

Prof. V.S. Vyas Memorial Lecture

**CONTEXTUALISING THE REPEALED 2020
UNION AGRICULTURAL MARKET ACTS
IN FARMER INCOME (POLICY) DEBATE:
A SMALLHOLDER PERSPECTIVE**

By

Prof. Sukhpal Singh

Indian Institute of Management, Ahmedabad

July 2022



INSTITUTE OF DEVELOPMENT STUDIES
8B, Jhalana Institutional Area, Jaipur 302004



Prof. VS Vyas

Professor Vyas was Director of the Institute of Development Studies, Jaipur from 1989 to 1996. Prof. Vyas was awarded the Padma Bhushan in 2006. He had also served as a member of the Prime Minister's Economic Advisory Council and was the Vice-Chairperson of the State Planning Board, Government of Rajasthan. Prof. Vyas continued as Professor Emeritus of IDSJ till he passed away.

Prof. Sukhpal Singh

Dr. Sukhpal Singh is Professor and Former Chairperson, Centre for Management in Agriculture, IIM, Ahmedabad. He has also served as Director General, Centre for Research in Rural and Industrial Development, Chandigarh, and former Professor and Head, Agricultural Economic Research Unit, Institute of Economic Growth, New Delhi. Prof. Singh also serves as Fellow, ISAE, Mumbai.

Email : sukhpal@iima.ac.in



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Please send suggestions and comments to
S. Mohanakumar, (Mohanakumar.s@gmail.com)
Convenor, Publications

Institute of Development Studies
8-B, Jhalana Institutional Area
Jaipur-302 004 (India)
Phone : 91-141-2705726 / 2706457 / 2705348
Fax : 91-141-2705348
E-Mail : idsj@dataone.in
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Contextualising the Repealed 2020 Union Agricultural Market Acts in Farmer Income (policy) Debate: A Smallholder Perspective#

Sukhpal Singh*

Abstract

The agricultural market Acts of 2020 (repealed late last year (2021)) have brought to the fore the nature and policy aspects of the agrarian distress in India so far as it relates to the farmer livelihoods. This paper, after briefly highlighting the state of farmers' incomes with the help of data from recent NSSO survey report as a context, examines the rationale for the Union government Acts of 2020, though similar reforms have been an ongoing process for the last 18 years at the state level with variations in their nature and degree. It examines the two Union Acts of 2020 for their goodness and major lacunae and issues from a (small) farmer income perspective in the light of the experience of new (non-APMC) market channels during the last two decades across crops and regions. Finally, it puts forth some suggestions for more relevant farm sector reforms for inclusive and sustainable agricultural development.

1. Introduction

Increasingly, smallholder agriculture is back on the policy agenda globally due to its relevance for meeting the growing demand for food and improve and sustain rural livelihoods in developing countries. Of the 525 million farms in the world, 445 million (85%) are smaller than two hectares. These 445 million small farms, with a family size of five each, provide work to 2.2 billion of the 6.2 billion in the world which makes it 1/3rd of the global workforce and population. At the same time, 70% of the world's 1.4 billion extremely poor live in rural areas. In Bangladesh, they account for 95% of all farms and 69% of cultivated area. (Sahan and Fischer-Mackey, 2011). Similarly, in China, these small farms are 98% of the total and in Ethiopia 87% of the total with 60% of the total cultivated area. Small farms including marginal and almost landless, account for 90% of owned holdings with 43% of total owned area, while 89% of all operational holdings and 54% of the total cultivated area in India (Table 1 and 2). This gap between owned and operated holdings area is accounted for by leasing in and leasing out with 17% of holdings being leased and accounting for 13% of operated area, which were only 14% and 11% respectively (Table 3).

The NSSO survey found that in 2018-19, 34% of the households were sub-marginal and 36% marginal, besides 17.7% being small. The average area owned per household declined from 0.7 hectares per household to 0.6 hectares in 2013 and 0.5 hectares in 2019.

*Prof. Sukhpal Singh, Indian Institute of Management (IIM), Ahmedabad. Email: sukhpal@iima.ac.in

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In terms of operational land holding distribution, small category accounted for 16.4% of the total holdings with 24.7% of area operated compared with 15% and 23% respectively. Altogether in 2018-19, marginal and small categories accounted for 89% of the operated holdings and 56% of the operated area (GoI, 2021).

Table 1: Percentage distribution of households and area owned by size category of ownership holdings during 2002-2003, 2012-13 and 2018-19

Size category of household ownership holdings (in ha).	Percentage distribution of households			Percentage distribution of area owned		
	2018-2019	2012-2013	2002-2003	2018-2019	2012-2013	2002-2003
Landless (≤ 0.002)	8.2	7.4	10.0	0.0	0.0	0.0
Marginal (0.002-1.000)	76.5	75.4	69.6	34.5	29.8	23.0
Small (1.000-2.000)	9.3	10.0	10.8	24.9	23.5	20.4
Semi-medium (2.000-4.000)	4.4	5.0	6.0	22.0	22.1	22.0
Medium (4.000-10.000)	1.4	1.9	3.0	14.7	18.8	23.1
Large (>10.000)	0.1	0.2	0.5	3.9	5.8	11.6
All sizes	100.0	100.0	100.0	100.0	100.0	100.0

Source: NSSO, 2021

Table 2: Percentage distribution of number of operational holdings and percentage distribution of area operated by size category of operational holdings in 2018-19 versus 2012-13 and 2002-03

Size category of operational holdings (in ha.)	Percentage distribution of number of operational holdings				Percentage distribution of area operated			
	2018-19	2012-13	2002-03		2018-19	2012-13	2002-03	
			Kharif	Rabi			Kharif	Rabi
Landless (≤ 0.002)	0.0	0.0	–	–			–	–
Marginal (0.002-1.0)	72.6	73.2	69.8	70.0	31.7	27.7	22.6	21.7
Small (1.0-2.0)	16.4	15.3	16.2	15.9	24.7	23.4	20.9	20.3
Semi-medium (2.000-4.0)	8.0	8.1	9.0	8.9	22.0	23.5	22.5	22.3
Medium (4.000-10.0)	2.7	3.0	4.2	4.4	16.2	19.3	22.2	23.1
Large (>10.0)	0.3	0.4	0.8	0.8	5.4	6.0	11.8	12.5
All sizes	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Source: NSSO, 2021

Table 3: Percentage of tenant holdings and area leased-in during 2018-2019, 2012-2013 and 2002-2003

Year	Percentage of tenant holdings	Percentage of area leased-in
2018-2019	17.3	13.0
2019-2020	13.7	11.3
2002-2003	9.9	6.5

Note: 'Tenant holding' stands for an operational holding with wholly or partially leased-in area
Source: NSSO, 2021

Further, dryland agriculture supports 40% of the population and 60% of the livestock in India. It produces 44% of food requirements, thus has and will continue to play a critical role in India's food security. However, aberrant behaviour of monsoon rainfall results in frequent droughts that impact resource poor farmers. Eroded and degraded soils with low water-holding capacity and multiple nutrient deficiencies, declining groundwater table, etc. contribute to low crop yields that lead to further land degradation (Singh, et al, 2004). Drylands accounts for 53% of total cropped area, 48% of the area under food crops and 68% under non-food crops. In terms of production, drylands account for nearly 80% of the output of coarse cereals, 50% of cotton and maize, 65% of chickpea and pigeon pea, 81% of groundnut and 88% of soyabean (Shankar, 2006). According to the Fourth five-year plan of India, dry lands are defined as areas which receive rainfall ranging from 375 mm to 1125 mm and with very limited irrigation facilities. Dry regions are economically fragile and are vulnerable to environmental stress and shocks. Degraded soils with low water holding capacity along with multiple nutrient deficiencies and depleting ground water table contribute to low crop yields and land degradation (Vijayan, 2016). Nine states (Rajasthan, Madhya Pradesh, Maharashtra, Gujarat, Chhattisgarh, Jharkhand, Andhra Pradesh, Karnataka and Tamil Nadu) account for over 80% of the drylands. Traditional cropping systems use diverse strategies like mixed-cropping and inter cropping for rainfall insurance. The crop combinations and sequences are often highly complex and have come up taking into consideration minute variations in soil type, depth, crop maturity and susceptibility to rainfall fluctuations and household needs. As much as 60 crop mixes are reported to have existed in villages of peninsular India (Shankar, 2006).

Agro-climatologically, the soil erosion (wind, water) is the highest in arid rainfed districts. India had 73% small and marginal farmers in rainfed districts (240) and 79% in irrigated districts (263). The area owned by them was 43% in rainfed districts and 51% in irrigated districts (Venkateswarlu, 2017). They suffer from high product and market risks. Harriss-White (2008) called these areas "India's rainfed agricultural dystopia," characterized by an increasingly risk-beset, polarized and indebted agrarian capitalism dominated by micro-production and its credit and exchange relations. The mass of small-scale farms is not "un-incorporated", they are incorporated in a differentiated way such

that much agriculture is a part-time component of a complex livelihood portfolio dominated by labouring. (Harriss-White, 2008, p. 553).

Due to low marketed surplus, many dryland areas have poorly developed commodity markets. Distress sale is common, often to the same trader who is also the lender. Creation of marketing networks through checking distress sales and pooling of whatever surplus the area produces, could be an income generating activity (Shankar, 2006).

There is no doubt that small farms maximise labour use and value added, and have higher yields, both of which are socially optimal, given land scarcity and labour surplus in developing countries. They also promote equity. It was due to small farms that rapid agricultural growth occurred in Korea, China, Japan and Taiwan, and even parts of India. But, employment which is the only way to raise farmers' incomes, is low on small farms because of the low employment elasticity of output due to nature of crops grown and technology used. Further, small farmers suffer from many market and institutional problems which lead to lower price realization for their output besides higher transaction costs, though they are as much as or more productive than larger farms per unit area e.g. in India (Chand et al 2011; Gaurav and Mishra, 2011). But, these studies also find that even with this higher productivity, the livelihoods of such smallholders are not viable as their expenses far exceed the net income from a small farm.

But, there is also differentiation among Indian farmers which need to be recognised. There are small or family or peasant farmers, corporate farmers and entrepreneurial farmers which differ in their approach to farming and interface with markets. The peasant mode practiced by small or family farmers is: co-production and co-evolution, distantiation from input markets, output side differentiation, craft and skill-oriented technologies, labour (quality and quantity) based intensification, multi-functional, reciprocal relations between farms, continuity from past to future, high level of value added and increasing social wealth. On the other hand, entrepreneurial mode is: disconnected from nature, artificial mode of farming, high market dependence, high level of commoditization, entrepreneur and mechanical tech centred, high percentage of rented land, scale dominant trajectory, technology led intensification and specialised competitive relations and break of past and future, low level of value added and contains and redistributes social wealth. Entrepreneurial agriculture is the outcome of: Green Revolution and rural development programmes (der Ploeg, 2018, P. 63) and agri(-) outsourcing as the emerging mode of farming has led to a situation where only tool of entrepreneur farmer is: telephone/mobile. Farmers also differ in terms of level of marketed surplus (marketable surplus) which ranged from 49-60% of total foodgrain production at the farmer level across three categories during the late 1990s (Agarwal and Agrawal, 2017).

As Jan Douwe der Ploeg (2018, P. 83) argues: 'The strength of a farm does not reside only, or even primarily, in its size. It depends on how farming is organised and developed over time and how it interacts with the context in which it operates. Small farms can render a

good income and enough savings to be reproduced over time, but they can also struggle and fail. The same is true of large farms'. He continues: 'Thus, the policy focus on large farms and the preferential allocation of development opportunities to them is, indeed, nothing but betting on a lame horse. Policies that would encourage small farms to grow would contribute far more to growth and development' (der Ploeg, 2018, P. 86). The evidence from China where average size of farm is 0.5 hac and yields – twice of India's average shows that farm size does not matter. China's higher farm productivity is the result of focus on high value crops, mechanisation and animal-based products, besides afforestation. As a result, 59% of China's Gross Value Product (GVP) is retained at farmer level, where as only 23% is retained in the Netherlands. Therefore, what you do, how much, when, how, for whom and why, on a farm which makes it viable or not.

In the context of Indian smallholder farming and allied activity, this paper examines the state of farmer incomes and the likely implications of the repealed Union agricultural market Acts of 2020 for farmer livelihoods. It examines farmer income and its changing profile in section 2 and discusses major features and lacunae of FPTC Act, 2020 as legal and regulatory text and of the contract farming Act 2020 in sections 3 and 4 respectively from a smallholder income perspective. Section 5 concludes the paper.

2. Farmer Income

The NSSO survey for 2018-19 covering 57000 plus households estimated number of agricultural households defined as those earning at least Rs. 4000 from farming at 93 million (54% of all rural households). 0.75% of such household possessed less than one hectare land and only 0.4% had more than 10 hectares each. Further 69% of these households were engaged in crop production and 2.3% in livestock farming. 14.2% reported casual labour as the major source of employment and 7.7% were regularly employed or salaried. The average area owned per household was 0.87 hectares and 2.6% of the households were landless compared with 8.2% of the rural households being landless. 3.2% households reported leasing out land and 13.9% leasing in and the average area leased out and leased in for a household was 0.69 hectare and 0.48 hectare respectively. The number of owned agricultural holdings was estimated to be 89.6 million and average area per owned holding was one hectare while average area operated per holding was 0.92 hectares. If the non-agricultural households holding land were also included, then the estimated number of operational holdings turned out to be 102 million and owned average area per holding 0.9 hectares and average area operated for such holding 0.83 hectare. 72.6% of the operational holdings were marginal and 0.3% large. The share of marginal category in total operated land was 31.7% and that of the large category 5.4%. 84% of the land was used for crop production and 6% for both crop and animal husbandry while 0.6% only for animal husbandry. The average number of cattle owned was 2.2 per household and 1.5 buffaloes in milk per household. 10.7% households owned poultry birds averaging 1.3 per household. The scheduled caste households had 16% share in agricultural households and Scheduled Tribes 14.2%. Whereas 92.7%

agricultural households engaged in crop production in Kharif only, 72.5% did so during Rabi season. The average value of crop production per household was Rs. 46277 in Kharif and Rs. 50,807 during Rabi.

The average monthly income per agricultural household was of the order of Rs. 10218 of which crop production accounted for 37.2%, farming of animals 15.5%, making for a total of 52.7% with the rest mostly coming from wages (39.8%), non-farm business (6.3%) and leasing out of agricultural land (1.3%) (table 4). The net income was even lower being Rs. 3000 per month from crop production and Rs. 441 for animal farming (Table 5). There were also large variations across states and farmer land holding categories so far as farmer income levels, its various sources, per hectare farm income, and growth overtime were concerned. Across most states, there was a slow down of growth of nominal farmer incomes between 2012-13 and 2018-19 (Saini, 2022).

Major crops grown by the farmers (in terms of agricultural households reporting) were paddy (53.2%), maize (11.3%), cotton (7.2%), bajra (8.3%), and soyabean (6%) during Kharif and wheat (41.2%), rapeseed/mustard (7.5%), paddy (9.3%), gram (6.7%) and potato (5.3%) during Rabi season.

Table 4: Average monthly income from different sources per agricultural household during July 2018 - June 2019 for each size class of land possessed

Size class of land possessed (ha.)	Income from wages (Rs.)	Income from leasing out of land (Rs.)	Net receipt from crop production* (Rs.)	Net receipt from farming of animals* (Rs.)	Net receipt from non-farm business (Rs.)	Total Income (Rs.)
<0.01	6,435	254	1,660	2,084	772	11,204
0.01-0.40	4,491	189	977	1,162	703	7,522
0.40-1.00	3,906	76	2,683	1,335	570	8,571
1.01-2.00	3,647	74	5,269	1,845	613	11,449
2.01-4.00	3,548	146	9,432	2,551	758	16,435
4.01-10.00	4,273	451	19,645	3,451	472	28,292
10.00+	3,943	581	43,599	11,473	1,162	60,758
All sizes	4,063	134	3,798	1,582	641	10,218

Note: * Only out-of-pocket expenses were considered for working out net receipt.

Source: NSSO, 2021.

Table 5: Average monthly income from different sources per agricultural household during July 2018 - June 2019 for each size class of land possessed

Size class of land possessed (ha.)	Income from wages (Rs.)	Income from leasing out of land (Rs.)	Net receipt from crop production* (Rs.)	Net receipt from farming of animals* (Rs.)	Net receipt from non-farm business (Rs.)	Total Income (Rs.)
<0.01	6,435	254	1,435	1,087	772	9,982
0.01-0.40	4,491	189	657	349	703	6,388
0.40-1.00	3,906	76	2,042	356	570	6,951
1.01-2.00	3,647	74	4,313	541	613	9,189
2.01-4.00	3,548	146	7,945	600	758	12,997
4.01-10.00	4,273	451	16,914	342	472	22,453
10.00+	3,943	581	37,639	7,087	1,162	50,412
All sizes	4,063	134	3,058	441	641	8,337

*Note: * Both the paid-out expenses and imputed expenses were considered for working out net receipt.*

Source: NSSO, 2021

It is important to note that almost landless category agricultural households had as much total income as the small farmer category and much higher than those in the sub marginal and marginal categories. The income from wages to marginal farmers was higher than those from crop production and overall wage income, on an average, exceeded that from crop production. It was only after one hectare of land possession that crop production income exceeded 50% of the total. Even in the case of net farm income, the wage income had a much larger contribution than that from crop production. Further, there were large variations across states in income from farming. In Andhra Pradesh and Haryana as much as 35% of the operated holdings were leased in and tenant holdings accounted for 42% and 21% of the total holdings respectively. Even Orissa had higher leased in area in total (31%) by 39% tenant holdings compared with Punjab where 21% tenant holding had 28% leased in area (GoI, 2021).

Farm income as percentage of agricultural household income was below all-India average in states like Tamil Nadu, Orissa, and West Bengal while it was much higher than all India average (50%) in states like Punjab, Gujarat, Karnataka, MP and Bihar (around 60%). It is important to note that the farm income dependence is low (26%-44%) when holding size is one hectare or below. But farm income reaches 70% in the semi-medium category and 90% in the case of large farms. The 50% threshold is crossed for the majority

of the state when land possessed exceeds one hectare. If the criteria of crop and animal husbandry income being 50% or more of household income is adopted, it brings down the number of agricultural households to just 36 million, which is only 39% of the total 93 million agricultural households estimated by the survey. There are states like Kerala, Jharkhand and West Bengal where percentage of farm income dependent household in the total was less than one percent while in most other states with the exception of Haryana, their share was higher than all India average of 39.1%. In fact, it is the so-called cow belt states which had around 44-49% of the total households being farm income dependent. There were states like Punjab and Gujarat which had more than 60% households being farm income dependent while others like Karnataka and many of the Northeast states had almost 90% of the households being dependent on farm income. Therefore, the argument of household incomes moving away from farm dependence can only be seen as a process of distress diversification (Damodaran et al, 2021).

It is also important to note that over the last six years (2012-13 and 2018-19) whereas the income from wages and salary has increased from 32.2% to 39.8%, that from cultivation has come down to 47.9% from 37%, highlighting the declining role of crop production. However, farming of animal-based income share in total increased from 11.9% to 15.5%. (Table 6; Chand, 2021). Despite the goal of policy being doubling of farmer incomes since 2017 by 2022, the government launched PM Kisan in 2019 as a direct benefit to landowners at the rate of Rs. 6000 per year which has been outdone by many state governments with more comprehensive and inclusive Direct Benefit Transfers (DBTs) (table 7).

Table 6: Source of agricultural household income over the years

Source	2002-03	2012-13	2018-19#
Crop production	45.8	47.9	37* (36.7)**
Animal farming	4.3	11.9	15.5(5.3)
Wages	38.7	32.2	39.8(48.7)
Leasing out of land	–	–	1.3(1.6)
Non-farm business	11.2	8	6(7.7)
All	100	100	100 (100)

*Nominal income (after only paid out costs deducted);

**Net income after all costs including imputed, deducted.

#Growth rate in real income over 2002-03 is only 3.4% (CPIAL) and 5.3% (WPI); Required was 10.4% growth per annum in real income over 7 years for doubling farmer income (Dalwai committee on DFI)

\$Net income from crop production grew only 1.6% per annum at 2012-13 prices ranging from 0.5% 3% with even negative growth (decline) in some stats like Kerala, MP, Odisha, HP and many NE states

Source: based on NSSO, 2021.

Indian farmers face multiple challenges like excessive stress on water and soil health, lack of knowledge/information about high value/growth products, limited exposure to high productivity practices due to lack of extension, inadequate credit access, weak market linkages, and inefficient supply chains. Official recognition of the distress and the agrarian crisis came in the form of NSSO (National Sample Survey Office) survey in 2003, which reported that 40% of Indian farmers disliked farming as a profession due to low profits, high risk, and lack of social status and, therefore, had desired to leave it at the first opportunity (Agarwal and Agrawal, 2017).

Table 7: State and Scheme Wise Farmer Income Support Programmes in India

State and Scheme (Year)	Annual payment in Rs.	Share in total hh income (%) for S & M farmers	Share in total hh income (%) for SM& M farmers	Share in total hh income (%) for Large farmers
Telangan Rythu Bandhu (2018)	10000/acre	25-50	72-85	324
AP Rythu Bharosa (2019)	7500/family incl. sharecropper/tenant	11-15	4-10	3
Odisha KALIA (2018)	4000/family for S&M farmer and tenant/ farm labour	11-16	2-3	0.5
WB Krishak Bandhu (2019)	5000/farmer/ sharecropper/ farm labour	5-10	1-5	3
Chhattisgarh RG Kisan Niyay (2020)	10000-13000/acre only for landowners	15% average for all		
Jharkhand CM Krishi Aashirwad (2018)	5000/acre for kharif season only for S&M farmers	16-29	4-6	8
Haryana CM Parivar Samman Nidhi (2019)	6000/family for S&M farmers only and landless with <15000 annual income	6-12	1-5	3

Note : hh - households

Source: Kavitha et al,2021.

The need to focus on farmers' incomes also stems from the fact that a very large proportion of farming households in most of the central and eastern states (23%–45%) live below the poverty line (BPL), higher than the national average (22.5%). The proportion of BPL farming households (17.5%–22.5%), even in some of the so-called agriculturally progressive states, such as Gujarat, Karnataka, Maharashtra, and Tamil Nadu, is close to the national average. Further, the gap between farm and non-farm

incomes has grown over the decades from a ratio of 1:3 in the mid-1980s to 1:4.08 in the middle of last decade, and 1:3.12 in 2011–12 (Chand 2017).

In this context of agrarian distress and policy goal of increasing farmer's income, the new channels which include direct purchase, contract farming and private wholesale markets, besides e-trading, have been around for more than a decade across states, which were allowed by reform of agricultural market laws at state level through the amendment to the APMC Acts across India. The repealed 2020 Union Acts was a failed attempt at centralising the agricultural market reform agenda under the slogan of one nation-one market.

3. The Farmer's Produce Trade and Commerce Act (FPTC), 2020

The FPTC Act intended to promote efficient, transparent and barrier free inter-State and intra-State trade of farm produce outside the physical premises of markets or deemed markets notified under various State agricultural produce marketing Acts. It also sought to create a facilitative framework for electronic trading. However, as its intent was to bypass the existing (APMC) Mandi system, it was also referred to as the "Mandi bypass Act".

Previously, under the state APMC Acts, there was a notified market area from which all produce was to be transacted within the designated APMC yards and sub-yards, or else buyers had to seek permission under the amended APMC Acts as per the model APMC Act 2003 and Model Agricultural Produce and Livestock Markets (Promotion and Facilitation) ((APLM(PF)) Act, 2017. This permission had to come from the local APMC, for buying outside the mandi or undertaking contract farming. However, the produce could still be subjected to the same or similar taxes and levies as the produce transacted inside the market yard.

It is important to note that the rationale for the 2020 agricultural market reforms was based on the assumption that the majority or most of the farm produce goes through APMC mandis, and that these mandis had not been discovering prices efficiently and not letting other channels like direct purchase, private wholesale markets and contract farming flourish as there was a conflict of interest involved. But, the reality is that only 17%-25% produce goes through these mandis (table 8). This is also due to the fact that there are far fewer mandis than needed (only 7,000 against 42,000 needed), and as per the recommendation of the National Commission for Farmers, a mandi should be available to a farmer within a radius of 5 kms. (Narayanan, 2020; Shah, 2021). Further, in major agricultural states, APMCs are multi-stakeholder elected bodies. That APMCs are not government bodies was clear from the statement in the Gujarat Assembly in 2020 where it was stated that Gujarat had 227 co-operative APMCs and 30 private APMCs and only two new private markets had come up during the last two years. Only Punjab has not had an election to the APMCs in the last 40 years.

It is interesting to note that 95% households reported selling soyabean, cotton and sugarcane during Kharif, and cotton and sugarcane (91% and 96%) during Rabi, paddy and wheat were sold by 53% and 77% in the two seasons and 51% in case of wheat during the Rabi season. Mostly, farmers sold in local market with APMCs accounting for 20% of households in the case of soyabean and 25% in the case of Arhar and 14% in case of cotton. The cooperatives accounted for 14-21% only in case of sugarcane across two seasons with the only other crop reaching 5% being paddy. The government agencies fared even poorly with only 10-15% households reporting selling to them sugarcane and 7% paddy in Kharif and 13% in Rabi (GoI, 2021).

Surprisingly, the FPOs were missing as sales channel with only 0.1% households reporting them in paddy, cotton, and gram. The private processor has a significant interface with the farmers with 38% in sugarcane reporting selling to such players in one season and 30% in another season with other major crops having such interface being cotton (6%-9%), groundnut (7%), masoor (6%) and paddy (4%-6%). Another major channel of contract farming was also missing in most crops with the exception of sugarcane (3%-6%) and only 0.5% of the households reporting it in case of paddy. Further, in terms of share of different channels in the sale, it was again local market which dominated with APMC accounting for more than 20% of the total quantity sold only in case of soyabean, cotton, Arhar and ragi besides groundnut and mung 19% each. The share of APMC market in wheat and rapeseed mustard was 13% each. The cooperatives accounted for 17%-25% of the sugarcane delivery with their shares in paddy being only 4%-8% and in masoor 6%. The government agencies had significant presence in paddy accounting for 14%-18% of total marketed surplus followed by sugarcane, soyabean and rapeseed mustard at 6% each. Only cotton competed with paddy with 15% share bought by government agencies and 14% in case of wheat. The FPOs again did not go beyond 0.1% in most crops with the exception of 0.3% in case of Arhar. Similar was the case of contract farming channel which with the exception of sugarcane (7%-12% share) did not account for even 1% of the total sales with exception of paddy (0.7%-1%). The private processors had a significant share not only in sugarcane (27%-34%) but also in arhar (7%), potato (6%), groundnut (12%), soyabean (7%), cotton (5%-10%), paddy (8%) and gram (5%). The delayed payment was the major issue only in the case of sugarcane.

More surprisingly, with the exception of sugarcane (57%), in most crops, not even 50% farmers were aware of MSP with maximum touching 46% in paddy and 39% in rapeseed and even smaller percentage of them across crops sold their output at MSP. Other than sugarcane, paddy scored the highest at 24% followed by wheat at 20% percent and cotton at 18%. The crop insurance scenario was also dismal with only about 25%, soyabean and cotton farmers insuring their crops followed by 20% in Jowar, 15% in gram and 11% in paddy besides 17% and 18% each in arhar and mung and 16% in groundnut. This, despite the fact that a very large percentage of households ranging from 22% in sugarcane to 17% in mung experienced crop loss due to various reasons (GoI, 2021).

Table 8: Who sells where? Crop and Channel/Agency Wise Sales by Sample Farmers

Channel> Crop#	Local market* (% of total sales)	APMC	Govt. agency	Co-op	FPO	Private processor	CF agency
Paddy	70-75 (62)	1.7-3.2 (2.7-8.4)	7.3-13.3 (13.9-18.4)	3.4-5.4 (3.6-7.8)	0-0.1 (0-0.1)	3.6-5.7 (2.7-8)	0.4-0.5 (0.7-1)
Arhar	65.4-76 (68-78)	12.4-24.6 (18.7-22.1)	1.2-1.7 (1.3-1.7)	0-0.2 (0-0.1)	1.2-1.7 (0-0.3)	1-4.3 (0.9-6.8)	0 (0)
Sugarcane	15.6-25.3 (12.6-15.8)	1.3-2.2 (2.7-3.4)	10.1-15.2 (6.8-15.9)	14.1-20.7 (16.7-25.3)	0 (0)	29.4-37.6 (27-33.8)	3.4-5.7 (7.12.1)
Gnut	73.5 (54.7)	11.9 (18.6)	1.1 (0.6)	0.6	0 (0)	6.9 (11.8)	0 (0)
Cotton	59.5-71.8 (53.6-69)	8.9-13.9 (9.7-19.7)	2.4-10.6 (0.1-2.3)	0.3-1.1 (0.4-0.6)	0-0.1 (0.1)	6.4-8.8 (5.2-9.9)	0-0.1 (0-0.2)
Soyabean	70.6 (63.1)	19.6 (21.6)	3.4 (6.7)	0.6 (1.0)	0 (0)	4.8 (7)	0 (0.1)
Coconut	88.1 (78.8-83.6)	1.6 (3-4.5)	0.1 (0)	0.3 (0.1-0.4)	0 (0.1)	1.3 (1.5-1.7)	0 (0)
Jowar	75.3-86.5 (80.7-92.7)	4.3-11.5 (2.7-7.1)	0.7-1.9 (0.7-3.3)	0.4-0.9 (0.4-1.7)	0 (0)	1.9-4.4 (0.6-3.9)	0.1-0.2 (0.1-0.2)
Maize	87.5-88.9 (83.3-89.8)	1.2-5 (2.7-6.7)	1-1.9 (1.6-2)	0.3-0.6 (0.1-1.4)	0 (0.1)	1.9-3.3 (1.6-3.2)	0 (0)
Wheat	5.781 (66.1)	5.7 (12.7)	4 (13.5)	1.8 (3.3)	0 (0)	2.5 (1.6)	0 (0)
Gram	79.7 (70.1)	9.2 (15.1)	1.9 (3.1)	1.5 (3.8)	0.1 (0.1)	3.1 (5.1)	0 (0)
Moong	82.9-87.4 (76.4-92.9)	7.1-8.5 (4.5-19.1)	0.3-1.4 (0.3-1.3)	0-0.4 (0-0.4)	0 (0)	0.5-0.7 (0.1-0.3)	0 (0)
Potato	90-93.2 (81.8-89.8)	1.7-3.5 (3-7.5)	0-0.1 (0-0.6)	0 (0)	0 (0)	3.6-4.6 (4.2-6)	0 (0)
Onion	86.4 (87.5)	5.8 (5.2)	0 (0)	0.2 (0)	0 (0)	2.1 (1.5)	0 (0)

Note: data for 2018-19; Source: NSSO (2021)

The new mandi bypass Act created a new 'trade area' outside the APMC market yards, where any buyer with a Permanent Account Number (PAN, an income tax ID in India) could have bought directly from farmer sellers and the state government could not have imposed any taxes on such a transaction. Hence, the new Union Act would have led to the creation of two parallel markets in each mandi town instead of a single market. Also, the action (September, 2020) by the Haryana government to stop neighbouring Uttar Pradesh farmers from selling paddy at MSP in Haryana showed that inter-state barriers are not so easy to remove by Union regulation, unless states were on board for such opening up of markets. Similarly, Food Corporation of India (FCI) buying from APMC mandis in Punjab through the *Arthiyas* (*commission agents*), even after the coming into effect of new Act, gave a message contrary to the spirit of the Act (Singh, 2020b).

More significantly, the new Act included trader-to-trader transactions within a state or across states under the definition of farmer produce. How could this be justified, as once the primary transaction was completed, it stopped being farmer produce as farmer was no longer involved in this transaction? This was similar to the Farmer Producer Organisations (FPOs) asking for exemption from income tax on their income, arguing that since they dealt with their member farmers' produce who are exempted from paying income tax, FPOs should also be exempted from income tax (Singh, 2020).

More importantly, the 'new trade area' had no provision for counterparty risk coverage, unlike the APMC system where all buyers and facilitators are licensed by the APMC and have to pay licensee fees and bank guarantees, so that farmer risk against any payment default could be secured.

Further, some of the provisions of the new Act, such as payment to farmer by trader on the same day, or within a maximum of three days, if procedurally so required, were worse than what already existed under the APMC Act in some states. For example, in Madhya Pradesh, payment for the produce bought in the market yard has to be made on the same day to the seller, right at the market yard (MPSAMB, 2005). The Madhya Pradesh APMC Act even provides for MSP as the starting point for auction when it states:

"provided that, in the market yard, the price for such notified agricultural produce of which support price has been declared by the State Government shall not be settled below the price so declared and no bid shall be permitted to start, in the market yard below the rate so fixed" (MPSAMB, 2005; p. 37). It is a different matter that it has never been applied as the state never declared any MSP for any crop at its own level.

The expectation of the new Union Acts that this kind of opening up of markets would have brought new investments in agriculture was also misplaced, if one went by the experience of a state like Kerala which never had an APMC Act; or Bihar, which repealed the APMC Act in 2006 (Singh, 2015; Bera, 2021); or Maharashtra, which delisted fruits and vegetables from APMC in 2018. New investment would need incentives, and not just ease of doing business. It is important to note that laws cannot substitute for policy. Therefore, a policy has to be in place to develop the agricultural sector as a whole (Singh, 2020a).

That the state (Union Government) felt that the APMC Acts which were brought in to protect the farmer interest from the traders and commission agents had become outdated and saw them as restrictive and monopsonistic and sought space for private sector participation as if traders in APMCs are not private, reflected the changing perspective of the state on agricultural markets from regulation to promotion and facilitation of the private corporate sector (Shrimali, 2021). In fact, the subtitle of the mandi bypass Act 2020 was 'promotion and facilitation'.

So far as the role of Farmer Producer Organisations (FPOs) in value chains or farm produce markets was concerned, the FPTC Act provided for e-markets by FPOs although one was not sure how many of them could make use of this opportunity, given their poor capital and professional resources. This was similar to APMCs allowing private wholesale markets by such collectives and many such markets exist in Maharashtra by now.

In what could be adverse to FPOs, they were treated as farmers under the Union Act. Section 2-b of the Act stated: "'farmer" means an individual engaged in the production of farmers' produce by self or by hired labour or otherwise and includes the farmer producer organisation' (GoI, 2020). This, despite the fact that FPOs were not involved in production as most of them carried out pre- and post-production operations such as aggregation, trading and value addition (Singh, 2021).

At the same time, the trading role of the FPO was explicit in Section 4-1 which stated:

"Any trader may engage in the inter-State trade or intra-State trade of scheduled farmers' produce with a farmer or another trader in a trade area:

Provided that no trader, except the farmer producer organisations or agricultural co-operative society, shall trade in any scheduled farmers' produce unless such a trader has a permanent account number allotted under the Income-tax Act, 1961 or such other document as may be notified by the Central Government" (GoI, 2020).

This duality could have created problems. Moreover, FPOs were not explicitly named as a part of the definition of person on the buying side, while cooperatives and co-operative societies were. There was even a separate payment mechanism proposed and rules provided for FPOs. It was not clear why this was needed and why producer members' own agencies like Amul needed to be told by government when and how to pay their members.

3.1 Issues and implications of FTPC Act, 2020

First of all, it was questionable if the agricultural produce directly sold by farmers could be described as 'trade and commerce' as they do not engage in trade and commerce, as also claimed by farmer unions. Therefore, one could argue that agricultural marketing could not be legislated as a trade and commerce activity which could bring it under the ambit of Entry 33 of the Concurrent List, paving the way for Union legislation. To support this point, trade transactions between an APMC-licensed trader and another APMC or outside trader who buys from this trader are anyway not under the purview of APMCs, as the APMC Act deals only with farmer-level sale of produce: the first transaction between farmer and buyer directly or through a Commission Agent (CA) and not subsequent transactions (Singh, 2020). Therefore, much ambiguity would have been avoided and farmers apprehensions not raised if such subsequent transactions, which qualify under

'trade and commerce', had been separately legislated upon under the Union List where Entry 42 has inter-State trade and commerce as its scope.

On the issue of infrastructure, a Report by the Lok Sabha Standing Committee on Agriculture (2018-2019) pointed out that even as early as 2015, 83 per cent of APMC markets had godown facilities, 66 per cent had covered platforms, 76 per cent had drinking water facilities and 65 per cent had toilet facilities. Citing the same survey conducted by the Directorate of Marketing Intelligence, the Report pointed out that 38 per cent of these markets had farmer rest houses, 15 per cent even had cold storages, 29 per cent had drying platforms and 22 per cent had grading facilities.

Another argument for bringing in the Union Acts was that the States were not reforming markets fast enough and adequately. Evidence from the same Standing Committee Report, however, spoke to the contrary. Even before the Union government's ordinances in 2020, the States had started to implement the Model Acts drafted by the Union government, which indicated the extent and speed of reforms. By June 2018, a total of 23 States had permitted direct purchase from farmers, 21 allowed e-trading, 23 had single point levy of market fee, and 22 issued single trading license for the entire State. In addition, 22 States/Union Territories (UTs) had allowed private wholesale markets, 20 permitted contract farming, and 15 even freed fruits and vegetables from APMC regulation altogether.

4. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020

This Act was nothing but a badly designed contract farming Act. The use of the term 'farming agreement' itself is unusual as it is being confused with other arrangements like sharecropping or leasing agreements. Contract farming is about contract first and farming being part of it, not just farming. The biggest perception problem was that it was being confused with corporate farming (corporates doing their own farming on leased or owned land) and it was definitely not that. The Act clearly stated that the contracting agency could not lay any claims on the farmer's land and could not even lease it. The model APMC Act 2003 had also protected farmer land clearly. Also, corporate farming is not possible as land leasing and land ceilings Acts at the state level are intact, though they may not remain so for long, going by what Karnataka, Rajasthan and Punjab have on their agenda in terms of opening up of land markets.

However, the manner in which the Production Agreement was defined raised fears of land leasing being a part of it. The Act defined a production agreement as:

"Where sponsor agrees to provide farm services, either fully or partially and to bear the risk of output but agrees to make payment to the farmer for the services rendered by such farmer".

How could this be a case of contract farming? Why would a sponsor pay to a farmer for services? How could a buyer bear output (production) risk? The contracting agency only bears and reduces farmer's market risk. Therefore, it was only natural to suspect that this was about land leasing rather than contract farming.

The 2020 Act protected farmers' land when it stated in Section 14: "No farming agreement shall be entered into for the purpose of: (a) any transfer, including sale, lease or 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 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". But, there was a problem in these provisions as some other provisions in the Act were contradictory. For example, the dispute resolution section stated: "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, then again, it stated in the next section (15), "Notwithstanding anything contained in section 14, no action for recovery of any amount in pursuance of an order passed under this section, shall be initiated against the agricultural land of the farmer." (GoI, 2020a). But, this still meant it could be recovered from other assets and properties of the farmer. The confusion between contract farming and corporate farming created by the Act was so significant that the Rajasthan Amendment Bill, 2020 assumed that leasing was also under the scope of contract farming. In fact, the Rajasthan Amendment Bill, 2020 (brought in to oppose the Union Act) was more upfront as it accepted/assumed that leasing was legal under the Act and stated:

"Where under a farming agreement, sponsor undertakes the farming by deploying his/its manpower, the sponsor shall be liable to remove his manpower from the agriculture farm/field from the next date of termination of the farming agreement and in the event of manpower of the sponsor continuing in the agricultural farm/field, the sponsor shall be liable to pay damages to the farmer to the tune of such amount as may be notified by the state government from time to time which shall not be less than one thousand rupees per bigha per day". (GoR, 2020)

This provision of the amendment Bill was an outright misunderstanding of the Contract Farming (CF) Act 2020, as a sponsor never cultivates a farmer's field under a CF arrangement, in which the farmer as a producer is central to the very concept of CF. Even the Model ALPCF & S (P&F) Act, 2018, had land leasing allowed under contract farming definition (Singh, 2018). which was not correct. Going by the nature of activity which the law sought to address, contract farming, where the primacy is on production of crop by a farmer, can never include land leasing, as in the latter case, the farmer is not involved in production.

Further, the 'trade and commerce agreement' defined as "where the ownership of commodity remains with the farmer during production, and he gets the price of produce on its delivery as per the agreed terms with the Sponsor" under the Act was nothing but

direct purchase which was not the appropriate transaction under any contract farming Act. Also, large retailers/supermarkets were mentioned as contracting parties, but they only buy directly without contracts (Singh, 2020d).

Section 9 of the Act also linked contract farming with insurance and credit under any (union or state) government scheme or any financial service provider for flow of credit for farmer/sponsor/both which entailed credit linkage and, therefore, farmer concern about land mortgage/hypothecation. Further, recovery of sponsor loss due to *force majeure* (natural calamities) of not just any advances was also problematic. But, actual costs incurred by sponsor could be quite different from services rendered to the grower. On the other hand, there was no provision in the Act for the recovery of loss to the farmer. The provision of new intermediaries like Krishi Vikas Kendras (KVKs), third party assayers and seed certification agencies and agri scientists for quality assessment, service provision and aggregation as parties was rather unnecessary and reflected the increasing role of standards and external agencies in farmer level decisions or what should be between contract agencies and farmers as it would have also led to higher costs for farmers as suppliers. It is sad that the social and labour aspects were only suggested and not made mandatory given the fact that child labour and labour exploitation in wages and work conditions were widely prevalent in contract farming of seed and many other crops in India (Singh, 2008b; Singh, 2017; Banday et al, 2018; D' Cruz et al, 2021). It was also affecting India's exports and reputation in global markets for fair trade and ethical products besides being exploitative of farm workers, especially women and female children (Singh, 2020c). There were also serious violations of various laws of the land like child labour Act, and minimum wages Act in the form of child labour, gender disparity in wages, unfair wages, etc. which were only broadly addressed by mentioning various market-based standards, but not in terms of the laws of the land.

The Act specifically mentioned that in case of seed contract farming, the sponsor would make payment of not less than 2/3 of the agreed amount at the time of delivery and the remaining, after due certification, but not later than 30 days of delivery. In seed contract farming, it is well known that many a time, standing crops are asked to be ploughed down by the sponsor if quality seed is not expected to be produced from a given plot of land. The compensation for that is a big issue for farmers, and it had not been addressed at all in the Act.

In the repealed union Act, the very basic aspects of contract farming like acreage, quantity, and time of delivery were not specified which was a must for any law regulating it as these were mandatory aspects of such an arrangement whether with supply of inputs or otherwise. These were very clearly stated in the model APMC 2003 Act besides optional provisions (Singh, 2020). The Act had also left out many sophisticated aspects of modern contract farming practice like contract cancellation clauses, delayed deliveries or purchase, and damages therein, and 'tournaments' in contract farming where farmers are made to compete with each other and paid as per relative performance which is banned in many countries (Singh, 2020b).

It was rather unfortunate that the Act linked bonus or premium price under contract arrangement over and above the guaranteed or pre-agreed price with APMC mandi price or electronic market price which has to be part of the contract agreement. This approach was anti-contract farming in nature. The price like many other basic aspects of contract should be left to the parties to negotiate and cannot be tied to any other channel especially APMC price as this would have defeated the stated rationale for bringing in this law, which was to provide alternative channels to farmers and create competition for APMC markets. Having started off by asserting that these APMCs were inefficient in price discovery, going back to the same mandi not only spoke ill of the Act but also raised apprehensions about the real intent that had propelled these laws.

The guidelines also allowed sharecroppers to be made a party to the contract and be held responsible for receiving and utilising the inputs as well. This was very surprising as a contract farming agreement is generally between either a landowner or a lessee as one party and the contracting agency as the other, and not both. The guidelines also mentioned that contract agreement should be as good as any contract under the Contract Act. If the contract farming agreement had been kept outside the purview of the civil courts, then why give this guideline? It showed a lack of clarity of the various provisions of the Act and raised questions about rationale behind them.

Like the FPTC Act, in the Contract Farming Act too, categorising a FPO as a farmer was not proper. There are many FPOs in India which are undertaking contract farming directly or indirectly with their members and non-member farmers like in seed production (Singh, and Singh, 2014; Singh, 2021). Therefore, clubbing them with the farmers was not correct. They are more of buyers and suppliers, rather than producers.

That the Act went all the way to facilitate contract farming was clear from the fact that it mentioned that the stock limits Act (ECA) would not apply to contract farmed produce. Why should this provision of another Act be specifically mentioned in another law which had nothing to do with this law directly or indirectly? More importantly, the aspects of farmer empowerment and protection mentioned in the title of the Act had been given a go by in its contents.

5. Conclusions

It is important to recognise that while reforming agricultural markets, there are some non-negotiables which are: food security, farmer income, lower income inequality, and ecological protection (Acharya and Mehrotra, 2020). It is only fair to ask this question then: Would the repealed Acts have helped any of these concerns in a positive way? Also, small farmers and large agribusiness buyers face an interface among unequals under new channels like direct purchase and contract farming (Cohen et al, 2021). Where are mechanisms to protect small farmer interest like group contracts in contract farming channel as contracts, in general, exclude small farmers (Singh, 2012) or counter-party risk guarantee in the new trade area.

So far as the stated objective of the Union Acts was concerned, it was about bringing new private sector investment in agricultural markets. The question to be asked is : Can deregulation alone bring new investments in hinterlands? Where is the evidence? Bihar is a case in point. Despite 16 years of deregulation of mandis (since 2006) it has not seen any such new investments. Investment need incentives, not just deregulation it.

There were also federal concerns regarding the new Acts in terms of what if some states didn't follow or reversed the Acts as some states like Punjab or Rajasthan tried unsuccessfully? That was perhaps the first such time in India's constitutional history. Since agriculture and agricultural markets are state subjects, it needs to be respected and more decentralised agricultural market have to be developed in the Indian context.

Further, these repealed Acts were less focused on regulation, rather more on promotion and facilitation of new channels. What is needed is a robust regulation of new channels as that is the role of regulation. The promotion and facilitation should have been left to policy measures both at the Union and state levels where it belongs. What is equally important to facilitate more stable farmer price realization and incomes is to focus on warehouse receipts and staggered public purchase at MSP, which can be done with incentives for storage and its use. There is also a need to change crop focus of MSP based procurement to make its benefits more widespread across crops and regions and also attend to some sustainability concerns and making farm income more diversified and stable. For this, there is a need to engage more local institutions like in Odisha, Kerala or Bihar and also re-examine the very purpose of MSP: farmer income enhancement or income stabilisation?

What is needed for farmers to earn more from their produce is to expand market (mandi) infrastructure rather than total de-regulation, and also more functional and effective mandis, which boil down to APMC market reforms and not leaving them aside. There is no denial of the fact that the APMCs in some states are inefficient and ridden with corruption and malpractices. Should we throw away the baby along with the bath water, or should we reform them as they are the last resort for millions of marginal and small farmers who, would never be attractive to corporate buyers whether individually or collectively through FPOs? The decision to ignore the APMC mandi system on grounds of inefficiency and monopsony is similar to the argument against practicing democracy. Should we give up democracy or federalism because it is not working smoothly? If self-reliance is the purpose of agricultural market reforms, should it be achieved thru corporates or through people's agencies like APMCs and FPOs? It is also important to recognise that due to interlocking of credit and product markets in several states (Singh, 2021 e), solutions to the problems of farmers also lie outside the *mandi* as well.

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