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Agriculture Reforms 2020 and Farmers' Welfare

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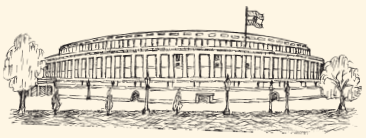

Parliamentarians' Forum on Economic Policy Issues (PAR-FORE)

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A big farmer agitation is going on at present, blocking several roads around the national capital. At the same time negotiation between the agitating farmer unions and the central government is also happening, though several rounds have ended in stalemates. Supreme Court of India, intervening in the matter, has proposed to form a committee to work out a solution between the two sides.[1]

The impugned matter relates to the three Central Farm Acts reforming the agriculture sector in India, which was largely untouched since the liberalisation spree that began in 1991, though every political party pledged reforms to help our farmers.

Alas, the current action has led to some controversies about the reforms which are due to the lack of understanding on part of all stakeholders, including the government.

BACKGROUND

The three Central Farm Acts – The Farmers Produce Trade and Commerce (Promotion & Facilitation) Act, 2020 (the FPTC Act), The Farmers (Empowerment & Protection) Assurance and Farm Service Act, 2020 (the Contract Farming Act), and The Essential Commodities (Amendment) Act, 2020 (the EC Amendment Act) – after being passed by the Parliament, got notified in the Gazette on September 24, 2020.[2]

The effective date of coming into force has, however, been retrospectively put as June 05, 2020, the date of promulgation of three Ordinances to the same effect. These new Central Farm Acts bring in important and far-reaching changes in the market regulations of agricultural produce in India.

New Central Farm Acts bring in important and far-reaching changes in the market regulations of agricultural produce in India

When the Ordinances on these reform measures were promulgated by the President of India, under Article 123 of the Constitution of India, questions were raised whether the promulgation satisfies the test of this Article – that is, whether 'the circumstances exist which render it necessary for immediate action'. There seems to be no official explanation for such 'immediate action'; the Ordinances also does not mention it.

However, the necessity for such immediate action can be inferred from the latest economic situation in India due to the COVID-19 pandemic. In the quarter ending June 2020, the Gross Domestic Product (GDP) of India contracted by 23.9 per cent as compared to the same quarter last year, where all sectors saw negative growth, except

Box 1: Salient Features of the Central Farm Acts

FPTC Act

The stated objectives of the FPTC Act are to:

- provide for the creation of an ecosystem where farmers and traders enjoy the freedom of choice relating to the sale and purchase of farmers' produce which facilitates remunerative prices through competitive alternative trading channels;
- promote efficient, transparent, and barrier-free inter-State and intra-State trade and commerce of farmers' produce outside the physical premises of the State APMC markets; and
- provide a facilitative framework for electronic trading.

Accordingly, the Act provides that any farmer or trader or electronic trading and transaction platform will have the freedom to do inter-State or intra-State trade and commerce. Any trader having a PAN (Permanent Account Number) Card of the Income Tax Authority of India can engage in such trade. Similarly, only the PAN Card is required for establishing and operating an electronic platform for trade and transactions.

Moreover, Farmer Producer Organisations (FPOs) or agriculture cooperative societies would not even require PAN cards to enter into trade and/or establishing/operating any electronic platform. The Act specifically exempts traders from any market fee, levy, or any cess under the State APMC laws.

The Central Government is also empowered to develop a Price Information and Market Intelligence System for farmers' produce and a framework for dissemination of information.

Any dispute between traders and farmers can be mutually solved using a conciliation process. A Conciliation Board is to be appointed by the Sub-Divisional Magistrate for this purpose. If they could not decide mutually the matter will be heard by the Sub-Divisional Authority (SDM). An Appellate Authority (Collector or Additional Collector) will deal with any appeal from the Sub-Divisional Authority. Every order of these authorities will have a force of the decree of a civil court. The Act bars the jurisdiction of any court in the covered matters and in cases of any inconsistency with the State APMC Act or any other law, the provisions of this Act would prevail.

Contract Farming Act

The objective of this Act is to provide a national framework on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters, or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner. The Central Government can also issue necessary guidelines along with model farming agreements to facilitate farmers for written agreements.

As per the Act, the agreement needs to mention the price to be paid to the farmer for the purchase. If such price is subject to variation, then the agreement shall explicitly provide for a guaranteed price and a reference for any additional amount over and above the guaranteed price. Besides, the method of determining such a price or guaranteed price shall need to be annexed to the farming agreement. According to the Act, no agreement can be entered into for any transfer, sale, lease, or mortgage of the land of a farmer or raising any permanent structure on such land.

State governments can create a Registration Authority for the registration of farming agreements. The Act also provides for a three-level dispute settlement mechanism: the conciliation board, Sub-Divisional Magistrate, and Appellate Authority (Collector or Additional Collector).

EC (Amendment) Act

The amendment to the ECA has diluted the regulation over the supply of such foodstuffs, including cereals, pulses, potato, onions, edible oilseeds, and oils, as the Central Government may notify from time to time. Such items will be regulated only under extraordinary circumstances like war, famine, extraordinary price rise and natural calamity of grave nature.

Besides, the amendment has curbed any action with respect to the imposition of stock limits. It has illustrated the term 'exorbitant price rise' as 100 per cent increase in the retail price of horticultural produce or fifty per cent increase in the retail price of non-perishable agricultural foodstuffs, over the price prevailing immediately preceding twelve months, or average retail price of last five years, whichever is lower.

agriculture, which experienced positive growth of 3.4 per cent. Similarly, in the quarter ending September, India's GDP contracted by 7.5 per cent, while agriculture again showed positive growth. Therefore, pegging economic recovery in the agriculture sector received a much-needed boost.

Since the government's revenue has been badly hit by the pandemic, reliance on the private sector for investment in agriculture is almost a compulsion. The present reforms in the form of these Acts are largely meant for freeing up the agriculture trade from various controls and hence, making it more attractive for private investment. Since economic recovery is in the category of 'most urgent' task, the promulgation of the Ordinances, followed by Acts, can be justified.

The prime objective of the FPTC Act is to provide freedom of choices relating to the sale of farmers' produce, by facilitating an alternative trading channel to the heavily regulated state APMC (Agricultural Produce Marketing Committee) markets, which would promote competition and thereby better prices to farmers.

Reduced transport costs due to buying at the farm gate, no commission payment and access to a large number of buyers are some expected benefits to farmers. Similarly, traders will be benefited by having a large number of sellers, be it inter-State or intra-State. Also, traders would not have to obtain any licence and can have access to more prospective buyers like processors, millers, bulk buyers, retailers, wholesalers, exporters without any fee charged for such trade.[3]

Reforms are also needed to improve export competitiveness of the Indian agriculture

Most importantly, these Acts are in response to recommendations made in the past by several bodies, including the Swaminathan Committee, which had suggested the removal of the mandi tax, the creation of a single market and facilitating contract farming.[4]

Ramesh Chand, Member, NITI Aayog, has given several reasons as to why these reforms were needed for a sector that was ignored during the 1991 liberalisation thrust.[5] Those reasons are summarised below:

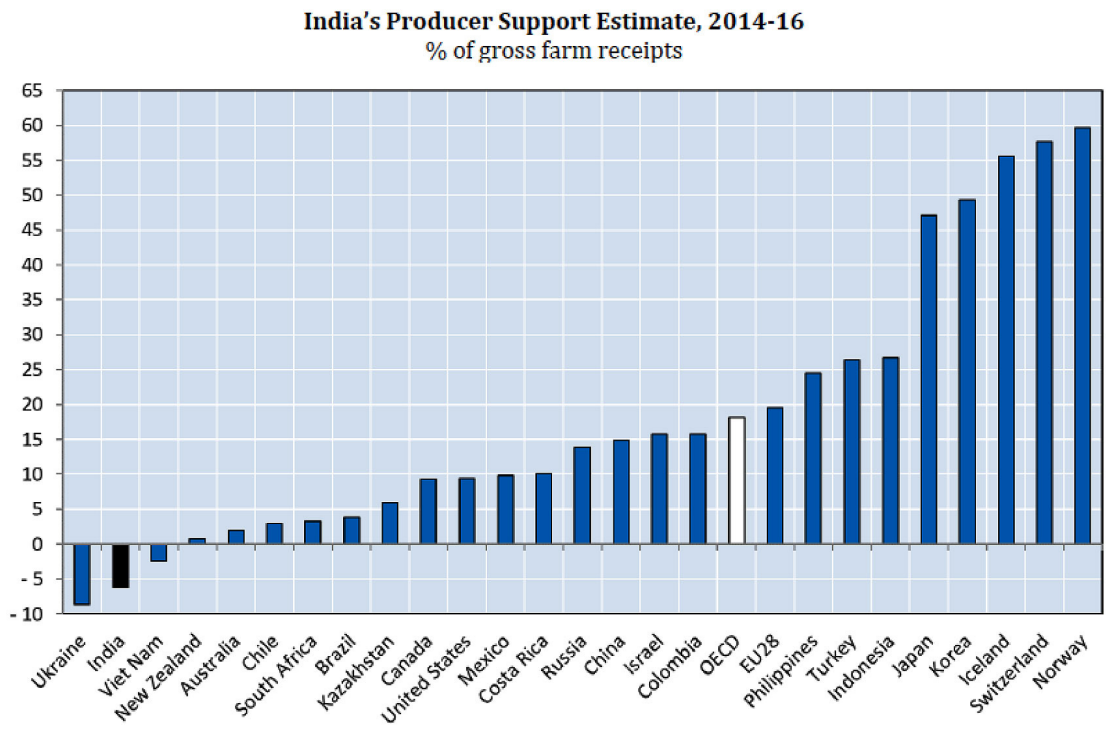
- Post-1991 reforms, while almost all sectors grew at relatively higher rates, agriculture growth remained low and at earlier levels, resulting in an increasing gap between agri and non-agri incomes. Series of papers and committee reports underlined the need for policy reforms in the agriculture sector. In addition, this was also necessitated by liberalisation of agriculture trade due to commitments under the World Trade Organisation, an increase in farmers' suicides and agrarian distress.
- Policy-induced imbalances between demand and supply resulted in a large accumulation of surplus of some commodities and at the same time imports of many other commodities (such as edible oil, pulses, fruits). Reforms can rectify poor market facilities, post-harvest infrastructure logistics, etc. needed to correct such imbalances.
- Reforms are also needed to improve the export competitiveness of Indian agriculture. India would need to sell 20 to 25 per cent of incremental agri-food production in overseas markets in near future, which may not be possible due to a long chain of intermediaries, small market lots and high transaction costs.
- Agri-markets in India remained fragmented despite developments in communication, road networks and other trade infrastructure, resulting in unjustified spread with respect to farm and retail price differences. One nation, one market approach can rectify this.

It is necessary for farmers to have more and better options and competitive environment to get better deals

- In order to accelerate the growth of food processing, new arrangement and partnership between producers and processors are needed.
- There is a pressing need to revive investment and capital formation in the agriculture sector for its modernisation.
- Farmers must have more and better options and a competitive environment to get better deals. The scope and reach of government procurement on minimum support price (MSP) is limited and cannot be universalised due to fiscal constraints.

There are, however, views that question this liberalisation of Indian agriculture when most countries including some of the advanced ones like the US and the EU, provide huge subsidies to the agriculture sector. The US provides subsidies worth US$46bn to the agriculture sector, which accounts for around 40 per cent of its total farm income. Similarly, since 2006 the average annual spending under the European Union's Common Agricultural Policy is EUR54bn (~ US$64.5bn).[6]

India, on the other hand, provides a net negative subsidy despite providing a huge subsidy on fertiliser, power and irrigation. From 2000 to 2016, overall producer support was around (-) 14 per cent on an average.[7] According to one estimate, farmers incurred around ₹45 lakh crores in the said period on account of low price.[8] Can India match the large quantum of subsidies by countries, in order to be internationally competitive?



Source: Agriculture Policy Review of India (2018)[9]

Be that as it may, while most farmer unions and opposition political parties are against these reforms, the government has been defending and terming them to be in the interest of farmers.

Though there is a consensus on the urgent need for remunerative income for farmers, there is a political economy divergence on how this is to be achieved.

In general, one school of thought relies more on liberalisation of agriculture by giving private players more freedom for trade and commerce, the other school is for more government interventions in setting up markets and assuring better MSP for farmers' produce.

The latter, however, acknowledges that reforms are needed in the existing APMC system, but are somewhat sceptic that private players would be able to provide remunerative prices to farmers in a liberalised market set-up on its own.

With this as a background, this Issue Note analyses the following four major contentious issues taking into account their political economy aspects:

- MSP and its assurance
- Withering away of the APMC system
- Corporate monopoly will take over
- Attack on federalism

CONTENTIOUS ISSUES

No assurance on MSP

This is the most contentious issue related to these reforms, which is believed to have triggered the farmers' agitation. With regard to MSP, there are two issues. First is doubt over the continuation of the present MSP system related to government procurement. The second is that the MSP has not been made mandatory for private traders buying from farmers.

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Present MSP system and its continuation

'MSP' was first conceptualised in 1958-59 by Frank W Parker, Chief Agriculturist in a USAID mission to India, who recognised the low crop prices faced by farmers during harvest time, which in turn deterred them from investing in good seeds, fertilisers, and other productivity-boosting inputs.

In 1964, C Subramaniam, the then Agriculture Minister, took this idea forward and institutionalised the MSP system. The Finance Ministry had opposed it but it was ultimately endorsed by the then Prime Minister Lal Bahadur Shastri. These were the times when India was introducing the green revolution to transform itself from food-deficient to a food-sufficient country. It was clear that the adoption of green revolution technology by farmers would not only require declaring MSP in advance but also ensuring payment to them through effective government procurement.[10]

Under the MSP system, which does not have any statutory backing to date, presently the government announces MSP for 23 crops. However, the procurement happens largely for wheat and paddy through the Food Corporation of India (FCI). The Commission for Agricultural Costs

and Prices (CACP), after studying in detail the cultivation costs, calculates and recommends MSPs to the government. The government, however, is not bound by such recommendations.

From 2006 onwards, there has been a call from various quarters to implement the Swaminathan Commission recommendation regarding fixing MSP such that farmers get at least 50 per cent profit on the cost of production.[11] The present government has followed this recommendation in announcing recent MSPs, though there are disputes regarding the calculation of the cost of production as per the Commission's recommendations.

In recent times, however, several concerns have been raised over the present MSP system and its limited reach. In 2015, Shanta Kumar headed the High-Level Committee on Restructuring of the FCI reported that less than 6 per cent of agricultural households have been benefitted from the present MSP system and associated government procurement. This figure has, however, been disputed, which according to one estimate could be anywhere between 15 to 25 per cent.[12]

Since India has sufficient food production now, the regime of the food-shortage era can gradually be dismantled

Nonetheless, the present MSP system and related government procurement do have a very limited reach and a vast majority of farmers have not benefitted from this scheme.

Secondly, FCI subsidies for procurement and storage are proving to be a costly affair to cater to the Public Distribution System (PDS). Thus, there have been policy recommendations about diminishing the role of the FCI and replacing PDS with cash transfers to consumers, the beneficiaries of the PDS.

Thirdly, the lack of crop diversity, particularly in Punjab and Haryana, is being attributed to the present MSP system and related government procurement. This, in turn, has adversely affected soil health and water levels in many regions, threatening the very sustainability of agriculture.[13]

Fourthly, there are also reports flagging that recommended MSPs of certain crops are on the higher side considering factors like demand-supply situation, market prices, international prices, inter-crop price parity, etc.[14]

All these contribute not only to market distortions, but also adversely affect international competitiveness of Indian agriculture. Since India has sufficient food production now, the regime of the food-shortage era can gradually be dismantled.

These debates and developments have led to a belief among some farmers, particularly in Punjab and Haryana that the government is on the path of diluting the MSP system and winding up government procurement. Since, the farmers of Punjab, Haryana and Western Uttar Pradesh have benefitted most from this system they are agitating with more vigour against these reforms.

Government has, however, repeatedly assured that the present system of MSP will continue. It has also announced MSP for this Ravi season and advanced the dates for paddy (Kharif) procurement. Paddy procurement is continuing and by December 08, 2020 the government has already purchased 356.18 lakh metric tonnes (LMTs) of paddy, an increase of 20.41 percent against the last year's corresponding purchase of 295.79 LMTs. Punjab alone has contributed around 57 percent of the total purchase.[15]

However, there are trust issues and farmers are demanding written assurance that the MSP regime and government procurement will continue. Reportedly, the government has agreed to provide a written assurance in this regard.[16]

Mandating MSP in the FPTC Act

There has been a longstanding demand by farmers to ensure that all procurements, whether by government or by private traders, of their produce does not happen below MSP. A private member Bill (the Farmers' Right to Guaranteed Remunerative Minimum Support Price Bill), supported by 21 parties, was introduced in the Lok Sabha in August 2018 (along with the Farmers' Freedom from Indebtedness Bill, 2018). This was pushed by the All India Kisan Sangharsh Coordination Committee (AIKSCC), an umbrella organisation of around 200 farmer organisations in India.[17]

As the remunerative MSP is not guaranteed in the FPTC Act, farmers are on warpath. The government response is that since price depends on the quality of the produce, it would be tough on buyers to force them to a fixed price. Also having a statutory system of giving MSP will lead to distortions of a market-based system by curtailing their independence.

If the price level is not supported by demand and supply, the same may not be sustained through legal means. It was tried by the Maharashtra government in 2018 but ultimately had to be abandoned as buyers withdrew from the market because market prices were lower than the assured MSP declared by the state. Similarly, the sugar mills stopped buying and crushing sugarcane, when the statutory fair and remunerative price did not match with sugar prices.[18]

It has also been argued that if MSP is imposed upon private traders, it will discourage them to enter into and invest in agriculture supply chains, consequently defeating the very purpose of liberalisation. Also, mandatory MSP can open flood gates for imports, which could create more problems for Indian farmers.[19]

In light of all this, the Act provides farmers a market-based competitive price instead of an assured MSP, where traders can also pass on savings from various fees levied at the APMC mandis. Since, trade can now be done feely through electronic platforms or physical trade outside APMC *mandis*, including at the farm-gate and FPO premises, farmers can realise remunerative prices for their produce and also gain due to less transactional costs and weight losses.

The government is also aiming to reduce the cost of production and realisation of remunerative prices by facilitating more and more FPOs.[20] According to one estimate, the removal of inter-state trade barriers itself can increase prices accruing to farmers by up to 11 per cent.[21]

The government is also aiming to reduce the cost of production and realisation of remunerative prices through facilitating more and more FPOs

However, many farmer groups seem adamant to get a clause included in the FPTC Act so that no trader buys from farmers below the announced MSP, wherever prescribed. Some are even using the term 'minimum selling price', instead of 'minimum support price' that can be guaranteed under the Act.

In support of their argument, these groups site two official pronouncements as – the 2011 Report of the Working Group on

Consumer Affairs[22], recommending enforcement of MSP and the 2017-18 (Kharif) report of the CACP, recommending legislation giving farmers 'the right to sell at MSP'.[23]

The fact that farm gate prices have been much below MSP is a concern for farmers for quite a long. This is true for states where the APMC Act has been repealed, for example, Bihar.

Average prices for most crops in most states well below MSP

Crop	State	MSP	Average price in October (in Rs per quintal)	Average price in November (in Rs per quintal)
Arhar	Madhya Pradesh	6,000	4,536	5,100
Bajra	Karnataka	2,150	1,192	1,245
Bajra	UP	2,150	1,271	1,351
Cotton	Maharashtra	5,515	4,504	5,481
Groundnut	Uttar Pradesh	5,275	4,043	4,047
Groundnut	Karnataka	5,275	3,978	4,257
Jowar	Madhya Pradesh	2,620	1,164	1,764
Jowar	Rajasthan	2,620	1,632	1,708
Maize	Chhattisgarh	1,850	1,102	1,298
Maize	Telangana	1,850	1,117	1,598
Moong	Karnataka	7,196	6,119	5,911
Paddy	UP	1,868	1,558	1,765
Paddy	Chhattisgarh	1,868	1,574	1,558
Ragi	Karnataka	3,295	2,259	2,320
Soyabean	Telangana	3,880	3,322	4,010

Source: The Wire[24]

Among other factors, such price squeezing can be attributed to the oligopsonistic nature of the agriculture markets in India, where at the time of harvest there are millions of sellers and only a handful of buyers. How can a competitive price discovery happen in such an oligopsonistic market, given that the international prices are also the result of heavy subsidies by governments around the world?

What safeguards are available for farmers for such price squeezing, is the crux of all issues presently being contested. A viable solution to this can end the impasse.

APMCs will wither away

According to the Central Government, the FPTC Act does not override the State AMPC regimes as it merely creates an alternative and competitive channel to such monopolistic and collusive *mandis*. The *mandis* established under the state APMC Acts will continue to work but they will face competition from traders under the FPTC Act. Thus follows the general pathway of a mixed economy.

However, many farmers believe that due to the ease of trading mandated by the FPTC Act and expressly prohibiting any transaction fees, most trade would take place outside of the APMC *mandis*. Even APMC licensee traders may prefer dealing outside of it. This would slowly make APMCs irrelevant and hence, they would wither away. (The government, however, has agreed that states can impose fees on private traders as well).

With the speculation of dilution of government procurement and fading away of the AMPCs as well as no guarantee of MSP under the FPTC Act, farmers (mainly those of Punjab and Haryana) may be reluctant about going into an uncertain zone, which could be disadvantageous for them.

Besides, this would also adversely affect state revenue collected as mandi fees, the rate for which varies from 2.5 to 8 per cent. According to one estimate, Punjab could lose somewhere between ₹3000 to ₹5000 crores, which is 'supposedly' used in the development of rural infrastructure.

Be that as it may, it has been widely written and debated that state APMC regimes are quite restrictive to trade and commerce in agricultural produce. It also poses hurdles against doing inter-state trade.

In 2012, the Competition Commission of India (CCI) conducted a study of the onion market where it found collusive behaviour and barriers to entry of new traders in APMCs as a cause of low price for farmers and high price for consumers. The price rise of onion was not due to mere demand and supply problems. The study recommended the entry of new traders and reforming the APMC Act.[25]

Also, the competition assessment of the Model APMC Act, 2003 done by CUTS International in 2016 for the CCI, clearly highlighted how the Model Act itself was severely compromised from competition perspectives.[26]

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In 2017, the Central Government came out with a new Model Act correcting most of the anomalies of the 2003 Act. However, the state governments showed no or very little progress on reforming respective APMC Acts adhering to the new Model Act (agriculture is state subject).

States were perpetually failing to recognise that 'competition among buyers' would help farmers realise better prices for their products and consumers will have access to better quality products at lower prices. Understandably, the vested interests, deeply rooted in state and local politics, have been stalling state APMC regimes. This may have prompted the Central Government to take another route in the form of the FPTC Act to provide an alternative channel of trade, bypassing the states' AMPC regimes.

Thus, with the new Central Acts, the state APMCs will face tough competition from non-APMC traders. Those who rectify their anti-competitive practices and become more efficient will be able to withstand it. But those who do not mend their ways are likely to wither away. Nonetheless, more competition among buyers will certainly benefit farmers and consumers.

Corporate monopoly will take over

Since non-APMC buyers would not have to pay any fees and taxes, they can afford to lure farmers with offers of higher prices. Big corporates can even initially offer prices higher than MSP. But slowly when APMCs wither away, farmers will be at the mercy of the corporates, which can dictate terms.[27] The farmers may not have the bargaining power to withstand the negotiating might of large corporates.[28]

This is how some are cautioning farmers and governments against the present reforms, citing the example of aggressive marketing of the telecom company Jio. In short, the new Central Acts do not seem to provide an effective safety net to farmers to withstand if such a situation arises in the future.

Internationally, where trading is largely into private hands, instances of collusive behaviour have been observed, prompting the EU and the US to relook at their supply chains to reduce the power of consolidation.[29]

According to Sudha Narayan, Associate Professor at Indira Gandhi Institute of Development Research, "*The farmer runs a lot of risks dealing with the big players. It's not a given that the big players will come in, set up shop and crowd out other players. But if they manage to get a place, there are two ways in which I have seen them operate. One is to try to crowd out competition and the other is to co-opt them. Big businesses are well-positioned to interact with a lot of farmers because they have field staff. But eventually, many of them end up co-opting farmer cooperatives or anybody who's able to aggregate produce for them. So, though we keep saying that these Bills will facilitate direct transactions with farmers, what we are seeing is not dis-intermediation, but re-intermediation.*"[30]

Maintaining competitiveness in the buyers' market is the key for farmers' welfare in a liberalised set-up

Thus, there are apprehensions that with the unregulated corporatisation of agriculture, agri-business firms may dictate market conditions as well as the terms of trade. This could go against farmers' interests viewing their limited bargaining power.[31]

In India, however, this may not happen in the short run i.e. till the market gets consolidated. But in the medium to long run, if the trend of the present retail consolidation continues there may be a problematic situation.

Therefore, it would be wise to establish an effective monitoring mechanism to observe market dynamics in regular intervals so that there are timely interventions. The CCI also needs to be on an alert mode. Leaving everything to market may harm farmers in long run. Maintaining competition in the buyers' market is the key for farmers' welfare in a liberalised set-up.

Attack on federalism

Many of the clauses in the new Central Acts *prima facie* seem to be under the jurisdiction of state governments (see Box 2). Thus few states, particularly those ruled by non-NDA parties, have been agitating against the centralisation of power and undermining of the federal structure provided under the Constitution of India.

According to the Constitutional scheme, while Parliament and the Legislature of States have exclusive powers to make laws on matters in List I (Union List) and List II (State List) of the Seventh Schedule respectively, both can make laws on matters enumerated in the List III (Concurrent List).[32]

If the law made by a State is repugnant to any provision of law made by the Parliament (where it is competent to enact including with respect to matters in the Concurrent List), the law made by the Parliament shall prevail.[33] However, when such repugnancy is related to laws enacted on matters in the Concurrent List, the State law will prevail (in that state) if it has received the assent of the President.[34]

Box 2: Relevant Entries in Three Lists of the Seventh Schedule of the Constitution of India

List I – Union List

42. Inter-State trade and commerce
97. Any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists

List II – State List

14. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases
26. Trade and commerce within the State subject to the provisions of Entry 33 of List III
27. Production, supply and distribution of goods subject to the provisions of Entry 33 of List III
28. Markets and fairs
46. Taxes on agricultural income
66. Fees in respect of any of the matters in this List, but not including fees taken in any court

List III – Concurrent List

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

With respect to these Central Acts, it is being alleged that it has transgressed into a domain where the state has exclusive powers to make laws. In this regard, Entries 14, 26, 28, and 66 of the State List, which largely cover all aspects of agricultural marketing and the misuse of Entry 33 of Concurrent List are being cited.[35]

Various state governments have shown their intention to move to the Supreme Court on the abrogation of their powers by the Union.[36] The Supreme Court has already issued notice to the Centre on a petition filed by a Chhattisgarh farmer leader challenging these Acts.[37]

Also, some states are using their powers to dilute the scope of these Central Acts. For instance, Rajasthan passed an order designating all warehouses of the FCI, central warehousing corporation, and state warehousing corporation as procurement areas under the APMC Act, thereby retaining its powers to charge mandi fees.[38] Some states have set up committees to look into the matter.[39]

The Punjab Legislature has taken a revolutionary step, by unanimously passing four Bills, which tend to nullify the implementation of key provisions of the three Central Acts in the state. The Punjab government claims that these will restore the safeguards to protect the interests and livelihoods of farmers, farm labourers, and all others engaged in agriculture and related activities. The Bills also point out that agriculture, agricultural markets, and the land are the primary legislative domain of the state.[40]

These Punjab Bills, among other things, seek to penalise (with jail terms up to three years) those who compel farmers to sell their wheat and paddy below MSP and entrust the state government with powers

to levy taxes on all out-of-*mandi* transactions. Furthermore, the Bills also provide that in addition to the remedies available to farmers under the central legislation (before SDM, DM, etc.), an aggrieved farmer can approach the civil courts for remedies.[41]

However, these Bills will need the assent of the President of India to prevail over the central legislation on the same subject matters. A state can make amendments to central legislation on matters enumerated in the Concurrent List under Article 254(2) of the Constitution, provided it gets Presidential assent. The Punjab government intends to take legal recourse if the Governor and/or the President do not give assent to the four Bills.

Following the footsteps of Punjab, Rajasthan and Chhattisgarh also passed bills that tend to dilute the Central Acts in their jurisdictions. However, while Rajasthan adopted a similar approach as that of Punjab, Chhattisgarh had a different approach to solve the issue of the MSP guarantee.

Chhattisgarh passed the Krishi Upaj Mandi (Agricultural Produce Market) (Amendment) Act, 2020, to ensure that farm produce is not sold below MSP in *mandis* or elsewhere. The approach was to amend its state law, without touching any of the Central Farm Acts. The objective is to protect farmers and not to clash with the Centre on this issue.[43]

The Rajasthan government passed three Bills changing or diluting certain provisions of the respective Central Acts.[44] As per the amendments, a trader can be punished (3 to 7 years of imprisonment

Box 3: Key Provisions in Punjab State Bills

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) (Special Provisions and Punjab Amendment) Bill, 2020 seeks to ensure that the sale and purchase of wheat or paddy are not allowed below MSP. If any person or company or corporate house compels or exerts pressure on a farmer to enter into a contract at a price below MSP, it shall be deemed as an offence punishable with a prison term of not less than three years and a fine.

The Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Services (Special Provisions and Punjab Amendment) Bill, 2020 makes it mandatory for those entering into contract farming with farmers to pay the MSP or a price over the MSP. Violators face jail terms of three years.

The Essential Commodities (Special Provisions and Punjab Amendment) Bill, 2020 specifies that no punitive action shall be taken against any person for violating provisions of the central Act, and all notices issued by the central government under its provisions shall be deemed suspended.

The Code of Civil Procedure (Punjab Amendment) Bill, 2020 provides relief to farmers against attachment of land up to 2.5 acres. The state Bills also provide for the prevention of hoarding and black-marketing of food grains.

Source: Indian Express[42]

or ₹5 lakh fine or both) for 'harassing' any farmer. It also empowers the state to impose fee/cess on agriculture produce bought or sold 'by a corporate or traders' to be used for the welfare of farmers. Also, any dispute can be resolved by the APMCs instead of SDM.

However, the MSP guarantee in the Rajasthan Bills is limited only with respect to contract farming and not for sale or purchase made in *mandis*. The Bills also empower the state to impose stock limits to check black marketing.[45]

These Bills can be enforceable only when they get assent from the President of India, which may be unlikely in the given political situation. It seems that both Punjab and Rajasthan governments intend to make a strong political statement.

Therefore, the stage is set for a long drawn centre-state tussle, particularly involving non-NDA ruled states. The legality involved, particularly with respect to constitutional matters, is most likely to be settled in the Supreme Court, which can consume a good amount of time. Since states have major roles to play in the effective implementation of the Central Acts, this tussle will have an adverse impact on its pan-India enforcement.

Also, till the centre-state confusion gets settled, private players may be reluctant to make big investments in the agriculture supply chains. A prior consensus building, as had been done for the GST-related constitutional amendments, could have avoided such centre-state confrontation.

There are lots of merits in these agri-reforms, but there are risks as well

CONCLUSION AND WAY FORWARD

The contention and agitation on the above-discussed issues *vis-à-vis* Central Acts could have been dealt with by the Centre initiating prior multi-stakeholder consultations, particularly with farmer bodies and state governments. It could have put forward the positives of the reform before bringing the Ordinances and monitored the public debates. This could have taken the sting out of any opposition.

However, it is to be noted that many of them are being discussed in various platforms over the last 25 years and similar reform measures have been demanded by various farmers' bodies in the recent past. More importantly, for commodities other than wheat and paddy (and that too mostly in Punjab and Haryana), Indian agriculture is largely market-driven. While farmers' distress is there too, that may not necessarily be due to this market-driven nature of Indian agriculture. It is more on account of market distortions, which require better regulations and their effective implementation.

Similarly, in the Parliament, the government could have accepted one or two key amendments to the Bills proposed by opposition parties or may have thought to refer the Bills to a Select Committee or Parliamentary Standing Committee as desired by some. More so, denying voting and division in Rajya Sabha on the ground that 'the House was not in order' reflects high-handedness on part of the government.

There are lots of merits in these agri-reforms, but there are risks as well. The real challenge is to maximise gains and minimise the risks. It has to be ensured that greater market freedom doesn't turn into an unregulated exploitative regime. Government interventions may be

required to rectify the disparity in the terms of trade between farmers and traders. This would require continuous monitoring and timely interventions. This task can be assigned or housed in an appropriate statutory body.

The government would also need to work on 'trust-building' as selling reforms is equally important as doing them. The recent ban on onion exports or reducing import duty of pulses has raised questions on the government whether it is taking decisions in favour of farmers. Such decisions are also against the spirit of current reforms since policy directions still seem to be more consumer-centric than farmer-centric.

At the same time, it is noteworthy that the Central Government is facilitating the formation of farmer collectives – more than 2000 FPOs have already been established and 1000 more are in the pipeline for which ₹5000 Crore has been allocated. However, till a critical mass of FPOs is formed in the country that can have countervailing bargaining power against the corporate world, a farmer may need more safety nets while operating under this new regime.

There seems to be an absence of proper social safety nets for small and marginal farmers, which is a matter of concern. The Central Government must work quickly to device such mechanisms in order to end farmers' agitation

Therefore, direct income support and other social safety net measures for farmers should be enhanced and deepened. This may be the route should we want to make Indian agriculture internationally competitive, since international prices are dictated by highly subsidised agriculture of the developed countries. Thus, the current subsidy regime in India may be reviewed and transformed into direct income support to farmers.

The government may also consider the policy options suggested by Ashok Gulati, who considers these to be better and viable options instead of legalising MSP. An option could be a Price Stabilisation Scheme where the government can proactively buy a part of the surplus whenever prices crash in order to lift it to the market price. Another option could be to decentralise the MSP, procurement, stocking and PDS and allocate an amount of food subsidy to states to take it forward.[46]

Since massive investment in the agriculture infrastructure is the need of the hour, the present reforms will certainly aid in bringing it by the private players. Such private investment needs to be facilitated by the state governments. Establishing facilities to hire farm machinery would also help farmers in cost-cutting and modernisation of farming. FPOs are to be encouraged for this purpose.

Enhanced focus on crop diversity would reduce farmers' risks from high volatility in the agriculture market. Similarly, promoting varietal diversity within crops using indigenous varieties of the respective agro-climatic zone would help farmers in product differentiation, with or without using geographical indications tag. Also, there should be a further promotion of the establishment of separate marketing channels and supply chains for organic products, which would enhance the linkage of organic farmers to the organic market.

Last but not the least, promotion of value addition at the farm level and ease of establishing and running agri-processing units by farmers would significantly help them enhance their income by capturing a larger pie in the value chains. FPOs may also be encouraged to brand their products to engender consumers' trust. They also need to be on-boarded on e-commerce platforms for direct sales to consumers.

For all this to happen, farmer cooperatives (FPOs) should be provided with better access to capital for the setting up of their processing units, including mandating banks to accept agricultural land as collateral for loans. This would enhance much needed non-farm employment opportunities in rural areas. It is hoped that the present agricultural reforms will facilitate such value addition at the farm gate and thus enhance farmers' income.

In the present format, the emerging regime under the Central Acts appears to be meant mainly to overcome the burden of excess procurement by the Government, by promoting private sector to procure more freely. There seems to be an absence of proper safety nets for small and marginal farmers, which is a matter of concern. The Central Government must work quickly to device such mechanisms in order to end farmers' agitation. The preparation of a more comprehensive road map for enhanced farmers' income in a liberalised market environment could be a step in the right direction for selling these reforms to all relevant stakeholders, particularly farmers and consumers.

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