

# THE RECENT FARM LAWS IN INDIA: RATIONALE, IMPLICATIONS AND WAY FORWARD

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# **THE RECENT FARM LAWS IN INDIA: RATIONALE, IMPLICATIONS AND WAY FORWARD**

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## **Abstract**

Indian Parliament has recently enacted three laws related to agricultural marketing (two laws and an amendment to an existing Act), which are popularly called the 'Farm Laws'. The enactment of these laws led to largescale unrest and protests in some parts of the country, particularly the north-western states of Punjab, Haryana and Uttar Pradesh. Several concerns have been raised, particularly related to continuance of the minimum support price, possible abolition of APMC markets and privatization of agriculture leading to corporate takeover of small farms. This essay is an attempt to find answers to some of these questions. The essay delves into the important aspects of these laws – the background and the rationale; the actual provisions (of these laws) & their implications; the main shortcomings and the needed improvements. The broad conclusion of the study is that the broad intent and content of the laws appear to be in the right direction but some serious flaws need to be corrected. Also, the laws need to be complemented with a set of structural reforms in agricultural support system and land markets to be really effective.

*Keywords: Agricultural marketing; farm laws; India; contract farming; essential commodities Act*

# **THE RECENT FARM LAWS IN INDIA: RATIONALE, IMPLICATIONS AND WAY FORWARD**

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India's economy was severely affected during the COVID-19 lockdowns and subsequent restrictions on non-essential economic activity. Agriculture remained a bright spot though with a projected growth rate of 3% in 2020-21 and adequate food production. However, incomes of many farmers and wage earnings of labour have been severely hit due to transport and movement restrictions. A large stimulus package was announced in May 2020 accompanied by several initiatives to help the agriculture, livestock and fisheries sectors. These were followed by major reforms in agricultural marketing in the country, in the form of three Central Ordinances. These ordinances were aimed to allow marketing of agricultural produce outside the precincts of the APMC markets (called mandies); to allow farmers to enter into contracts with exporters, processors and bulk-buyers; and to restrict the power of the government to impose stock restrictions on private players only to periods of extraordinary circumstances and price rise. These Ordinances were later enacted by the Indian Parliament in September 2020.

The enactment of these laws led to widespread unrest & protests by farmers in the north western states of India. There has been an intense debate on these laws. Following are some of the questions that arose in this context. What is the need for these reforms? What is the exact nature of these reforms and how will they help the farmers, if at all? What will happen to the public support programs presently in operation? Will they lead to privatization of agriculture and ultimately result in a corporate takeover of farmers' lands?

The present study is a small step to answer some of these questions.

The rest of the study is organized as follows. Section 2 presents the broad rationale of these reforms followed by cross-country evidence on the effect of increase in market orientation on farmers' welfare in Section 3. Evolution of organized agriculture marketing in India is discussed in Section 4. In Section 5 current functioning of the APMC markets and the problems thereof are discussed. This is followed by a brief description of the previous attempts to reform agricultural marketing in the country. Section 7 undertakes a detailed discussion of the provisions of the recent laws. Section 8 discusses some of the common concerns regarding these laws. Section 9 outlines the major problems in these laws, the improvements needed and the set of complementary reforms required to make these laws effective. Section 10 concludes. Some of the frequently asked questions (faq) about these laws are outlined in the Annexure. This is intended to serve as a quick reference to some of the common queries.

## 2) Need for reforms

The need for reforms in agricultural marketing has been felt for a long time and some of the main reasons for this are the following.

- i) The economic reforms in the early 1990s largely bypassed agriculture and were mainly confined to industrial and trade policy. As a result of this, the gap in the income of an agri and non-agriculture worker increased from Rs 25,398 in 1993–94 to Rs 54,377 by 1999–2000 (Niti Aayog 2020). In the next ten years, this gap increased further to Rs 1.42 lakh. The small and marginal farmers are largely excluded from the operation of the Agricultural Produce Market Committees (APMC). Marketing has been one of the key constraints.
- ii) Agricultural growth also remained stuck—with negative growth in agriculture income in five out of 12 years following 1990–91.
- iii) In the last five years, average growth rate of GVA in agriculture in real terms (2011-12 prices) was 3.1%. While the crop sector which receives a lot of output price & input support grew at 0.4%, the sectors like livestock and fisheries which receive very little public support grew at 8% and 11% respectively.
- iv) Some estimates suggest that MSP reaches less than 7% of farmers in the country. The share of officially procured crop output is close to 11% of the total crop output, and 7% of the total agricultural output. This raises the issue of ensuring remunerative prices for the remaining 90% of produce.
- v) There is a pressing need for improving export competitiveness of Indian agriculture. Rising production and decelerating population growth have generated large surpluses of many commodities. According to the emerging scenario of demand and supply, 20–25% of the incremental agri-food production needs to be sold in the global markets in the coming years. This needs huge investments (Niti Aayog, 2020).
- vi) The growth of food processing needs to be accelerated to match with the rising demand, promote agri-diversification and to create employment in the rural economy.
- vii) Most of the output of several crops produced in a state is consumed outside the state. This makes a strong case for efficient and free inter-state trade. Although agriculture *per se* is in the state list as per the constitution of India, inter-state trade in agriculture and food commodities is allowed under entry 33 of the Concurrent List. The probable reason for this is to address coordination failure among states.

viii) Investment and capital formation is very essential for agriculture. The private corporate sector has almost avoided the sector and constitutes less than 2% of the total investments in agriculture and less than 0.5% of the total annual investments of the corporate sector in the Indian economy.

ix) A number of committees and commissions in the past observed that the APMCs have become highly inefficient and needed urgent reforms. Recently the Parliamentary Standing Committee on Agriculture 2018-19 also observed that the *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, cartelization of traders, undue deduction in the name of market fee, commission charges etc.*

### **3) Effect of improved marketing: Select cross-country evidence**

Does increase in market participation of smaller farmers and commercial orientation of agriculture improve farming outcomes? We will review some recent evidence across countries. We mainly focus here on the developing and the least developed countries, mostly from Africa and Asia. This is mainly to draw evidence from countries similar to India which have arid / semi-arid conditions, are dominated by small farm holdings and where imperfections in product and factor markets are pervasive.

Several cross-section studies find positive evidence of commercialization on various aspects of household welfare, after addressing endogeneity and self-selection issues. Integration into output markets is found to improve farm productivity and net per capita income in Thailand (Tipraqsa and Schreinemachers, 2009). There is evidence of positive effect of supplying to supermarkets on household income and multidimensional poverty in Kenya, especially for households that are poor or own little land (Rao and Qaim 2011; Ogutu and Qaim 2019). The latter study finds that the poverty reduction is strongest among the poorest households. Similar positive effects of commercialization on household income / expenditure in Kenya have been found using panel data by Andersson et al (2015) and, Muriithi and Matz (2015). Participation in contract farming is seen to be associated with increase in household income, a decrease in its variability, and a shortening of the hungry period experienced by households in Madagascar (Bellemare 2012, Bellemare and Novak 2017).

Analyses combining cross-sectional and longitudinal data on export market transactions (Romero Granja and Wollni 2018) find no evidence that participation translates into tangible benefits for farmers in Ecuador. Carletto et al. (2011), using panel data, find that welfare levels have improved for all households in Guatemala regardless of adoption status and duration, but the households with longer term participation in exports experienced the smallest increase in welfare, while early participants who switched out after the 1980s boom in export commodities achieved the best outcomes in terms of assets and housing conditions. Participation in the supermarket supply chain

of vegetables in Nicaragua is associated with higher holdings of productive assets (Michelson 2013). As for effect of commercialization on nutritional status, Carletto et al (2017) find little positive evidence in Malawi, Tanzania and Uganda.

One country that can provide important insights into the effect of reforms on farmers' welfare is Vietnam. Vietnam has experienced remarkable economic progress since the *doi moi* reforms in 1986. As a result of the reforms Poverty has fallen dramatically from 57%, in terms of the poverty headcount ratio in the 1990s, to just 3% by 2010–12 (Tarp, 2017).

The most important objective set by the policymakers at the start of the reforms in Vietnam was production of grain and food products so that the needs of all the people could be met and reserve stocks built up. A target of 22-23 million metric tons of grain in paddy equivalent was to be attained by 1990. While a variety of methods to attain this objective were mentioned (intensive cultivation, multicropping, and so on), it was the use of incentives and end-product contracts that were prominent (Thayer 1987).

This period saw a major structural transformation, with the share of agriculture in GDP falling from 38.7% in 1990 to 16.3% in 2016. Simultaneously, agricultural productivity has increased substantially, and Vietnam is now a major exporter of rice and coffee worldwide. Recent research, however, shows that the fruits of this growth were not evenly distributed and that many households have in fact seen their welfare decline over the last decade (McKay et al., 2018; Singhal and Beck, 2017; World Bank, 2012).

Some of the problems faced in Vietnam are as follows. Limited employment creation potential of agriculture, especially for youth, has been a problem, like in India (Liu, Barrett, Pham, and Violette 2020). Although significant positive effects of rice crop commercialization on assets have been found (Cazzuffi, McKay and Perge 2020), there is no effect on household income and some negative effects on food expenditure, suggesting that agricultural commercialization may lead to welfare improvements in the long term. There is a need for support for the development of non-farm employment opportunities while introducing measures to increase agricultural productivity and access to agricultural markets.

In addition to market access and commercialization, some complementary reforms are also needed, particularly in the land markets. Bellemare, Chua, Santamaria and Vu (2020) provide convincing evidence that tenure security after the 2013 land reform is indeed important for land investments and enhancing productivity. Abman and Carney (2020) show that the relationship between land rights and deforestation is non-linear, indicating that clearer land titles reduce deforestation. Ayala-Cantu and Morondo (2020) show that land titling is potentially a useful tool to improve the bargaining power of women. They also show that tenure security to land markets and land certification could facilitate more efficient functioning of land rental markets leading to higher

productivity and higher levels of rental income. This also has potential distributional consequences given that it is often the most marginalised and vulnerable groups whose land is untenured. Dang, Dang, Dang and Vu (2020) show that investment in land and access to credit are lower in communes with poorer quality of land administration.

Stability of farm prices is also another important aspect as volatility in commodity markets poses an inherent risk to small farmers (Beck et al. 2019). Households exposed to long-term shocks invest less in productive assets and have lower levels of consumption (Newman and Tarp, 2020) and are more likely to migrate, particularly the less educated ones (Narciso, 2020). There is a need for agricultural insurance for covering this downside risk.

Summing up the literature reviewed so far, market access and commercialization seem to improve farmers' assets and income in the long-run but may have some adverse implications in the short run, particularly for nutritional security. Complementary reforms in the land and insurance markets will improve the outcomes.

#### **4) Evolution of organized agricultural marketing in India**

Organized marketing of agricultural produce has a long history in India. Raw cotton was the first to be regulated in the country in 1886. This was introduced to make raw cotton available at reasonable prices to the textile mills in Manchester (UK). Consequently, the first regulated market (Karanja) in the country was established under the *Hyderabad Residency Order in 1886* and the first legislation was the *Berar Cotton and Grain Market Act of 1887*. This Act empowered British Resident to declare any place in the assigned district a market for sale and purchase of agricultural produce. It also empowered the British Resident to constitute a committee to supervise the regulated markets. This Act became the model in other parts of the country subsequently. Another important landmark in India's agricultural marketing was the recommendation of the Royal Commission on Agriculture, 1928 for the regulation of marketing practices and establishment of regulated markets. Government of India prepared a Model Bill in 1938 and circulated to all the States but there was not much headway till independence. After independence, most of the States enacted *Agricultural Produce Markets Regulation (APMR) Acts* around the period of green revolution in the 1960s and 1970s, in order to avoid exploitation of the small and marginal farmers by the traders and to ensure organized & fair trade. All primary wholesale assembling markets were brought under the ambit of these Acts. Market yards and sub-yards were constructed for each market area. *Agricultural Produce Market Committees (APMC)* were constituted to frame the rules and enforce them. This was the beginning of organized agricultural marketing in the country. The APMR acts were enacted in all the states except Kerala, Jammu and Kashmir, and Manipur. These Acts mandated that the sale/purchase of agricultural commodities be carried out in a specified market area and that the producer/seller or buyer pays the requisite market fee, user charges, levies

and commissions for the agents (arthiyas) as specified under the APMC Act. These charges varied across states and commodities though.

## **5) Current functioning of the APMCs in the country**

The main responsibilities of the APMCs were to provide infrastructure facilities in the APMC markets / mandies and ensuring fair trading practices in these markets. To meet these responsibilities, APMCs were empowered to collect fee and service charges and also the authority to issue licenses to traders for a fee.

Initially during the 1960s and 1970s, adequate investments was made for developing regulated markets. Their growth was much higher than that of crop output. Improvements in infrastructure and APMC regulations helped reduce unfair trade practices and created an orderly and transparent marketing mechanism. This also helped to free the farmers from the power of the middlemen and traders. However, between the mid-nineties and 2006, growth in market infrastructure decelerated substantially and was just a quarter of the growth in output, which itself was at all-time low during this period. Overall APMC market expansion did not keep pace with the growth in output and regional requirements.

Presently, there are about 2477 principal regulated markets (the APMCs) in the country and 4843 sub-market yards regulated by the APMCs. A total of 41000 markets are needed in the country to meet the norms suggested by *National Commission on Farmers 2004*. There is a large variation in the density of regulated markets in different parts of the country, which varies from 118.78 sq km. in Punjab to 11215 sq km. in Meghalaya. The all-India average area served by a regulated market is 487.40 sq km, against the recommendation of the National Farmers Commission (2004) that a regulated market should be available to farmers within a radius of 5 Km (corresponding to a market area of about 80 sq. km.). This indicates that the present system failed to provide adequate number of markets to handle ever increasing marketed surplus efficiently and provide easy market access to farmers

Some serious problems arose in the functioning of APMCs. Some of these problems are as follows.

- i. Notified commodities produced in the area under the jurisdiction of an APMC mandi should only be sold in the mandies
- ii. Traders/buyers must have the license to operate in the mandi
- iii. Each APMC levied fees and service charges leading to multiple levies on sale/purchase transactions



- iv. No direct sale from farmer to trader was allowed. Even if allowed user charges and mandi cess needed to be paid even if the facilities were not used.
- v. Charges of middlemen, like commission agents were statutorily fixed and not capped

There were three major adverse effects of these restrictions

- 1) First is the division of the marketing region in a state into a number of 'Notified market committee areas (NMC)' under multiple APMCs. Since each NMC charges license fee and service charges, this necessitated multiple licenses and payment of market fee at multiple places. This resulted in fragmented markets and localized traders, which in turn resulted in evolution of patronage structures and collusion between the MC elite and traders over time.
- 2) The market fees and services charges have served as instruments for revenue generation. States started treating APMCs as cash cows for revenue generation and disregarded infrastructure creation. The following table illustrates this trend, particularly in the category 4 states.

**Table 1: Mandi fees and commission charges across states**

Category	States	Mandi fee/ service charge	Commission
1	Assam, Mizoram, Nagaland, Meghalaya, Chattisgarh, Tamilnadu, Odisha, Jharkhand, Goa, Puduchery  MP, Tripura	0-1%  2%	Nil
2	AP, HP, Maharashtra, Telangana  Uttarakhand	1%  2%	1-2%  1%
3	Karnataka	Total 3.5%	
4	Punjab, Haryana, Rajasthan, Gujarat, Arunachal Pradesh, West Bengal, and Uttar Pradesh	Total 5-8.5%	

Source: *Understanding the Farm Acts*, Working Paper 1/2020, Niti Ayog, November 2020

Out of the 25 states having APMC acts, **twelve do not charge commission on notified crops**. The service charges, like mandi fee for representative crop, in these states vary from 0–1% in 9 states and 2% in Madhya Pradesh and Tripura. The second category of states includes Andhra Pradesh, Himachal Pradesh, Maharashtra, and Telangana, where the service charges for mandi are 1% of the value of the produce and the commission varies from 1–2%. Uttarakhand also falls in this category, with 2% mandi fee and 1% commission charge. Karnataka follows these states closely, with total charges at 3.5%. The third set of states includes Punjab, Haryana, Rajasthan, Gujarat, Arunachal Pradesh, West Bengal, and Uttar Pradesh, where the total charges vary from 5–8.5%, **with the highest in Punjab followed by Haryana**. For the states in this category, market charges and commissions need to be brought down to 2% or less to be competitive, because it is estimated that a maximum of 1.5%, including market fee and commission, is adequate to maintain and run mandi operations efficiently (Niti Aayog, 2020).

- 3) **Infrastructure started to crumble.** As a result of this focus on revenue generation through APMCs, provision of infrastructure suffered severely. *The Parliamentary Standing Committee on Agriculture (PSCAG 2019)* noted that nearly 35% of the markets in the country do not have a toilet facility whereas only 38% markets have a rest house for farmers. The Committee further notes that only 15% APMC Market have a cold storage facility while a weighing facility is available in only 49% Markets. Many of the APMC markets also fare poorly in banking, internet connectivity and drying facility.

## 6) Previous attempts to reform Agricultural Marketing

There have been several attempts to reform APMR Acts. The Model Act of 2003; 2007 rules; The Model Acts of 2017 & 2018 are some of these.

The Central Government first formulated and circulated a Model Act in 2003 (called the State Agricultural Produce Marketing (Development & Regulation) Act, 2003) and then framed the Model Rules in 2007. The Central Government has since been engaging with the States to implement marketing reforms based on the Model Act/ Rules and various state governments have brought some changes in their State APMC Acts. However, a need was felt for further reform in APMC Act and the Ministry of Agriculture & Farmers' Welfare formulated a model 'Agricultural Produce and Livestock Market Committee' Act (APLM Act) in 2017. Further the Ministry has also formulated a Model 'Agricultural Produce & Livestock Contract Farming and Services (Promotion & Facilitation) Act, 2018' in order to integrate fruits and vegetable growers with agro- processing units for better price realization and reduction of post-harvest losses and to create job opportunities in the rural areas. The Model APLM Act intended to create a single market in State/UTs level, provisions for single point levy of market fee across the State and a unified single trading license to realize cost-effective transactions, democratic functioning of the Market Committees and State

Marketing Boards. The Model Acts further aimed to promote private wholesale market yards and farmer market yards in order to increase competition among marketing channels and market players for the farmer's produce. The revamped marketing system also aims to provide freedom to farmers to sell to the buyers and at the place & time of their choice and, a direct interface between farmers and processors/ exporters/ bulk-buyers/ end users in order to reduce the price spread that can benefit the producers as well as the consumers. However, the PSCAG 2018 Report (*Parliamentary Standing Committee on Agriculture, 2019-20, 8th Report, Lok sabha Secretariat, India, December 2019*) notes that only two States namely Uttar Pradesh and Punjab have so far adopted Model APLM Act, 2017 until December 2019.

## **7) Main Features of the recent Agricultural Marketing Laws**

### **7.1 The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (FPTC Act)**

This Act is related to the sale of agricultural produce. The Act is an attempt to provide freedom to sellers as well as buyers from the earlier requirement of routing the sale through the APMC. The purported objectives of this Act are as follows.

*.....Keeping in view the importance of agriculture, the States have enacted the Agricultural Produce Market Committee (APMC) Acts to develop market-yard as market place and to provide regulation on marketing practices of notified agricultural produce. However, the regulatory provisions hindered the freedom of choice-based marketing and also the inflow of investment in development of alternative markets and marketing infrastructure*

*..... the States have not embraced the (marketing) reforms in a uniform manner, and the lack of homogeneity in the laws has been obstructing a competitive pricing environment for the farmers and is becoming an impediment to the evolution of a modern trading system.....*

*.....To keep pace with the dynamically changing agri-economy, e-commerce and agri-exports and also to meet the rising expectations of farmers and consumers, the country needs an accessible and competitive trading system outside the physical space of the notified market-yards under the State APMC Acts. In the light of above circumstances, it has become necessary to enact a Central Legislation to provide a more competitive and hassle free eco-system where farmers and traders have the choice to sell their produce in an efficient, transparent and competitive environment to realise remunerative prices.....*

#### **(Statement of Objects and Reasons)**

The main features of the Act are as follows.

- 1) A trader or farmer or electronic trading platform can make intra and inter-state trade in the 'trade area'. (clause (3) and (4))

- 2) 'Trade area' includes farm gates, factory premises, warehouses, silos, cold storages or any other structures but DOES NOT INCLUDE markets, sub-market yards etc. managed by the APMCs or private entities. (cl. 2(m))
- 3) Payment is to be made either on the same day or within three working days (cl 4(3))
- 4) No fee or tax can be levied on sales in trade areas (cl. 6)
- 5) Commodities covered are wheat, rice, coarse grains, pulses, oilseeds, oils, spices, sugarcane, dairy products and products of piggery, goatery, fishery, poultry in natural or processed form (cl 2 (c)(i,ii,iii))
- 6) All disputes to be adjudicated by the Sub-Divisional Authority within thirty days from the date of its filing and after giving the parties an opportunity of being heard (cl 8(i))

As can be seen, the Act seeks to create more options to farmers and create additional marketing channels for farmers. Farmers are now allowed to sell to any buyer outside the premises of the APMC markets and even outside the state. The bill continues the APMC system and does not propose to dismantle the mandi system.

## **7.2 The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020 (Contract Farming Act)**

This Act provides a legal framework for farmers to enter into contracts with several types of buyers. It was first promulgated as an Ordinance in June 2020 and later enacted by the Indian Parliament in September 2020. The avowed objectives of this Act are as follows.

*Indian Agriculture is characterised by fragmentation due to small holdings and has certain weaknesses such as dependence on weather, uncertainties in production and unpredictable market. This makes agriculture risky and inefficient in respect of both input and output management. These challenges needed to be addressed by way of realising higher productivity, cost effective production and efficient monetisation of the produce to increase the farmers' income. It was felt that promotion of agreements for farming produce may strengthen the process of monetisation whose primary objective is to de-risk agriculture at various stages, enable scaling of investment by industry for production and processing of high value agriculture produces, give fillip to exports and help farmers to enjoy the additional benefits of operational efficiency.*

### **(Statement of Objects and Reasons)**

The salient features of this Act are as follows.

- 1) Allows farmers to enter into contracts with traders, processors or exporters (clause 3)
- 2) "farmer" means an individual engaged in the production of farming produce by self or by hired labour or otherwise, and includes the Farmer Producer Organisation (cl 2(e))
- 3) Two types of agreements - *trade and commerce agreement*, where the ownership of the commodity remains with the farmer during production and he gets the price of produce on its delivery (cl. 2(g)(i))
- 4) *Production agreement* where the sponsor (party other than the farmer) provides farm services, and bears the risk of output and makes payment to the farmer for the services rendered by him/her (cl. 2(g)(ii, iii))
- 5) A minimum price, quality, mode of payment, delivery etc. are to be specified in the agreement (cl 3(1)(a,b))
- 6) All major commodities, in natural and processed form, are included (cl 2(h) (i to iv))
- 7) A farmer may enter into a written farming agreement for supply of produce including the time of supply, quality, grade, standards, price and other matters; and for supply of farm services. The agreement shall be valid for one crop season or livestock cycle and for a maximum of five years (cl 3(1))
- 8) The responsibility for compliance of any legal requirement for providing such farm services shall be with the Sponsor or the farm service provider (cl 3(1))
- 9) No farming agreement shall be entered into by a farmer under this section in derogation of any rights of a share cropper (cl 3(2))
- 10) A guaranteed price to the farmer and any additional price to be paid need to be clearly specified in the agreement, along with the methodology of determining the additional price (cl. 5).
- 11) Sponsor prohibited from acquiring ownership rights or making permanent modifications on farmer's land or premises (cl 8 and cl 15).
- 12) Price for produce needs to be paid by the sponsor to the farmer at the time taking delivery. In case of a contract for seed production, two-thirds of the price needs to be paid (cl 6(3)).

### 7.3 Essential Commodities (Amendment) Act, 2020

*The Essential Commodities Act, 1955 was enacted to regulate the production, supply and distribution of, and trade and commerce in, certain commodities which are declared as essential commodities and specified in the Schedule to that Act. 2. While India has become surplus in most agricultural commodities, farmers have been unable to get better prices due to lack of investment in cold storage, warehouses, processing and export as entrepreneurs get discouraged by the regulatory mechanisms in the Essential Commodities Act, 1955. A High Powered Committee of Chief Ministers who examined this issue, recommended removal of stringent restrictions on stock, movement and price control of agricultural foodstuffs for attracting private investments in agricultural marketing and infrastructure. Thus, this amendment was passed in Indian Parliament in September 2020. The main features of this amendment are the following*

#### **(Statement of Objects and Reasons)**

The main features of the amendment are the following

- 1) Seeks to limit the power of the government to impose restrictions on trade and stocking by the private agents only in case of war, famine, natural calamities and steep rise in prices (clause 2(1A))
- 2) The government can regulate supply only in case of a war, famine, extraordinary price rise or a natural calamity of a grave nature (cl 2(1A)(a))
- 3) Stock limits can be imposed only in case of an increase of 100 per cent in the price of perishables and 50 percent in case of non-perishables. (cl 2(1A)(b))
- 4) The relevant price is the price prevailing twelve months immediately preceding the event or the average price in the last five years, whichever is lower (cl 2(1A)(b))
- 5) Expected to attract private investment and benefit cereals, pulses, oilseeds, potato, onion sectors

## **8 SOME COMMON CONCERNS**

There have been many concerns in relation to these Acts in the analyses that followed. Some of the important ones are discussed below. Others are included in the Annexure under “faq s on farm laws”.

### **i) Will the MSP continue?**

The first major concern is related to the continuance of MSP-procurement system. This concern is widespread in Punjab and Haryana because this system has been the lifeline in these states for a long time. Nearly 88% of the paddy production and 70% of the wheat production in Punjab and Haryana in the last three years (in 2017-18 and 2018-19) has been

procured by the public agencies (Table 2). In contrast, in the other major states where procurement occurs such as Andhra Pradesh, Telangana, Odisha, Chattisgarh and Uttar Pradesh, only 47% of the rice production is procured by public agencies. In case of wheat, this difference is even wider. In the major wheat States of Madhya Pradesh and Uttar Pradesh only a quarter (23%) of the production is procured by public agencies. This clearly shows the heavy dependence of farmers of Punjab and Haryana on MSP and the public procurement system. Thus, any disruption to the system, real or perceived, is bound to cause serious concern.

It needs to be recognized here that the government needs the public procurement to continue too. This is because of the government's obligations under the PDS and the National Food Security Act (NFSA). Access to affordable foodgrains is a legal and rights-based entitlement under the NFSA. There are nearly 80 crore NFSA beneficiaries and an additional eight crore migrants who need to be supported under the PDS. The government needs an uninterrupted supply of grain, particularly from these two states to meet these obligations. In the last three years, nearly 40% of the total paddy production in the country (45 million tons) and 32% of wheat production (34 million tons) has been procured by the public agencies to supply the PDS (*Foodgrains Bulletin*, October 2020, DoF&PD, GoI). It is not possible to procure such huge quantum of foodgrains from the open market as it will lead to a sharp spike in the prices and with the removal of stock restrictions under the recent amendment to the Essential Commodities Act, large-scale hoarding by the private sector cannot be ruled out. With the unreliability of international markets as sources of supply/imports (Johnson 1975, Sekhar 2003, 2010), there is very little choice for the government but to continue the current MSP-procurement system, particularly its procurement from these two states in the foreseeable future.

Punjab and Haryana have been central to the government procurement plans for a long time. Nearly 34% of the rice and 62% of the wheat procured in the last three years has been from these two states (Table 3). Thus the fears that the MSP-procurement system in Punjab and Haryana is under threat appear to be largely unfounded. As can be seen from the definition of the 'trade area' (cl 2(m)), the Act does not impinge on the functioning of APMCs in any way. The Act only seeks to create an additional marketing channel for farmers and does not dismantle the APMC system, as was done in Bihar in 2006.

ii) **Will farmers' land be usurped and taken over by large private players?**

These apprehensions about losing land probably arise from clause 14(7) of the Contract farming Act, which stipulates that dues can be recovered from land revenue.

*Clause 14 (7): The amount payable under any order passed by the Sub-Divisional Authority or the Appellant Authority, as the case may be, may be recovered as arrears of land revenue.*

However, the very next clause, clause 15, makes it clear that irrespective of anything contained in clause 14, no action can be initiated against land. This, together with clause 8, makes it very clear that no action can be initiated which involves land of the farmer.

***Clause 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.*** (emphasis added)

***Clause 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.*

Thus, the apprehensions about losing land because of the Act arise due to a partial and incomplete understanding of the provisions of the Act.

### **iii) What happens to price discovery through APMCs**

Another concern is related to the price discovery mechanism. The APMC was supposedly fulfilling this function, which would be lost if APMCs are adversely affected by the new laws. However, it needs to be noted here that even if there was a benchmark price in the APMC, either MSP or some other mandi price - many farmers who were not covered under public procurement often did not get these prices. This was mainly because there were only few local traders that were granted licenses by the APMC. Their size was also small because the large traders stayed away from APMC s because of the excessive regulation by the APMC and large transaction costs due to multiple licenses to operate in each state. This resulted in a situation of few small local buyers and a large number of sellers, resulting in lower prices for those farmers who were not beneficiaries of public procurement. The expectation with this bill is that the number of private buyers will increase because trade outside APMC is no more an illegal activity and this should encourage larger number of players.



TABLE 3: Production-Procurement scenario in Punjab and Haryana

	Production ('000 tons)				Procurement (lakh tons)				% of procurement to production				Average percentage of Procurement to production	
	Rice		Wheat		Rice		Wheat		Rice		Wheat		Rice	Wheat
	2017-18	2018-19	2017-18	2018-19	2017-18	2018-19	2017-18	2018-19	2017-18	2018-19	2017-18	2018-19		
Haryana	4523.38	4516.09	10765.28	12574.02	39.92	39.42	74.32	87.84	88	87	69	70	88	69
Punjab	13381.79	12821.60	17830.42	18261.76	118.33	113.34	117.06	126.92	88	88	66	70	88	68
M.P.	-	-	15910.79	16521.36	-	-	67.25	73.13	-	-	42	44	-	43
U.P.	13273.99	15545.28	31879.14	32741.28	28.75	36.99	32.33	52.94	22	24	10	16	23	13
A.P	8166.202	8234.667	-	-	40	48.06	-	-	49	58	-	-	54	-
Telangana	6262.218	6670.012	-	-	36.18	51.9	-	-	58	78	-	-	68	-
Odisha	6551.31	7733.70	-	-	32.87	44.48	-	-	50	58	-	-	54	-
Chattisgarh	4930.80	6526.86	-	-	32.55	39.71			66	61			63	-
Percentage of procurement to production in Punjab and Haryana													88	68
Percentage of procurement to production in other major states													47	23

Source 1) *Foodgrains Bulletin*, Department of Food & Public Distribution, GoI, various issues

2) *Agricultural Statistics at a Glance*, Ministry of Agriculture & Farmers Welfare, GoI, various issues

Note The other major procurement states for wheat are UP and MP; for paddy AP, Telangana, Chattisgarh, Odisha and UP

**TABLE 2****Share of each state in total Procurement (%)**

	<b>2017-18</b>		<b>2018-19</b>		<b>2019-20</b>		<b>Overall</b>	
	Rice	Wheat	Rice	Wheat	Rice	Wheat	Rice	Wheat
AP	10	-	11	-	11	-	11	-
Telangana	9	-	12	-	14	-	12	-
Chattisgarh	9	-	9	-	10	-	9	-
Haryana	10	24	9	25	8	27	9	25
M.P.	-	22	-	20	-	20	-	21
Odisha	9	0	10	0	9	0	9	0
Punjab	31	38	26	35	21	38	25	37
U.P.	8	12	7	15	7	11	7	13
Others	14	4	17	5	19	4	17	4
Total	100	100	100	100	100	100	100	100
Share of Punjab plus Haryana	41	62	34	60	29	65	34	62
Share of other major procurement states	45	34	49	35	52	31	49	33

Source

1) *Foodgrains Bulletin*, Department of Food & Public Distribution, GoI, various issues

Note

The other major procurement states for wheat are UP and MP; for paddy AP, Telangana, Chattisgarh, Odisha and UP

## 9 Major problems with the laws and the needed improvements

The Acts appear to be in the right direction in intent and also broadly in content. But there are some serious design flaws that need to be fixed (1 to 5 below). Also a few major improvements and complementary initiatives are needed to make these laws really effective (6 to 9 below).

The following design flaws need to be fixed

- 1) **Regulatory mechanism:** The most troubling aspect of these bills is that there is a complete absence of a regulatory mechanism for both the ‘trade areas’ and the new ‘electronic platforms’. There is a provision for such regulation of electronic trading under clause 5(2) but none exists for the transactions in trade areas. Privatization without regulation is counterproductive, if non-competitive market structures (such as monopoly, oligopoly with collusion) result from the conduct of the players. The new Acts seem to address only the issue of market structure through an increase in the number of players but there is no attempt to monitor either the conduct (of the players) or performance (of the markets). The hope seems to be that the mere presence of a large number of buyers would automatically translate into a better price for farmers. But this could at best be a necessary but not a sufficient condition for better prices to farmers. Monopoly of a few inside the APMC in the earlier system cannot be replaced with a monopoly of a few in the ‘trade area’ outside the APMCs in the new system. Thus, an appropriate regulatory mechanism needs to be put in place to ensure a level playing field for the small & marginal farmers vis-a-vis the large private players. However, over-regulation of the ‘license and inspector raj’ kind needs to be avoided.
- 2) **Data collection:** Lack of transparency in collating information on transactions is another serious problem. The trade area transactions and aspects related to contracts and stocking are non-transparent and difficult to regulate. Such absence of data and market intelligence is a major cause for concern. The importance of data for inclusive growth is at the centre of the recent policy discourse (World Bank 2014). Systematic and reliable data is also very important for monitoring the implementation of these laws on the ground. There is a provision to address data issues in clause 7(1) of the FPTC Act, which can be used for this purpose.
- 3) **Consultative process with the states:** The bills were first brought in the form of Central Ordinances in the midst of the Covid pandemic in June 2020. Consultations (if any) with the states do not appear to be satisfactory. The PSCAG 2018 had also recommended constitution of a committee of agriculture ministers of the states to discuss this issue, and observed on the non-compliance of this recommendation as follows.

*.....The Committee are anguished to note that despite their specific recommendation in the matter, the Department has not taken any step for constitution of 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..... (Parliamentary Standing Committee on Agriculture, 2019-20, 8th Report, Lok sabha Secretariat, India, December 2019, page 13)*

There should have been a more comprehensive discussion on such major reforms that have far-reaching implications for agricultural marketing in the country. Even now, the Union Government can co-opt the states in order to ensure a smooth implementation of the laws.

- 4) **Farmer groups to be encouraged:** In the Contract Farming Act, individual farmers will be vulnerable and may not get a fair deal vis-à-vis the large private players. The government should therefore encourage only *groups* of farmers and not individual farmers. The government should also oversee the agreements and ensure that the minimum guarantee price provision is properly complied with. Also, it is important to ensure that this minimum price is not lower than the market price or some benchmark price such as APMC mandi price.
- 5) **Clarity on price triggers for stock limits:** In the ECA amendment, there needs to be more clarity on price triggers for imposing the stock limits. Higher of these two prices, rather than lower of the two, makes more sense here if one wants to consider situations of extraordinary price rise. No mention of whether the prices are real or nominal. This condition is likely to be breached more often if the price considered is nominal. No clarity whether the price refers to the average price or a price in a specific market and also whether the stock limits to be imposed are local or general.

The following are the complementary reforms needed

- 6) **Grameen or Rural markets:** Increasing the number and improving the facilities under the GrAM scheme (Grameen Agricultural Market scheme) is needed. There are nearly 22,000 weekly agricultural markets and development of infrastructure needs to be fast-tracked. The Government has approved an Agri-Market Infrastructure Fund (AMIF) with a corpus of Rs. 2000 crore with NABARD for developing and upgrading agricultural marketing infrastructure in the 10,000 Grameen Haats and 585 Agriculture Produce Market Committee (APMC) Markets. However, *The Parliamentary Standing Committee on rural markets* found that none of revamped and modernized Grameen Haats has been inaugurated so far.

- 7) **Credit:** Improving credit flow is very necessary. There is a vast literature on the inter-linkages in rural markets that may constrain marketing decisions of the farmers which may render these laws ineffective (Basu 1983, Braverman and Stiglitz 1982, De Janvry and Sadoulet 2006). These constraints need to be relaxed through appropriate policy measures.
- 8) **Income support to small farmers:** A basic income support to farmers is very much needed to help them avoid distress sales and also provide them the necessary bargaining power. Current MSP-procurement system has served the country well in the previous crises and is also crucial for PDS in the country. This system is also the lifeline of farmers in few states like Punjab and Haryana. Therefore, this system may be continued for staple cereals like rice and wheat. However, for non-staple food crops a gradual movement to an income-based support system is needed. Our estimates suggest that increasing the current annual payments under PM KISAN marginally by Rs 2385/- can cover 50% of the cost of cultivation of a majority of the farmers (Sekhar 2021). As can be seen from Table 3 below, the increase in expenditure as percentage of GDP is also quite small.
- 9) **Liberalizing land lease market:** Most of the concerns about the laws arise because of the predominance of small landholdings in the country. Land leasing should be liberalized to allow free entry and exit from cultivation. This will increase the size of holdings and allow scale economies to be reaped. The *Report of the Expert Committee on Land Leasing* (GoI 2016) can be a good starting point.

## 10 Conclusion

The objectives and the broad content of the recent farm laws appear to be in the right direction. However, there are some serious design flaws that need to be corrected. An effective regulatory mechanism; a data collection and market intelligence system; clarity on price triggers for stock limits and closer coordination with states are some of these. Also, complementary set of measures and reforms such as providing basic income support to farmers; improving the credit flow to smaller farmers; improving the infrastructure at the grameen markets, and liberalizing land lease markets are needed to make these laws effective.

**TABLE 3**  
**COMPARATIVE SCENARIO OF PROVIDING MSP AND ENHANCING PM KISAN PAYMENTS**

	Expenditure (crores)	PERCENTAGE OF	
		GDP in Agriculture & allied (AGDP) 2019-20	Total GDP 2019-20
Food subsidy in 2021-22			
a) Budgeted	242836	7	1.2
b) If MSP is provided to all 14 major food crops	474239	15	2.3
PM KISAN payments			
a) Budgeted @6000 per annum per farm	65000	2.7	0.4
b) If payment is enhanced to cover 50% of CoC-A2 per farm	122187	3.8	0.6

## ANNEXURE

### Frequently Asked Questions on Farm Laws

**1) Why a law for agriculture when a law does not exist for other aspects like prices, inputs etc:**

A) Inputs, irrigation, credit, technology and marketing are all important components of a farm economy. Almost all these components, except marketing, have so far been governed by administrative decisions and not laws. But marketing has always been governed through legislation. The APMR Acts (Agricultural Produce Marketing Regulation Acts) were the broad templates for agri-marketing in various states. The poor functioning of the APMCs led to serious problems over time (discussed in the previous sections), which necessitated the recent set of laws. Since APMR Acts were legal instruments at the state level, their shortcomings could only be addressed through a Central law or a major amendment.

**2) Why a central law?**

A) Because the process has been going on for 17 long years and very little breakthrough has been achieved (PSCAG 2019, pp 10). The previous attempts to reform agricultural marketing in the country and their progress has been discussed in Section 6. The interest groups in the states were instrumental in blocking the reforms to APMCs. This necessitated a Central law.

**3) Is central law constitutional?**

A) Although agriculture *per se* is a state subject as per the Constitution of India, agricultural trade, on the other hand, involves transactions across state boundaries. If states cannot agree on a mutually agreeable set of rules, then coordination failure is a more likely outcome. Thus, a central law may be more appropriate for this. Perhaps this is the reason why the framers of the Constitution included the provision for inter-state trade (in agricultural products) in the concurrent list, entry 33, although agriculture is in the state list

**Entry 33 of the Concurrent List**

*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 not ginned, and cotton seed; and
- (e) raw jute.

#### 4) **Is the move mainly aimed at disbanding MSP and Procurement**

- A) As has already been discussed in Section 8, MSP is also needed for the PDS operations. MSP is not legally mandated and doing away with MSP could be done through an administrative action. It does not require a law.

#### 5) **Why are farmers of Punjab more agitated?**

- A) As discussed in Section 8, huge dependence on MSP by the farmers in Punjab, possible revenue loss to the government and the dominance of arthias are the possible reasons for this unrest. Punjab is perhaps the only state where MSP payments are made to the arthias and not to the farmers. In a very interesting and a comprehensive study Chatterjee et al. (2020) have depicted the stranglehold of arthias in Punjab (pages 58-59). They observe “....*The absence of modern electronic weighing scales in the mandis of Hoshiarpur is a clear indication of the collusive power of the arhatiyas, who have repeatedly resisted the introduction of electronic weighing scales*”... (page 38).

#### 6) **What are major shortcomings of the laws:**

- A) As discussed in Section 9, absence of a regulatory mechanism; lack of data collection & market intelligence; poor coordination with states and lack of clarity on price triggers for imposing stock limits are some of the problems with the laws.

#### 7) **Is land going to be usurped?**

- A) As discussed in Section 8, the fear about losing land under contract farming law is misplaced. There is a mention of dues being recovered from land revenue in the Contract farming Act. This appears in clause 14(7). But the following clause, cl 15, makes it categorically clear that notwithstanding anything contained in cl 14, no action can be initiated against land. This clause, read together with clause 8, implies that the Act clearly forbids any action involving land.



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