Gramin Haats' and came up with the following observations and recommendations:

1. Under Essential Commodities Act, there is a need to have distinction between genuine service providers and black marketeers/hoarders to encourage investment and better service delivery to the farmers. It is recommended that Contract Farming Sponsors and

Direct Marketing licensees may be exempted from the stock limits up to six months of their requirement in the interest of trade and facilitating long term investment.

2. The States should amend their APMC Acts on the lines of Model Act and the reforming States may also notify Rules, and States may complete the process early.
3. The private markets should be treated at par with the existing APMCs.
4. The Committee feel that scarcity of marketing platforms for agriculture produce and mismanagement and corruption in APMC markets have created a situation where farmers are being deprived of fruits of their hard-earned labour leading to low price realisation for farm produce.
5. The Committee also desires the Government to hold discussion with the State Governments to keep Gramin Haats *out of the ambit* of APMC Act.
6. The Committee observe that there is urgent need for radical reform in APMC Act in the country, if we intend to provide justice to the farmers. Remunerative pricing for the farmers cannot be ensured unless the number of marketing platforms for farm produce are enhanced and functioning of APMC markets is made democratic and transparent. The Committee is of the view that there is need to involve all the stakeholders especially the State Governments in the process of reforms in the APMC Act. The Committee, therefore, recommends the Government to constitute a Committee of Agriculture Ministers of all States in order to arrive at a consensus and chalk out legal framework for marketing of agriculture Produce in the Country. The Committee is also of the opinion that provisions regarding entry fee and other Cess levied on transaction of agriculture produce should be done away with as it will help to reduce corruption and malpractices prevalent in APMC Markets. The Committee would like the Government to hold discussion with the State Governments to abolish entry fee and other cess in APMC Markets.
7. Various factors such as distance to the nearest APMC market, dominance of middleman in APMCs, lack of transportation facilities etc. are the major factors which propel majority of small and marginal farmers to use the services of local middleman or shops to dispose of their surplus agriculture produce much below the Minimum Support Prices (MSP) announced by the Government.
8. The Committee notes that Agriculture Produce Market Acts (APMC Act) which were enacted in

various State Governments with the objective to ensure an environment for fair play for supply and demand forces thereby resulting in an effective price discovery for farm produce, to regulate market practices and attain transparency in transactions has become hotbed of politics, corruption and monopoly of traders and middleman. The Committee observes that APMC markets across the country are not working in the interest of farmers due to various reasons such as limited numbers of traders in APMCs markets thereby reducing competition, cartelisation of traders, undue deduction in the name of market fee, commission charges etc.

### **Dalwai Committee "Doubling Farmers' Income" Report, 2019**

Dalwai Committee which was set up to suggest measures to *double farmers' incomes* made the following recommendations/observations on agricultural marketing:

1. The states need to modernize their agricultural market architecture and legislate the Model APLM Act 2017, so as to liberalise the output market environment and simultaneously invite large number of private sector participants;
2. It recommended that, to take advantage of the premises of existing 22,000 (approximately)

*haats* across States, co-hosting aggregation market platforms under private and public sector organisations, as also by adopting PPP models, is essential. The *haats* may be upgraded into rural level agricultural-market platforms, and be kept *outside the ambit of State Marketing Act*, so as to enable them to directly link the farm gate with wholesale terminal markets, national and international;

3. Government may allocate appropriate funds for upgrading the periodic *haats*, into primary rural (Grameen) agricultural markets (PRAM/GrAM), and take this up as a priority action to organise the first mile of the supply chain;
4. To give appropriate focus on developing such rural retail market platforms, the government may initiate guidelines to facilitate the development of PRAM/GrAMs. Subsequently, a separate model Act should be formulated, to remove any amorphousness between retail and wholesale markets and to facilitate the States in this course of action;
5. A special Task Force be constituted to evaluate appropriate business models with liberalised stock limits, such that it will relieve market distress of farmers, while promoting various opportunities to capture a larger share of the global demand;

6. A structural limitation arises when stock limits disallow wholehearted inclusion of the private sector in agricultural trade. It is recommended that conditional exemption from stock limits be optioned to private organisations that procure stock at MSP rates directly from farmers, along with exemption from variable export limitations. This will not only ensure bigger reach of MSP benefit to more regions and farmers, but also bring private sector efficiencies and develop long-term markets for such commodities outside India, thereby provisioning an economic case to enhance farm productivity and production.

## 15<sup>th</sup> Finance Commission (XVFC)

The XVFC, in its report for 20-21, recommended 'the States will be eligible for financial incentives if they enact and implement all measures of: (a) Model Agricultural Produce and Livestock Marketing (Promotion & Facilitation) Act issued by the Ministry of Agriculture, Cooperation and Farmers Welfare in 2017, (b) Model Agricultural Produce and Livestock Contract Farming and Services (Promotion & Facilitation) Act, issued by Ministry of Agriculture and Farmers Welfare in 2018, and (c) "Model Agricultural Land Leasing Act, 2016" prepared by the NITI Aayog.

In its final report, it stated 'the main reason for the current state

of agriculture is the absence of required policy reforms and missing development initiatives. In our first report for the year 2020-21, we had recommended that States will be eligible for financial incentives if they enact and implement all features of three new Acts prepared by the Ministry of Agriculture and NITI Aayog: (a) Model Agricultural Produce and Livestock Marketing (APLM) Act, (b) Model Contract Farming Act and (c) Model Agricultural Land Leasing Act. It is pertinent to mention that out of these three policy reforms recommended by us, the Union Government has passed two Acts – (a) The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act 2020 and (b) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act 2020. We feel that with these two laws already in place, there is no need for the Commission to incentivise States to adopt the Model APLM Act and the Model Contract Farming Act. However, the Model Agricultural Land Leasing Act still remains on our agenda'.

*It recommended "We recommend that Rs. 45,000 crore be kept as performance-based incentive for all the States for carrying out agricultural reforms during the award period: (a) We recommend that States may appropriately amend their land-related laws on the lines of NITI Aayog's model law to allow short-term and long-term lease of agricultural land both for agricultural*

*purpose as well as for agro-industry, logistics for agricultural trade and supply chains, (b) We recommend incentive-based grants to States that maintain and augment groundwater stock and put a check on any fall in the water table, (c) We recommend using growth in agricultural exports as a target indicator for the award on export performance of a State, (d) We recommend increasing production of oilseeds, pulses and wood and wood-based products as an indicator to make India self-reliant in pulses, edible*

*oils and wood and wood products, and (e) This performance grant for agriculture should be used only for infrastructure and activities related to the development of agriculture and allied sectors by the States".*

*It is noteworthy that the Finance Commission recommended an approach of incentivizing the states to reform agriculture, but the Union Government thought it better to push through the Acts in the Parliament.*



## Annexure B

The debate on these laws has been quite intense with strong views being expressed by both sides, i.e., those who support and those who are against these laws. On the one hand, Prime Minister Modi defends the intent of the newly passed farm laws by pointing to the crisis in the agriculture sector that was evident by '*dayaniya stiti*' or the distressed state of small and marginal farmers across the country (Damodaran 2021b). In this respect, Narendra Singh (NS) Tomar, the Minister of Agriculture and Farmers' Welfare in the Government of India, has repeatedly pointed out that these reforms are furthering several other 'landmark decisions'—such as the annual direct transfer of INR 6,000 through the PM Kisan Samman Nidhi Yojana (PM-KISAN) and establishment of the INR One lakh crore Agricultural Infrastructure Fund for building stronger storage and processing

infrastructure—which the present Government has made for improving farmers' livelihoods. Yogi Adityanath<sup>25</sup> emphasises that these reforms will help double the income of farmers in line with PM Modi's declaration of the same objective in 2016. He says "The farmers will get the benefit of the new agricultural laws implemented by the Union Government. The farm laws have been enacted with the objective to double the income of farmers. These laws will ensure a continuous increase in farmers' income" (Jagannath 2021). Stressing that the laws are passed to empower the farming community at large, the Government believes that these laws are most beneficial for the small and marginal farmers.

However, on the other hand, the farmers' unions are clearly opposed and are demanding a repeal of the laws. Most opposition ruled state governments are also opposed to these laws and some of them have

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25 Chief Minister of Uttar Pradesh

passed their own amendments (or laws) to offset some of the provisions. Stakeholders on this side of the line argue that lack of adequate consultation, fear of corporatization, weakening of APMCs, lack of adequate safeguards for farmers, the new farm laws encroaching on the legislative space of the States, as major reasons for their opposition. Dr. Jean Drèze opines that while some degree of regulation may be necessary for the functioning of democracies, the APMC-Bypass act is worse than unregulated market in itself, explaining that the 'dual control' of the Union and State governments established in these newly mandated trade areas turns it into a 'battlefield' which rids farmers of their power, that he calls it DRAMA (Dual Regulation of Agricultural Marketing Act) (Drèze 2020). Some also believe that the rural middle class is fighting this battle outside New Delhi to secure their rights and preserve their progress in agriculture since the time that India was a nation of food scarcity (Damodaran, 2020b). While on one hand, the Government declares itself to be creating an ecosystem for farmers to enjoy the freedom to sell anywhere at any time according to their own wish, Harish Damodaran, on the other hand, says that the possible gains from this freedom are theoretical (Damodaran, 2020).

Dr. Raghuram Rajan<sup>26</sup> criticises this one-size fits all approach towards the APMC amendments, continuing to stress on the importance of incorporating the needs of diverse individuals of the country and creating 'individualised' regulations that are needed in different regions (Nair 2020). He also supports regular monitoring and evaluation of institutions for ensuring fairer agriculture where farmers are not exploited, rather than leaving agriculture under Adam Smith's invisible hand of the free market, along with fair competition in the agricultural markets (MOJO STORY 2020). Sanjay Kaul<sup>27</sup> opines that these laws seem to lack the potential of creating the required, targeted impact on the state of agriculture in India. He explains how various states had already taken the liberty to amend their own APMC acts to suit the requirements of their farmers, for instance to allow licensees to trade the produce in multiple markets outside of their prescribed APMC mandi (Kaul 2020). Further, Model Contract Farming Act already allowed some form of contract farming in some states, and farmer stock and processors were exempt from the prescribed storage limits under the ECA act in most cases. Dr. Sudha Narayanan<sup>28</sup> agrees on the unlikelihood of these laws achieving their declared targets (Narayanan 2020).

26 Former IMF Chief Economist, RBI Governor, and CEA to the Government of India

27 Chairman at National Collateral Management Services Limited (NCMSL)

28 Associate Professor at the Indira Gandhi Institute of Development Research

The debate about the farm laws has become a political issue now, as expected in a democracy, with most of the opposition parties (who might have supported the same provisions earlier) now opposing these laws and supporting the farmers' cause. The more politicised the debate becomes, the more difficult it will be to find a solution. The following part of the paper attempts to examine the various arguments advanced in favour or against.

### **Preceding agricultural policies, the need for reforms**

It is important to start by taking note of the large deficiencies in the pre-existing agricultural laws outlined in the earlier chapter and underlined by various committees. Prof. Ramesh Chand refers to the earlier laws as having promoted rent seeking behaviour by APMC officials and middlemen (arthiyas). He points out that the APMC systems lacks transparency and hence the new regulations are necessary. He also mentions the deep-rooted reliance on middlemen facilitated by the earlier laws—such as not being able to sell directly to most buyers and having them mediate in the case of contract farming—leading to less price realisation by farmers while higher prices are paid by the consumer

(Chand 2020), a view also held by Dr. Ila Patnaik<sup>29</sup> (Patnaik & Roy 2020c). Dr. Rajiv Kumar, too, agrees with this view of the pernicious influence of middlemen and traders (Press Trust of India 2020a). Dr. Patnaik argues that markets need to be liberalised with provisions for restricting government intervention, so as to win private sector confidence, which will lead to investment by them. (Patnaik & Roy 2020b). According to her, not only are the ECA and APMC acts outdated and need repealing to free the farmers, but trade regulations and restrictions on exports, as imposed under the Foreign Trade Regulation Act also need rolling back. She substantiates her claim of restrictive APMC practices by showing how the APMC cess that is imposed both within and beyond the 'mandis' under previous laws (for development of market infrastructure and rural development as an off-budget expenditure, and the commission charged by arthiyas for their services on a percentage of value basis), made the sector uncompetitive, leading to a loss in efficiency and strengthened some cartels to manipulate prices. To put this into perspective, the total of cess and commissions could be as low as 0.5%-1% and can go to 8.5% (as in Punjab) (Gulati, 2020b). Though only 6%<sup>30</sup> of India's agricultural produce (Gulati 2021) is procured at MSP and most produce is sold

29 Economist and Professor at National Institute of Public Finance and Policy, and former Principal Economic Advisor to the Government of India

30 According to the 70<sup>th</sup> round of NSSO's situation assessment survey, but some have calculated this at 15%-25%

outside APMCs, the states still extract the tax, regardless of their use of APMC infrastructure. Dr. Ashok Gulati<sup>31</sup> takes the example of the cess and commission paid by FCI to state governments and arthiyas in a year for procurement of wheat and paddy in Punjab (~95% of the state's produce of these crops)—it is INR 3500 crores and INR 1500 crores respectively (Gulati 2020d)! He argues that MSP was a policy brought about when India faced food shortages, and the situation today is precisely the opposite. Therefore, MSP distorts the efficiency of the market in case of surplus and can add to a crisis of plenty in the food management system, while the new laws can control this distortion by bringing farmers all over the nation together on one market platform, and hence the need for reforms (Gulati 2020c).

An analysis by T. Nandakumar<sup>32</sup> (the author of this paper) presents a strong case of the need to reform APMCs which were created for efficient price discovery, better access to markets, democratic governance, and protection to farmers against defaults in payments (Nandakumar 2020a). Mandi boards were expected to do widespread dissemination of price information as well. However, over time, the system became corrupt as the governance was taken over by vested interests of various kinds—for instance,

the state wanting more revenue from these 'mandis', commission agents and traders forming cartels to maximise their margins and commissions (Nandakumar 2020a). Later, even the pretence of democratic governance was given a go by when 'administrators' were made in charge superseding elected APMC boards which had already been 'packed' with Government employees, thus robbing the farmers of their legitimate voice in governance (Nandakumar 2020a). While APMCs did some good: viz., creating market and rural infrastructure, creating wholesale assembly points in many parts of rural India, ensuring that farmers got paid in time, reporting prices to the Agmark net<sup>33</sup> and disseminating the same at an All-India level, they deviated from their original objectives and did not keep farmers' prosperity in focus. APMCs need reforms but not closure (Nandakumar 2020b).

Therefore, former Prime Minister Dr. Manmohan Singh's comment «An important commitment of our government is to integrate the domestic market for all goods and services. The time has come for us to consider the entire country as a common or single market for agricultural products. We have to systematically remove internal controls and restrictions. We should enable

31 Economist and Former Chairman of Commission for Agricultural Costs and Prices (CACP)

32 Former Agriculture Secretary and Chairman of the National Dairy Development Board

33 <http://agmarknet.nic.in>

direct marketing between farmers and NGOs, Cooperatives and Private Companies" (National Commission on Farmers Report, 2006)—made in the Agriculture Summit 2005 has been quoted by Prime Minister Modi in the the Rajya Sabha while defending these reforms (PM Modi quotes Manmohan Singh, 2021).

Some pro-reform advocates believe that these reforms represent a big bold step in the direction of unleashing the potential of agriculture and releasing the innovative spirits of farmers. Prof. Chand<sup>34</sup> strongly advocates the necessity of these reforms to increase farm incomes. His arguments include the exclusion of agriculture from the highly successful 'LPG' (Liberalisation, Privatisation, Globalisation) reforms of 1991 which gave a boost to the Indian economy, mismatch between demand and supply of domestic agriculture produce, success of past experiences of milk and fisheries in expanding the agriculture sector, export competitiveness, need for private investment in the sector along with support to small and marginal farmers, need to integrate all markets into a single national market to promote barrier free trade, and the 'escape from surging fiscal costs as a result of MSP policies', among others (Chand 2020). In the

light of these necessities, he views the present laws as courageous. Several others agree on these points. Mr Siraj Hussain<sup>35</sup> notes that the laws have the potential of bringing about concrete positive changes in the medium and long term (Hussain 2020), and Dr. Kumar<sup>36</sup> also perceives these reforms as empowering those in the farming community towards prosperity while having a 'colossal impact on the future of agriculture' and setting India on the path to become a leading nation in this sector (Press Trust of India 2020a).

Several experts like Mr Hussain (Hussain 2020) and Dr. Patnaik also believe that the ECA brought with itself a bunch of uncertainties as well and gave unbridled intervention rights to the State and Union Governments which perpetuated these uncertainties (Patnaik & Roy 2020a). In short, many experts agree that these laws are aimed at (i) breaking the monopoly of the APMC system and FCI procurement and creating more lucrative avenues and wider market access (including e-marketplace) without any restrictions on trade, any levying of tax outside the APMC, or any restrictions on contract farming; (ii) liberalisation and deregulation of certain agriculture produce such as pulses or cereals, on lines similar to the 1991 reforms in India; (iii) improved price discovery

34 Economist and member of NITI Aayog

35 Senior Visiting Fellow at ICRIER and former Union Secretary in the Ministries of Food Processing Industries and Agriculture

36 Vice Chairman at NITI Aayog

wherein farmers are empowered to act as price makers and not takers (by reducing the role or getting rid of middlemen), shortening the supply chain and making it more efficient, and having dynamic open market linkages; (iv) encouraging private participation and investment to improve farm infrastructure; (v) assuring price as per predefined contracts, in an attempt to stabilise prices and reducing market volatility.

### **Timing of the legislation**

Dr. Gulati, views these laws as a ‘course correction’ in response to the earlier restrictive policies which, according to an OECD-ICRIER study, implicitly taxed the Indian farmers to a huge extent (~14% of the value of produce) (OECD-ICRIER Report, 2018). While some experts including Prof. Chand and Dr. Gulati believe that Government shouldn’t waste the opportunity brought about by a crisis (the crisis here being the COVID19 pandemic) (Chand 2020) and that COVID ‘opened a window of opportunity which was grabbed by the Modi Government (Gulati 2020d), others like Dr. Abhijit Banerjee<sup>37</sup> feel that the timing of the GoI in undertaking such serious reforms affecting majority of the country’s population couldn’t have been more precarious. Dr. Banerjee opines that these laws,

although necessary in terms of reforms needed in the agriculture sector, should be repealed during the pandemic in a season which is characterised by bumper crop and deficient demand (NDTV India 2020). Beyond this, the bills should be brought back after proper conversation with relevant stakeholders and parliamentary discussion to decide what is best for the farmers. On a similar note, P. Sainath<sup>38</sup> questions the requirement of carrying out these reforms in such haste (Sainath 2020).

However, proponents argue that these reforms, which many criticise as being too sudden, were on the anvil for the last two decades. Minister Tomar argues that the deliberation for these laws had started way back in 2001, and its need has been felt since as more and more farmers are seen as not having the right to fix his own price or to sell his produce on his own terms wherever he wanted (Ministry of Agriculture and Farmers Welfare, December 2020). Seconding this, Dr. Mekhala Krishnamurthy<sup>39</sup> says that these laws are undertaken in the direction of ongoing change aimed at transforming and evolving the agricultural sector which has been trying to reform for 20 years now (Chatterjee & Krishnamurthy 2020). Agreeing on this, Dr. Patnaik also points

<sup>37</sup> Economist, Nobel Laureate and Ford Foundation International Professor of Economics at Massachusetts Institute of Technology

<sup>38</sup> Journalist and Founder Editor of the People’s Archive of Rural India

<sup>39</sup> Anthropologist and Senior Fellow at Centre for Policy Research

out that these laws were long time coming and even included in BJP's 2014 election manifesto spoke of a national food market which is being proposed by the APMC Bypass Act.

## **Constitutional Impropriety and State Workarounds**

A major argument against these laws comes from what the State Governments call constitutional impropriety, agriculture being a state subject. However, Damodaran explains that these laws are within the ambit of the Union Government as they concern the 'supply and distribution' of the produce, on which the Centre has powers to override the States, (Damodaran, 2021c) a view taken by the Centre as well.

However, several non-BJP states have, introduced their own set of laws in an attempt to bypass the three laws that have been introduced by the Centre, a right which many feel they have, given that agriculture is a state subject. The forerunner of undertaking such reforms was Punjab, wherein amendment bills were enacted by the state legislature to reverse the Central laws. First, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) (Punjab Amendment) Bill and the Farmers (Empowerment and Protection) Agreement on Price Assurance (Punjab Amendment) Bill facilitate making the purchase of wheat and paddy, the largest crops grown in the region, below MSP by anyone a punishable offence

(PLA, 2020). Included in this is also a provision that allows private purchases outside the APMC to be taxed with a cess which shall be used for furthering the betterment of farmers. Second, the Essential Commodities (Punjab Amendment) Bill seeks to allow the State to retain the power to fix limits on stockpiling so as to prevent hoarding and black marketing of food in Punjab. The Code of Civil Procedure (Punjab Amendment) Bill, 2020 aims to protect small and marginal farmers against 'attachment of land (below 2.5 acres) in recovery proceedings. Following Punjab, Rajasthan also passed its own amendment bills in November more or less on similar lines (RLA, 2020). Through the bills, among other things, Rajasthan made into law the harassment of farmers a punishable offence, wherein harassment included non-acceptance of pre-decided procurement as well as non-payment as per terms of the agreement or within three days of delivery, whichever was earlier, as well as deemed all warehouses of FCI and state warehousing corporation as "mandis", hence allowing them to continue the imposition of a cess. They also mandated a dispute-resolution mechanism wherein farmers can approach the APMC mandi on the same. Other states such as Chhattisgarh, have also passed their own amendments.

The Punjab government amendments cover only wheat and rice and gives the State Government the power to

declare any place as a mandi. It also provides legal space for approaching the civil court. Effectively, they seem to be protecting wheat and rice farmers and APMC revenue. The Rajasthan amendment covers all crops by giving powers to the Government to declare any place as a mandi, thereby protecting revenue and ensuring regulation. The Chhattisgarh amendment has two interesting additions: it exempts contract farming produce from APMC rules and it provides that open bids for produce covered under the MSP regime shall start (benchmarked minimum price) only at MSP in the APMC markets (CLA 2020). The above amendments indicate the following: (i) State Governments are concerned about a few principal crops; (ii) They want to protect APMC revenues, provisions protecting farmers against non-payment, fraudulent deals, etc.; (iii) There is concern about sales outside mandis below MSP; and (iv) They are keen to facilitate contract farming provided farmers get prices at par or above the MSP.

### **Fears and demands of farmers and opponents of the Farm Laws**

The farmers seem adamant in their demand of repeal of the laws and a legal status for MSP. Sainath<sup>40</sup> argues that these laws are pernicious for

not only the farming community but also for the citizens of India at large (Sainath 2020). He believes that the laws are a corrosive force on the rights of these stakeholders and shall take the country back in time in terms of progress. According to Prof. Sukhpal Singh<sup>41</sup>, the fears of the farmers with respect to the laws seem to be stemming from the changes in the ‘social contract’ between the union government and the farmers, wherein several provisions such as ‘the definition of a trader and FPO, dispute regulation mechanism, and the contract farming price settings as linked to the APMC price’ do not serve both parties equally, which is a cause for concern that has erupted due to lack of consultation with relevant stakeholders (Paliath 2020). Gradual weakening and eventual destruction of the APMC ‘mandis’ seem to be the widespread apprehension of the farmers, especially those of Punjab and Haryana who rely on these institutions for the sale of their produce. Swaraj India’s President Yogendra Yadav argues that the farmers are apprehensive that the private marketplaces, rather than providing them with more options, will eventually lead to dismantling of the APMC ‘mandis’ altogether and hence procurement at MSP may slow down, which would leave these farmers at the mercy of the big corporates (NDTV

40 Journalist and Founder Editor of the People’s Archive of Rural India

41 Economist and Professor at Centre for Management in Agriculture, IIM Ahmedabad

India 2020)—an apprehension also held by some journalists and experts. Some state governments are opposing due to possible threat of loss of income earned through the APMC cess and to the assured purchase at MSP.

With inter-state trade becoming less restrictive, it would help the corporates to buy large quantities and should help improve competition in general. But farmers feel that the corporates would eventually, if not immediately, control the market to set prices and that piled (limitless) stocks could be used to create price volatility and gain control of the food market. Further, the farmers believe that the much-maligned arthiyas at least have long term and somewhat personalised relationships with the farmers, which provides them with a sense of comfort. The non-licensed traders or buyers on the other hand (they are likely to become stronger ‘super-middlemen’, a term used by Yadav) who participate in the agricultural market do not seem to be winning their trust. Further, many also point out that farmers fear the usurping of land by the giant corporates under some legal loop hole beyond the knowledge of lay men and hence they fear being reduced to workers in their own land. Dr. Kaushik Basu<sup>42</sup> elaborates on the creation of situations of ‘voluntary slavery’ through monopsony, wherein

they have no control over their work or marketing their produce—prompted by the absence of a formal price setting mechanism after the destruction of the APMC system and exacerbated by the allowance of verbal contracts with no effective redressal mechanism (Basu & Singh 2020). Narinder Singh, a farmer from Ludhiana, Punjab, is scared that upon entering into contracts, the corporates will treat farmers as their employees, which makes them apprehensive that their free entry into agriculture will put the farmers at the mercy of big business houses for all crops (including paddy and rice), making these laws go against the interests of the farmers (Baruah et. al 2020). Yadav calls this the beginning of a ‘Company Raj in Agriculture’, and says that the Contract Farming and the APMC-Bypass Acts are for business and that the ECA amendment is for stockists (NDTV India 2020). Gurtej Singh cites the poor prices he received for his bottle gourd and maize due to non-procurement outside the APMCs and wonders how to keep doing farming without remunerative prices (Baruah et. al 2020). Sainath fears that the second largest employing sector of allied activities like handicrafts and handlooms, which is directly connected to the largest employing sector, agriculture, can tank when agriculture tanks and receives lower prices for their produce (Mukherjee

42 C. Marks Professor of International Studies and Professor of Economics at Cornell University, and former World Bank Chief Economist and CEA to the Government of India

2020), a fear also voiced by Dr. Krishnamurthy, who believes these laws worsen the uncertainties faced by millions in this sector today (Aiyar and Krishnamurthy 2020).

Farmers fear that the new laws shift the balance of power in favour of big corporates, leading to a monopsony situation under free market, which is why these laws have been called ‘flawed’, ‘detrimental to farmers’, and ‘serving corporate interests’ by Dr. Basu (Basu 2020). Similarly, by referring to the new farm laws as “agri-business promotion acts”, Dr. Drèze opines that despite the imperfection of the present structure, the APMC-Bypass act is what he calls ‘poor economics’ which will only allow corporate giants to take over the work of the FCI and the Union Government to take over the revenues of the States (Drèze 2020). The APMC ‘mandis’, having collapsed due to more concentration of large buyers and fewer competitors, will make the farmers deal with conglomerates as their only resort. Hartosh Singh Bal, journalist, argues that corporatisation of agriculture through these bills is detrimental to the farmers, who will have to take price cuts, and not having any positive externalities for the consumers. Bal points out that ‘very big private players’ are whom these laws are meant to serve. He mentions those companies who have already entered and dominated the market for basmati

rice and who now aim to lead in the pulses, wheat and sugar segment to monopolise the food industry. Sainath also fears corporate control of food in the future (Sainath 2020). Dr. Drèze argues, that without state regulation, free markets eventually lead to the centralisation and concentration of power through economies of scale, a phenomenon typical of free market (Drèze 2020).

They fear slowing down of procurement at MSP. They also fear losing their land to these corporate giants due to lack of adequate safeguards in place. All of this has arisen due to lack of stakeholder consultations, mistrust of the Union Government, and the haste in which these laws were introduced. Kannaiyan Subramaniam<sup>43</sup> puts these fears into words, stating that “In the long run, corporations will monopolise trade, production and stockpiles. The government will succumb to pressure from the WTO and get rid of the public grain procurement.” Therefore, the farmers are demanding a repeal of these laws along with a legal status for MSP since they fear that the next step is the gradual dilution of the MSP-PDS combine following the Shanta Kumar committee recommendations. Yadav deems it necessary to clarify that this fight is not of the Punjab and Haryana farmers alone, as some are choosing to believe, but rather

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43 General Secretary of a Farmers’ Union in Southern India

despite different ideological beliefs, farmers from across the nation have come together to protest in different intensities, and that the vigour of farmers in these two states would heighten and spread to each state (Yogendra Yadav and Punjab Farm Leaders 2020). Medha Patkar, a social activist protesting at one of the borders, says that the farmers are crystal clear on their demands—repeal the farm laws, release the innocent people who have been jailed for simply challenging corporatisation and fighting for preserving their fundamental right—to participate in a democracy and defend their interests in a peaceful manner. Farmer leader Hannan Mollah argues that these laws aim at disadvantaging the poor and serving the interest of the corporates. Kavitha Kuruganti, farmer activist, feels that these laws were falsely brought out behind the veil of COVID-19, which is made worse by the Government antagonising the farmers and not repealing the laws owing to the Government's 'prestige' issues in rolling back these laws (Outlook Magazine 2020). Earlier, the farmers were asking for minimum prices to be set so that they could earn enough for sustaining their production, but the new laws clearly shift the balance in favour of huge corporates. She further says that farmers are not opposed to reforms in agriculture per se, but 'top-down one nation, one market' policy

does not do justice to the diversity within the farming community—instead needing a one nation, one price policy. Another point of concern, she points out, is that the present reforms do not take into consideration the concerns of farmers in the most marginalised communities—namely women and dalits—with the reforms basically focusing on the cream layer of large, dominant, upper-case, male farmers. Hence, laws need to account for the diversity in the community that India boasts of. She argues that the Government itself agrees that these laws are imperfect and have flaws and amendments can be made.

### **Addressing the misconceptions surrounding the New Farm Laws**

Dr. Kumar<sup>44</sup> views the newly formed farm laws as extending 'entrepreneurial freedom without trader exploitation while empowering farmers to create a free and fair ecosystem for farmers and traders alike by fostering healthy competition' (Press Trust of India 2020a). Supporters of farm laws also feel that there are some misconceptions in the minds of farmers regarding the ambit and scope of the three laws, and few interpretations are clearly meant to mislead the farmers and are playing on their fears. Acknowledging and addressing this issue of spread of false narratives, Dr. Kumar attributes

to these laws the potential of fostering ‘friendly competition’ between the private markets and the APMCs rather than any form of exploitation of the farmers or any intent of ‘busting the mandi system’ (Press Trust of India 2020a). Supporting this view, Prof. Arvind Panagariya<sup>45</sup>, his predecessor at NITI Aayog, argues that the prominent economists Dr. Basu and his successor Dr. Rajan had recommended reforms on the same lines while in positions of authority (Panagariya 2020). Prof. Panagariya also believes that these laws will help get the private sector involved with the companies serving the interests of the farmers, not the other way around, and that these laws pose no risk for the farmers as there is no mention of dismantling the APMC ‘mandis’, which is the most prominent misconception (Panagariya 2020). Dr. Bharat Ramaswami<sup>46</sup> clears the air by explaining that the reforms have nothing to do with the MSP in any way, so is the case with procurement from APMC ‘mandis’ (Ramaswami 2020). He goes on to say that these reforms are a ‘long road’ for the farmers, which they are hesitant on embarking owing to their ‘complexity of relationships with the mandi traders at present’. Prof. Chand also addresses the misconceptions around the three laws in more detail:

(i) APMC faces no threat from the private sector and recommends the cess be kept under the 1.5% threshold

for smooth co-existence of both channels; (ii) MSP shall continue after reforms due to its nature as an administrative issue. GoI has increased the MSP in 2020 (refer Annexure D), and a written assurance of MSP is a promise by the Government; (iii) Rather than causing volatility in prices, the removal of stockpiling limits would reduce food wastage and bring volatility under control (in case of volatility and extreme pre-decided conditions, the Government can still impose limits for stockpiling under ECA) (Chand 2020). Minister Tomar has time and again clarified that these laws have no bearing on the current system of procurement at MSP, which has also been endorsed by PM Modi (September 20, 2020) where he emphasised that the Government was “here to serve our farmers”. Minister Tomar states that MSP has been increasing ever since Mr Modi has taken over as Prime Minister and that the MSP for Rabi crops will be announced irrespective of these new laws. In his letter to the farmers, he clarifies that APMC ‘mandis’ would remain in place since the “States may be allowed to tax private markets outside the APMC” and that the “farmers will also have the option to go to court to resolve any type of dispute.” Citing the example of Maharashtra and Madhya Pradesh, Dr. Krishnamurthy argues that these states have private markets as well outside of the APMC

45 Professor of Economics at Columbia University and former Vice-Chairman at NITI Aayog

46 Professor of Economics at Ashoka University

'mandis' which exist symbiotically with the APMC 'mandis'—a system that has managed to work well for these states at an individual level so far (these two states, however, are different from Punjab and Haryana in terms of cropping diversity, a crucial difference) (The Print, 2021).

Nandakumar contends that despite the distrust in the Government, these reforms do not directly 'dismantle or dilute' the PDS (Nandakumar 2020b). He further goes on to say that the Government is likely to benefit from continuing the APMC system in a 'farmer friendly avatar' to allow price discovery, while also providing farmers with a reference point for prices. According to Dr. Gulati, these reforms aim to provide the farmers with more options at their disposal so that they can avail better offers for the crop right at the farm gate through a formalised, legal structure (The Print 2020). He also argues that the market structure is far more sustainable, conditional on getting the markets right, than the current structures in place (Gulati 2020c). As far as the EC Act is concerned, the inclusion of private sector in storage and warehousing would ensure smoother distribution due to proper storing of surplus and reduction of food waste, translating into better and more stable prices to farmers. Essentially, the private sector would be competing with prior intermediaries to woo the farmers, hence benefitting the agricultural community (Gulati 2020a). According

to Patnaik, the rollback of limits in ECA, by allowing private sector investment and increasing competition in favour of farmers, coupled with the potential to gain prominence in exports (the involvement of private sector can help figure out logistics such as how to ensure consistency in quality and quantity of output to meet importing country requirements) over time could help the building of a relationship between the farming community and the corporate sector for improving farmer prosperity (Patnaik 2020a).

In the pre-reforms period as well, private sector did participate in the market (albeit on a case-by-case basis), and contract farming also existed (mostly informally, some formally under the India Contract Act). The current reforms aim at formalising some of these arrangements. Agriculture Minister commits the Government's willingness to talk and negotiate the new laws, while discrediting the need for protests as the Government is willing to hold bilateral meetings. In a published letter, he highlights the positive reception of these laws by FPOs and tries to clear misconceptions regarding these laws—"agreement (in contracts) will be only for the crop, not for land", "The procurement price of agricultural produce will be mentioned in the farming agreement" and that "there have been discussions for two decades. It started in the year 2000 with the Shankarlal Guru Committee. Thereafter, the Model APMC Act in

2003, APMC Rules in 2007, Committee of Chief Ministers of Haryana, Punjab, Bihar and West Bengal in 2010 and approved by Agriculture Ministers of 10 states in 2013, Model APMC Act in 2013 and laws finally approved by Parliament in 2020" (Ministry of Agriculture & Farmers Welfare, 2020).

### **Loopholes in the New Farm Laws**

Experts have pointed to some of the more nuanced loopholes in the law. Dr. Narayanan provides an analysis of what could go wrong with these laws, the most overlooked of which pertaining to the APMC-Bypass bill are, (i) there exists no prescribed mechanism or route for an integration, to a 'one national market' (ii) For new markets, trade areas, and the perceived e-marketplace, there exists no provision for any degree of regulatory oversight; (iii) despite the use of "transparency" in the bypass bill, there exists no mention of a relevant mechanism for maintaining data of any sort while marketing and trading; (iv) Non specification of the rights over such data that uses "future technologies" employed by agri-tech players; (v) 'Re-intermediation of the supply chain' due to the entry of such agri-tech firms as large intermediaries between corporates and the farmers; (vi) The Bypass Act also enables newly added trade areas to fall outside the jurisdiction of the APMC, separate from the pre-existing APMC 'mandis' or private marketplaces (Narayanan 2020). All three bills together make

the marketing of agricultural produce, along with practicing contract farming and allowing stock piling *almost invisible* and hence, outside the purview of regulation. Some points of contention between the farmers and the Government, according to Jagmohan Singh Patiala, farmer leader is: (i) The Government has repeatedly assured the farmers regarding the continuation of MSP and procurement, and has even given a written assurance. However, this does not serve as a legal guarantee for such a demand in any manner whatsoever; (ii) The Centre has said the State Governments can register traders if it wishes to regulate them—which is essentially the Centre deflecting responsibility on its part; (iii) The Government has also repeatedly assured that according to the Contract Farming Law, there exists an option to approach the court in case of usurpation of land (which is illegal) (Chaba 2020). However, as is the case for sugarcane which follows similar regulations, payments are held back to push the poor farmers into a debt trap, which ultimately leaves them with no option but to sell their land for survival. Other loopholes have been mentioned elsewhere.

### **Trust deficit with the (Union) Government**

Most of the opposition to these laws, be it political or otherwise, stems from a mistrust of the Union Government and its ability to make good on its promises.

Sainath talks about the promise of adopting MSP recommendations of the Swaminathan Commission, and later denying them, let alone implementing them (Mukherjee 2020). Dr. Basu explains how this lack of trust can pose a problem, especially in the case when the new farm laws lack a reliable and just redressal mechanism. Hence, even though the laws do not explicitly mention the dismantling of MSP, Dr. Basu believes and the farmers agree that the sense of trust required to believe in a written agreement and not a legal mandate by the government regarding MSP is not present, and hence the fear of corporate control through these laws (Basu & Singh 2020). He suggests the need for anti-trust laws to protect the farmers from such corporate monopsony. Dr. Banerjee also talks about the need for guarantees to comfort the farmers in order to bring the required reforms in the agricultural sector in a more tender and less forceful manner in order to prevent the states from feeling intimidated or threatened in any manner whatsoever by the laws (India Today 2020).

### **Impact on small and marginal farming communities**

Proponents contend that MSP and APMC mostly benefitted large farmers. Minister Tomar, in a letter to the farmers, has pointed out that various

Farmer Producer Organisations of several states have welcomed these reforms with open arms, and that these are already empowering a lot of these organisations as well as the small farmers that dominate the sector (Ministry of Agriculture and Farmers Welfare, 2020b). On similar lines, Dr. Gulati argues that while the APMC 'mandis' and MSP policies have helped large farmers of Punjab and Haryana by procuring almost the entire marketable surplus, the new farm laws would help the small and medium farmers by encouraging them to form Farmer Producer Organisations (FPOs) at the village level—Government has announced an ambitious programme of creation of 10,000 FPOs and launched the Agricultural Infrastructure Fund of INR 100,000 crores under the Atmanirbhar Bharat Abhiyan (Ministry of Agriculture and Farmers Welfare, 2020a)—without disturbing the prior two mechanisms in place for farmers who benefit from them (Gulati 2021). Hence, both systems are expected to symbiotically co-exist in a strengthened manner. Dr. Surjit S Bhalla<sup>47</sup> states that the APMC has monopoly power in most states and by serving only the largest 6% of farmers—mostly in Punjab and Haryana—guarantees these farmers a majority share of Government procurement, with these two states contributing roughly 60% and 33% of the total wheat and rice procurement. Hence,

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<sup>47</sup> Executive Director for India at the International Monetary Fund

he argues that the small farmers are essentially fighting to sustain the richness of these large farmers without realising they have nothing to gain from status quo (Bhalla 2020). Abolition of multiple taxes also helps the farmers fetch higher prices as price setters in the market, hopefully changing the current scenario of small and marginal farmers in the community being the victim of middlemen and taking on the role of price takers. Dr. Gulati argues that ECA prevented private sector from investing and explains how this adversely impacts supply chains. He believes that seen in all these respects, the MSP and APMC benefitted the large farmers mostly, as these were the ones who could undertake transportation costs and selling costs in the APMC mandi to market their produce, and not so much the small and marginal farmers particularly in the poorer parts of the country (Gulati 2021).

Hence, proponents believe these laws have the potential to increase the supply chain efficiency by shortening its length through the removal of intermediaries, benefitting both the farmers and consumers by reducing marketing costs, through supply assurance (courtesy ECA limit restrictions roll back) and by enabling better price discovery to the farmers and consumers in the process. Prof. Singh suggests that upon the development of these new 'trade areas', the functioning markets may be able to do away with the requirement of the commission agents (Singh

2020a). According to Prof. Chand, the new laws will promote diversification from the typical crops grown in a region and shall incentivise planting high-value fruits and vegetables, thanks to the legal provision of selling directly through farm gate supply chains. This could guarantee farmers better prices while allowing them to sell these crops in small lots as and when they yield, without the trouble of incurring transportation costs to the APMC market yards (Chand 2020). Dr. Gulati says that the efficiency of supply chains can be leveraged by small farmers if they form FPOs and do collective bargaining with the corporates (The Print 2021). He attributes these potential benefits to the reforms, while highlighting the need to avoid food wastage (through proper storage), and stresses on the disincentive of the private sector to invest and participate because of the stock limits. Hence, significant investment by the private sector in warehouses and proper storage units for ensuring smooth supply and therefore smooth consumption and fairer prices is conditional on reforms is what several experts like Mr Hussain (The Print 2020) believe. Elaborating further, Dr. Narayanan feels that the premise of these reforms is to poised the agricultural supply chain as a more investable avenue for the private chain, which would make the supply chain much more efficient, while increasing the bargaining position of farmers in the process (Narayanan 2020).

However, rather than taking the intermediary middlemen out of the equation, opponents predict that the middlemen might on the contrary become stronger, since corporates may not want to deal with the farmers directly. Yadav agrees that the APMC structure is flawed, but still a safety net for the farmers. He draws the analogy of a ‘*kaccha*’ roof as being better than no roof at all (NDTV India 2020). Dr. Drèze provides a compelling argument about markets perpetuating efficiency but at the tremendous cost of widening economic inequality, which is why he says that the farmers are concerned about feeling secure much more than they wish to be ‘free to sell wherever and to whomever’ (Drèze 2020)—this is in line with Sainath’s vocalisation of farmers wanting assurance and not fluctuations (Mukherjee 2020). Dr. Purnima Menon, a nutrition expert,<sup>48</sup> comments “There is a spatial inequality in terms of how buyers procure and (such procurement) depends on geographical areas”, further stating that the women farmers are likely not to experience any change at all (IFPRI 2020). Dr. Drèze is also concerned about the unchecked power of the Union Government to intervene and regulate these laws in the absence of any provision to prevent such uncalled intervention or regulation in the future (Drèze 2020). Dr. Patnaik

is also concerned about the laws allowing Government intervention by giving ‘executive powers to adjudicate disputes through *Suo-Motu* cases’ which could deter the private sector from entering into the sector (Patnaik & Roy 2020b). The fear of this power imbalance is explained by Dr. Amartya Sen,<sup>49</sup> who makes a case for ensuring certain checks and balances are in place and that the state supports the market such that they contribute to hedging the uncertainty that comes alongside agriculture in India, therefore suggesting the need for reviewing these laws and instead creating a ‘healthy market’ in a manner that takes into account how to best look after the interests of the vulnerable farming community (Prannay Roy’s Townhall 2021).

Dr. Krishnamurthy points to these laws creating winners and losers even within the farming community as well, wherein even if these laws result in better condition of the farmers overall from the outside, a lot of farmers would be worse off than before (these might disproportionately be small and marginal farmers, as inferred by the commentary of experts on the subject). Further, she also fears serious ‘welfare consequences for farmers’ given the absence of any protecting mechanism or insurance policy for hedging the uncertainties that are

48 Senior Research Fellow at the International Food Policy Research Institute (IFPRI)

49 Indian Economist, Philosopher and Nobel Laureate

implicit to this sector (Chatterjee and Krishnamurthy 2020).

### **Redressal mechanism**

There is substantial debate on the existence, or lack of thereof, of a fair redressal mechanism. Countering the critique of a missing redressal mechanism, Prof. Chand explains that the Contract Farming Act clearly says that the farmers shall have access to the sub-divisional authority (SDM) and collector in case of any disputes (Chand 2020). Farmers and opponents of on the other hand are quick to point out the absence of a fair redressal mechanism in these laws (barring of the civil courts'). Sainath, a believer that these laws erode the constitutional rights of citizens and threaten democracy itself, elaborates this by citing section 13 of the Farming Produce Trade and Commerce (Promotion and Facilitation) Bill as "disabling the right to legal recourse of all citizens and farmers unions" and "protecting the Government and any other person against legal actions for any crimes committed by it 'in good faith'", section 15 of it as having "no legal recourse in courts and suspending fundamental rights", and section 19 of the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services as implying that 'no injunction is to be granted by any court or authority' (Sainath 2020). These laws ensure that farmers are barred from approaching any court and taking

legal actions, and the Bar Council of Delhi has stressed on the intensity of this problem by stating that these provisions that tip the power scale and transfer all legal and judicial powers that should lie with the judiciary, especially in a democracy, to the executives, are extremely 'dangerous and will cause a blunder' (Sainath 2020). Hence, this problem exacerbates the gap between farmers and corporate giants by "converting low level executives into judiciary that thus damages district courts and uproots lawyers." He also points out that the immunity to corporates alongside the Government provided through these sections essentially promote the "ease of doing very, very big business" (Sainath 2020). Dr. Banerjee says that the Government has not ensured a mechanism to provide any sort of guarantee or protection to farmers in cases of exploitation or adversity (India Today 2020). Although generally a supporter of the 2020 reforms at large, Dr. Patnaik does agree on this point concerning the need to reform the redressal mechanism to give more power and participation rights to the informed party as compared to the Government (Patnaik & Roy 2020b).

### **Impact on Food Security**

Being a nation with a food surplus, many experts believe that these laws shall not impact the nation's food security. However, those against these reforms have argued that these laws imply going back in time to the

stage of food insecurity. Sunil Jakhar<sup>50</sup> opines that the food security of the nation is being handed over to the big corporates (UNI 2020). Amritananda Chakravorty, a Delhi based lawyer, explains how the ECA was established for maintaining a smooth supply chain of essential goods at fair prices and for supporting the farmers and increasing the export of agricultural products (Chakravorty 2021). However, she says that despite having an overall surplus in food production, India still ranks extremely low in the Global Hunger Index (#94/107), classifying it as a nation with serious hunger problems (Welthungerhilfe, 2020). By amending the ECA in 2020, Chakravorty says, the Government dismisses these facts and deems it nonessential to regulate food supply and prices any longer, a move that would result in furthering the already inequitable distribution of food and income. Hence, these new laws are perceived to be directly tied to the food security of the nation's citizens through withdrawing a secure channel for sustainable food production.

### **MSP as a legal mandate**

A major policy change that the farmers are demanding as part of the protests, apart from repealing the three farm laws, is making the MSP a legal mandate for even the private sector. On this point, most experts feel that this is fraught with danger.

Nandakumar calls this an "impractical suggestion with serious consequences" (Nandakumar 2020d). He elaborates this by outlining how increases in procurement as a percentage of production, which in itself is increasing, is raising the food subsidy bill to unsustainable levels. Coupled with a legally mandated MSP, a large percentage of the production will be procured by the state agencies or the FCI, causing an imbalance between public and private stocks. These stocks will have to off loaded in the open market resulting in huge losses to the Government and undue profits to traders. In addition, existing channels available to the farmers will disappear since traders may find it profitable to wait for open market sales by state agencies. Kaul offers an alternative policy of offering conditional income to farmers in order to compensate for income lost as a result of not having sold to the Government (Kaul 2020). However, Prof. Chand points out that MSP is an administrative policy issue and not a legally mandated one, and argues this system will fail to bring in the required investment and private participation if this MSP is higher than the sustainable market price, leading to a breakdown of this alternate marketplace. He also points out that currently less than 7% of produce is sold at MSP, making it a non-dominant form of purchase, which can continue even after the implementation of

farm acts (as it depends upon the actions of the state government) (Chand 2020). Mr Hussain is also of the same opinion that the laws do not change the current system, and MSP can be protected through a written Government assurance, and that the state is responsible for making rules for implementation in this respect (Hussain 2020), a view shared by Dr. Kumar (Press Trust of India 2020b). Prof. Singh voices his opposition to this idea of a legally binding MSP by explaining how in the case of private players not wishing to purchase at a mandated MSP and rather importing produce in its place coupled with non-procurement by the FCI, farmers might not have any place to sell their produce at all. Hence, he points out, Punjab's mandatory MSP is 'ill-advised' and will 'kill their own market' while discouraging private participation (Singh 2020). Similarly, Damodaran, views legalising MSP as 'retrograde' and 'anti-market' and cautions against enacting such a provision as being far more damaging than even repealing the laws. He believes that such measures will kill private trade completely and are not practical. If nothing else, Damodaran writes, it is better for the agriculture sector to 'go back to status quo' (Damodaran 2020b). Dr. Gulati also talks about how MSP is an inefficient system of procurement in times of surplus, as depicted by rice and wheat stocks above the required buffer stock norms, with the cost of procurement and handling much higher than the market

cost, which makes export without subsidy impossible (Gulati 2020c). Prof. Panagariya too counters this demand by saying that it is impossible for India to provide MSP with a legal statute as the Government does not have resources to buy everything from farmers, especially when the current procurement is greater than the required norms (Panagariya 2020). Here, Nandakumar takes the example of sugarcane, which has a Fair and Remunerative Price (FRP) which is a Statutory Minimum Price that the sugar mills are required to pay, to explain how the MSP mandate can be detrimental (Nandakumar 2020c). Citing the case of Maharashtra and UP's overproduction, he elucidates how their supply stood well above the domestic demand, which meant that the Government had to resort to a 'nudged and incentivised' export of sugar with financial incentives while increasing the price at which it sold sugar to the consumers, thus placing a burden on the consumers and the taxpayers. In 2018–19, the fixing of the sugarcane FRP as A2+FL+77% (Author's calculation and Final Report of the Task Force: Sugarcane and Sugar Industry, 2020) led to taxpayers paying approximately INR 6,000 crores as incentives for exports (Nandakumar 2020c). Government also increased domestic sugar prices far above the international level for the same reason using a statutory 'Minimum Selling Price'. In spite of this, farmers were not paid on time. Hence, Nandakumar uses this example to

suggest that a legal MSP mandate can lead to “disappearing export markets, a disrupted domestic supply chain, unmanageable surpluses, and an unaffordable subsidy burden” (Nandakumar, 2020c). The WTO agreement, in any case, does not permit a subsidy backed export system, and therefore a financial crisis in the food management system may be inevitable. Therefore, he suggests designing a new approach to MSP, in the form of cash compensation to farmers and make it more market-oriented and sustainable.

However, farmers see MSP as their only option for earning a decent profit. Jagmohan Singh Patiala, a farmer leader, points out that a major flaw in these reforms is MSP being a mere assurance, which coupled with a trust deficit in the Government, leads to a strong suspicion about MSP being gradually wound down unless it is protected by law. Yadav, and others believe that a ‘Company Raj in agriculture’ is the real intent of the new laws where increases in productivity might leave the farmers worse off than before, hence stressing the importance of this demand (NDTV India 2020). A similar argument is presented by Vijoo Krishnan<sup>51</sup> who describes the effects of these laws as disempowering farmers and bringing about ‘Company Raj’ in agriculture (Krishnan 2020).

Harvir Singh<sup>52</sup> is of the opinion that for making agriculture more sustainable, marketing laws proposed in the bills need to be supplemented with a legal guarantee for MSP, for which the corporate sector should step up and take the onus (Challenges of Agricultural Marketing Reforms 2021). Surjeet Singh, a farmer from Punjab cites the example of two of his crops i.e., maize and moong, in which the private players do not offer fair prices to ensure survival, and his only way of ensuring that he earns a decent profit is by planting crops that pay assured MSP, i.e., wheat and paddy—showing the importance of MSP in addressing price risks.

Economic Surveys (some authored by Dr. Basu) argued in favour of farmers selling outside in avenues outside the APMC ‘mandis’ and in incentivising private sector to invest in the sector. However, Dr. Basu has also argued that alongside liberalisation of the agricultural markets, there is a strong need to ‘rationalise and broaden the MSP procurement’ (Basu & Singh 2020). He reasons that with the dismantling of the ECA’s stockpiling limits, private firms and traders can have the power to hoard and artificially control market prices to their advantage and the farmers’ disadvantage, which emphasises the need for a minimum benchmark. While he agrees to the

51 Peasant leader and All India Joint Secretary of All India Kisan Sabha

52 Editor-in-Chief at ruralvoice.in

point of increases in overall efficiency on the outside, he warns that these shall go against the farmers' interest due to the absence of any risk-mitigation clauses in these laws; other countries which are being taken inspiration from, such as China and the US, provide major subsidies to farmers to mitigate such risks (Basu & Singh 2020). Without a legally guaranteed MSP, he says that most farmers would be servile to corporates who have the potential to artificially control prices at their own will. Dr. Rajan highlights the importance of MSP for Indian farmers by suggesting that ideally, both private trade markets and APMC 'mandis' should coexist symbiotically, which requires healthy competition (MOJO STORY 2020). One way of fixing the ongoing chaos, according to Dr. Rajan, is simply using the MSP policy to boost farmer incomes in the present and carefully planning for reform after stakeholder consultations and dialogues in the future. To be fair to Dr. Basu and Dr. Rajan, they did advocate further liberalisation of agricultural markets, but did not advocate the enactment of farm laws as central acts in the current form (Nair 2020). Sainath mentions NDA's promise of implementing the recommendations of the Swaminathan Commission on how to set the MSP price within a year of the 2019 assembly elections (Mukherjee 2020). While Dr. Banerjee agrees with the need for agricultural reforms, he believes that the reform needs to be brought out in a more gradual and supportive manner, wherein he

suggests providing guarantees to the farmers as a source of comfort (India Today 2020). Insofar that he agrees the MSP system needs reform, he is of the view that a 'transparent and lucrative MSP for other sustainable crops' might be a good approach to follow, while leaving wheat and paddy out of this reform to incentivise the shift to other crops (Nath 2021). In short, proponents suggest rationalising and broadening the MSP procurement with guarantees as a source of comfort and carrying out reforms in a gradual and supportive manner.

### **Impact on supply chains and the role of Private Sector**

The new legal framework is expected to ensure supply chain efficiencies reducing wastage and value loss. Incentivising private sector to play an increasing role in the sector is likely to lead to smoother distribution due to better storage, processing and distribution facilities, which will translate into better and more stable prices for the farmer and the consumer. Private sector will also facilitate quality improvement as well as diversification into high value fruits and vegetables and help meet importing country quality standards. However, there is a lingering fear of corporates eventually controlling the market and setting prices and that the piled stocks could be used to create price volatility and gain control of the food market, while creating a monopsony situation.

## Opinions of Industry leaders

Industry leaders are largely supportive of the laws. Federation of Indian Chambers of Commerce and Industry (FICCI) has reported that of the 1,294 recognised agri-startups in total, 54% are agri-tech startups, out of which the 450 active startups and are growing at 25% y-o-y (Mallapur, 2020). These laws, industry experts believe, pave way for more private ‘agri-tech’ startups to enter into the picture and support in the growth of the agriculture sector. Opining that these laws were long required, Sateesh Nukala<sup>53</sup> says that start-ups like theirs have aided the farmers significantly in recent years, further emphasising on their role in supporting farming communities during the coronavirus pandemic and lockdowns. Hemendra Mathur<sup>54</sup> thinks these laws will provide the chance to remove intermediaries in agriculture, while building stronger and better-quality ‘farm-to-fork’ supply chains in the sector. Uday Shankar<sup>55</sup> feels that these laws will help the agriculture sector get the boost in growth, productive employment and income that the farmers and the sector has needed.

The Confederation of Indian Industry (CII) says that these reforms help the input side of agriculture, along with

incorporating risk mitigation provisions, reducing post-harvest losses and boosting farmers’ income through setting the stage for a competitive market structure which allows all farmers to choose the marketing avenue for their produce and get several options to augment their income (Financial Express 2020). Specifically, CII (South) states that the new laws bring with themselves potential for greater investment as well as wider proliferation of technology and digitisation, helping the development and strengthening of supply chains, through private sector involvement and partnerships, thus pointing towards more ‘progress and prosperity’ in agriculture (The Hindu 2020). Uday Kotak<sup>56</sup> also endorses these laws, saying that alongside all of the above mentioned, they will improve market access and boost the development of primary processing agricultural infrastructure (Financial Express 2020). CII has gone one step further to express its belief in the potential of these laws by piloting a “capacity building and procurement facilitation programme” covering 50 FPOs across 9 crop value-chains (CII 2020).

Amitabh Kant<sup>57</sup> argues that these laws will help India reduce its loss of INR 90,000 crore because of inadequate

53 CEO and Co-founder of BigHaat

54 Chairman of the FICCI Taskforce on Agri-Stratups

55 President at FICCI

56 Former President at CII

57 CEO at NITI Aayog

food storage facilities (Prakash & Parija 2020). Suresh Narayanan, Nestle, comments that post-harvest infrastructure will be strengthened as a result of these reforms, which will enhance and scale up the micro food processing industries, which will ultimately lead to a massive reduction in food wastage (CII 2020). These reforms are also seen as a panacea for the sector low growth (<5%) (Chand 2019) and low productivity. Through means of creating employment, bolstering marketplace traceability and higher assured prices, P. Chengal Reddy<sup>58</sup> believes that these laws would prove to be a 'win-win' situation for industry as well as the presently distressed farming community (CII 2020).

### **Implications for consumers**

Consumers need the market as much as farmers do, perhaps more. In India, about half the population is involved in agriculture or allied activities, which also makes up a substantial portion of our consumer base (PLFS 2018-19). Every farmer is also a consumer of goods. However, another way to look at this is the price that consumers pay for the produce they buy. Herein lies the problem. Unsurprisingly, without the presence of a number of intermediaries in the agricultural supply chain, supporters believe that providing better prices to farmers in

a shorter and more efficient supply chain can translate into lower prices for the consumers. Furthermore, for the part of the produce that now gets sold outside the APMC mandi system, there is no cess levied on the produce, which reduces the cost of procurement by the private sector and consequently the price that consumers pay. This is a view held by Dr. Patnaik, who favours freeing farmers from 'the shackles of the APMC' (Patnaik & Roy 2020c). The payoff of these reforms and especially liberalisation of the agricultural sector, Dr. Gulati notes, is extremely high as these shall increase India's competitiveness in the agricultural sector in the global setting, which would have positive effects on the producers and consumers alike (Gulati 2020a).

### **Other issues and views on the new Farm Laws**

The Shanta Kumar Committee (2015) and Economic Survey of 2019-20 have shown strong intent to reduce the PDS coverage through its suggestions, which give rise to a fear in the farming community regarding a fall in procurement and consequently, weakening of APMCs (the link between APMCs and MSP is strong in Punjab and Haryana). In terms of FCI procurement, a lingering fear of objections from the CAG regarding paying AMPC cess after the enactment of these laws remains.

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58 Chief Advisor at Consortium of Indian Farmers Association

This can, however, be mitigated through appropriate Government orders. Hence, as Prof. C.S.C. Sekhar<sup>59</sup> opines, these farm laws by themselves cannot bring about the changes required and have to be supported and strengthened through necessary regulatory mechanisms aimed at ensuring fair competition and a level playing field for the farmers, which need consultation, coordination, and implementation of these laws keeping with all stakeholders on the same page.

Dr. Narayanan opines that these bills have both benefits and flaws and there is need for a 'coherent vision and blueprint' to fit in line in the Indian agricultural context (Narayanan 2020). Hence, she suggests that the Centre revisit these laws alongside the states and farmers to rethink legislation that minimises the loopholes. Prof. Singh is of the opinion that the Government go back to the 2003 Model APMC Act which elaborated on provisions of different natures within a contract,

and suggests the policy should somehow incentivise FPOs and Farmer groups to further increase bargaining power of the farmers (Singh 2020a). Kavya Datla<sup>60</sup> argues that the Swaminathan Commission should have created a mandate to include MSP and Government should work on fixing the pre-existing APMC system,

rather than creating an entirely new one. She suggests making exports and imports less cumbersome and making written contracts (as opposed to even verbal being accepted as a part of the new laws) a mandate. She argues that SHGs and FPOs require strengthening and prioritisation to leverage the bargaining power of small and marginal farmers.

While Dr. Gulati holds the view that repealing these laws will make the Government lose its credibility with respect to creating and enacting any reform in the future (The Print 2021), others such as Dr. Basu (Basu & Singh 2020) and Dr. Rajan (MOJO STORY 2020) argue that the laws be repealed and redrafted while addressing critiques that have been brought forward, and create a new strategy which allows for significant amount of fair competition in a manner that suits individual states. To avoid monopsony control and capture of the agricultural market, Dr. Basu suggests undertaking reforms to ensure that markets have access to "many" traders beyond the APMC 'mandis' (Nair 2020). Dr. Krishnamurthy suggests the need for a "forward thinking policy required of one synchronised market" such as that of GST, which requires a 'comprehensive vision' along with striving for change in the sector outside of trying to achieve it all through regulatory reforms' (The Print 2021).

59 Professor and Head of AERU, Institute of Economic Growth

60 Journalist at DownToEarth



## Annexure C

### Excerpts from Economic Survey 2014-15 (Chapter 8) on a National Market for Agricultural Commodities

1. The budget recognises the need for setting up a national market and stated that the *Union government will work closely with the state governments to reorient their respective APMC Acts to provide for the establishment of private market yards/private markets*. The budget also announced that the state governments will also be encouraged to develop farmers' markets in towns to enable farmers to sell their produce directly. More steps may have to be taken and incremental moves may need to be considered to get the states on board. For example, first, it may be possible to get all the states to drop fruits and vegetables from the APMC schedule of regulated commodities; this could be followed by cereals, pulses, and oil seeds, and then all remaining commodities.
2. State governments should also be specifically persuaded to provide policy support for setting up infrastructure, making available land etc. for alternative or special markets in private sector, since the players in the private sector cannot viably compete with the APMCs in which the initial investment was made by the government on land and other infrastructure. In view of the difficulties in attracting domestic capital for setting up marketing infrastructure, particularly, warehousing, cold storages, reefer vans, laboratories, grading facilities etc. Liberalisation of FDI in retail could create the possibilities for filling in the massive investment and infrastructure deficit which results in supply-chain inefficiencies.
3. Using constitutional provisions to set up a common market: If persuasion fails (and it has been tried for a long time since 2003), it may be necessary to see what the centre can do, taking account

of the allocation of subjects under the Constitution of India. The Constitution of India does empower the States to enact APMC Acts under some entries in the List II of Seventh Schedule (State List), viz., Entry 14: *'Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases'*, Entry 26: *'Trade and commerce within the State subject to the provisions of entry 33 of List III'*, and Entry 28: *'Markets and fairs'*.

4. However, the perception that the Constitution will have to be amended if the Centre has to play a decisive role in creating a national market remains open. There are provisions/entries in List III of the Seventh Schedule (Concurrent List) in the Constitution

which can be used by the Union to enact legislation for setting up a national common market for specified agricultural commodities, viz., Entry 33 which covers trade and commerce and production, supply and distribution of foodstuffs, including edible oilseeds and oils raw cotton, raw jute etc. Entry 42 in the Union List, viz., 'Interstate Trade and Commerce' also allows a role for the union. Once a law is passed by the Parliament to regulate trading in the specified agricultural commodities, it will override the state APMC laws, paving the way for creating a national common market. But this approach could be seen as heavy-handed on the part of the centre and contrary to the new spirit of co-operative federalism.

# Annexure D

<b>Commodity</b>	<b>Variety</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
<b>Kharif Crops</b>								
Paddy	Common	1360	1410	1470	1550	1750	1815	1868
	Grade 'A'	1400	1450	1510	1590	1770	1835	1888
Jowar	Hybrid	1530	1570	1625	1700	2430	2550	2620
	Maldandi	1550	1590	1650	1725	2450	2570	2640
Bajra		1250	1275	1330	1425	1950	2000	2150
Maize		1310	1325	1365	1425	1700	1760	1850
Ragi		1550	1650	1725	1900	2897	3150	3295
Tur (Arhar)		4350	4625^	5050^^	5450^	5675	5800	6000
Moong		4600	2850^	5225^^	5575^	6975	7050	7196
Urad		4350	4625^	5000^^	5400^	5600	5700	6000
Cotton	Medium Staple	3750	3800	3860	4020	5150	5255	5515
	Long Staple	4050	4100	4160	4320	5450	5550	5825
Groundnut		4000	4030	4220*	4450^	4890	5090	5275
Sunflower Seed		3750	3800	3950*	4100*	5388	5650	5885
Soyabean	Black	2500	-	-	3050^	3399	3710	-
	Yellow\$\$	2560	2600	2775*				3880
Sesamum		4600	4700	5000^	5300*	6249	6485	6855
Nigerseed		3600	3650	3825*	4050*	5877	5940	6695
<b>Rabi Crops</b>								
Wheat		1450	1525	1625	1735	1840	1925	1975
Barley		1150	1225	1325	1410	1440	1525	1600
Gram		3175	3500**	4000^	4400!	4620	4875	5100
Masur (Lentil)		3075	3400**	3950!	4250*	4475	4800	5100

<b>Commodity</b>	<b>Variety</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>
Rapeseed & Mustard		3100	3350	3700*	4000*	4200	4425	4650
Safeflower		3050	3300	3700*	4100	4945	5215	5327
Toria		3020	3290	3560	3900	4190	4425	-
Other Crops								
Copra (Calendar Year)	Milling	5250	5550	5950	6500	7511	9521	9960
	Ball	5500	5830	6240	6785	7750	9920	10300
De-husked Coconut (calendar year)		1425	1500	1600	1760	2030	2571	2700
Jute		2400	2700	3200	3500	3700	3950	4225

**Source:** Farmers' Portal Link: <https://farmer.gov.in/mspstatements.aspx>

\*\* Including Bonus of Rs. 75/quintal

^ Including Bonus of Rs. 200/quintal

^^ Including Bonus of Rs. 425/quintal

\* Including Bonus of Rs. 100/quintal

\$\$ MSP of Soyabean yellow is also applicable to black variety during 2015-16 and 2016-17

! Including Bonus of Rs. 150/quintal



# Annexure E

**The CACP recommends MSPs of 23 commodities, which are given in the table below:**

S. No	Commodity
<b>Cereals</b>	
1	Paddy
2	Wheat
3	Maize
4	Sorghum
5	Pearl millet
6	Barley
7	Ragi
<b>Pulses</b>	
8	Gram
9	Tur
10	Moong
11	Urad
12	Lentil
<b>Oilseeds</b>	
13	Groundnut
14	Rapeseed-mustard
15	Soyabean
16	Seasmum
17	Sunflower
18	Safflower
19	Nigerseed
<b>Commercial crops</b>	
20	Copra
21	Sugarcane
22	Cotton
23	Raw jute



# Annexure F

## States that adopted Model APMC Act 2017: Status in 2019

State/UT	Unified single market at state level	Declaring warehouse/ cold storages, as deemed marker	Separation of powers & functions of Director of Mktg. & M.D. of Board	De-regulation of marketing of F&V	Private Market	Direct marketing	E-trading	Single Unified Trading License	Single Point Levy of Market Fee
Andhra Pradesh	X	✓	X	✓	✓	✓	✓	✓	✓
Arunachal Pradesh	✓	✓	✓	✓	✓	✓	✓	✓	✓
Assam	X	X	X	✓	✓	✓	X	X	X
Bihar	X	APMC Act Repealed							
Chhattisgarh	X	X	✓	✓	✓	✓	✓	✓	✓
Chandigarh	X	X	X	X	✓	X	✓	✓	✓
Goa	X	X	X	X	✓	✓	✓	✓	✓
Gujarat	X	X	✓	✓	✓	✓	✓	✓	✓
Himachal Pradesh	X	X	X	✓	✓	✓	✓	✓	✓
Haryana	X	X	X	✓	X	✓	✓	✓	✓
J&K	X	X	X	X	X	X	X	X	X
Jharkhand	X	X	X	✓	✓	✓	✓	✓	✓
Karnataka	X	✓	✓	✓	✓	✓	✓	✓	✓
Kerala	No APMC Act								
Madhya Pradesh	X	X	X	✓	X	✓	✓	✓	✓
Maharashtra	X	✓	✓	✓	✓	✓	✓	✓	✓
Manipur	No APMC Act								
Meghalaya	X	X	X	✓	X	X	X	X	X
Mizoram	X	X	X	X	✓	✓	✓	✓	✓
Odisha	X	✓	X	✓	✓	X	✓	✓	✓
Punjab	X	X	X	X	✓	✓	✓	✓	✓
Puducherry	X	X	X	X	X	X	X	X	X

<b>State/UT</b>	<b>Unified single market at state level</b>	<b>Declaring warehouse/ cold storages, as deemed marker</b>	<b>Separation of powers &amp; functions of Director of Mktg. &amp; M.D. of Board</b>	<b>De-regulation of marketing of F&amp;V</b>	<b>Private Market</b>	<b>Direct marketing</b>	<b>E-trading</b>	<b>Single Unified Trading License</b>	<b>Single Point Levy of Market Fee</b>
Rajasthan	X	X	✓	✓	✓	✓	✓	✓	✓
Sikkim	X	X	X	X	✓	✓	✓	✓	✓
Tamil Nadu	X	X	X	X	X	X	✓	✓	✓
Telangana	X	✓	X	X	✓	✓	✓	✓	✓
Tripura	X	✓	X	X	✓	✓	X	X	X
Uttarakhand	X	✓	X	X	✓	✓	✓	✓	✓
Uttar Pradesh	X	✓	✓	X	✓	✓	✓	✓	✓
West Bengal	X	X	X	✓	✓	✓	✓	✓	✓
A&N Islands				No APMC Act					
Nagaland	X	X	X	✓	✓	✓	X	✓	✓
Delhi	X	X	X	✓	X	X	X	X	X
Daman & Diu				No APMC Act					
DNH				No APMC Act					
Lakshadweep				No APMC Act					





Food and Land Use Coalition (FOLU) India



FOLU India



The  
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