The Political Economy of Agricultural Market Reforms

An Analysis of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020

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1 Introduction

India is presently grappling with the COVID-19 pandemic and the economy is in the doldrums, but the central government, instead of taking measures to provide immediate relief to the distressed population, has used this as an opportunity to introduce sweeping changes in the regulatory framework of the country's agricultural marketing system. On June 3, 2020, the Cabinet approved three ordinances. These ordinances were converted into acts after they were passed, in controversial circumstances and despite stiff resistance from almost all the opposition parties, in the monsoon session of Parliament. Presidential assent was given on September 27, 2020. With this, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act (FPTCA), the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, and the Essential Commodities (Amendment) Act came into force.

Of the three acts, the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (FPTCA) has been enacted to liberalise agricultural markets across the country. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act provides a new national framework for contract farming and makes any state-level regulation or restriction on contract farming inapplicable. The third act, the Essential Commodities (Amendment) Act, removes restrictions on stocking specified food items (cereals, pulses, oilseeds, edible oils, onions and potatoes, and any other items that the government may notify) by processors, exporters and other value chain participants.

This article provides a critical assessment of the likely impact of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (FPTCA). It has been argued by the government that this act will lead to transparent and barrier-free trade in agricultural produce, and that the emergence of alternative private marketing channels will result in better price realisation for farmers' produce. On the basis of a review of the experience of market regulation over the last seven decades and of the provisions of the FPTCA, this article argues that the regulation of agricultural markets is indispensable and needs to be made more effective. Ineffective regulation of agricultural markets results in problems such as cartelisation, interlocking sales with informal credit advances, and lack of transparency in auctions. These problems, this article argues, have their roots in inequalities of agrarian class structure and a lack of democratisation. The article also argues that public investment in agricultural marketing has been woefully inadequate in the post-liberalisation period and needs to be considerably increased. It is unrealistic to expect that, in a period marked by an unprecedented economic crisis, the private sector can lead the development of basic infrastructure such as agricultural markets. Finally, we argue that the low returns farmers receive from agriculture is a problem rooted in the flawed economic policies of the post-liberalisation period. Rather than solve the problem caused by the deregulation of input prices and the integration of Indian agriculture with the world market,

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the FPTCA is likely to aggravate the situation by weakening systems of public procurement.

2 The Functioning of Regulated Markets

2.1 The evolution of the regulated market framework

Indian agriculture at the time of Independence was characterised by low productivity, a predominance of subsistence production, and a very low level of marketed surplus. Agricultural produce was sold to local traders and in local periodic (mostly weekly or bi-weekly) markets. Farmers were exploited by traders in various ways, including by interlocking transactions with the provision of credit, unfair deductions, and the use of non-standard weights. A lack of information, and the inability to store and transport produce to markets in towns disadvantaged poor peasants most of all.[1] The First Five Year Plan of 1951 described the situation thus:

> Sale of agricultural produce involves a number of functions such as assembling, storing, grading, standardising, transporting and financing the produce and negotiating sale. Some of these operations may be performed by the farmer, but storage and sale of a commodity and finding finance for purchase, call for specialised knowledge and adequate resources which the individual cultivator does not possess. Those who render these services, therefore, perform a useful function for which a reasonable return is due.
>
> The village money lender or the mandi arhatiya advances loans to farmers for securing production requirements like seeds, and manures and for meeting other needs. These debts sometimes carry an understanding or an obligation to sell the produce to or through the lender or his nominee. At the time of sale the position of advantage occupied by the village banker gets reflected either in a lower price or unfair weights or delayed settlement. If the sale takes place in the mandi or the market through the brokers or arhatiyas the farmer pays not only for the services rendered by the middlemen but is also subjected to other unwarranted deductions.
>
> *Source:* First Five Year Plan, Chapter 17

After Independence, many interventions were made in the agricultural price policy and marketing regulations. The system of regulated markets, introduced first in India in the 1930s, was expanded to almost all Indian states after Independence to protect farmers from exploitation by traders, to ensure that they received remunerative prices, and to ensure that they received timely payments for their produce.[2] Since agricultural marketing was a state subject under the Constitution of India, the Agricultural Produce Market Committee (APMC) Acts were passed by the states in the 1950s and the 1960s. Although these laws were enacted by state governments, guidance and handholding by the central government under the system of national planning was key to this process. The first four

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[1]See Mukherjee (1937) and Kulkarni (1949) for a detailed account.

[2]See Harriss-White (1996b) for origins of regulation of agricultural markets in India.

plans consistently stressed the need for more and more states to enact state-level agricultural marketing acts, and bring all agricultural markets under the regulation of these acts (see Box 1).

With almost all states having been brought under the system of regulated agricultural marketing by the end of the Fourth Plan, the focus shifted to covering all the existing markets under the system of regulation, the establishment of more market yards, the strengthening of market and storage infrastructure, and to ensuring that more and more crops could be traded in the regulated markets. Between 1968 and 1990, the number of regulated markets increased fourfold, from about 1,610 in 1968 to 6,640 in 1990.

There is a great diversity in the provisions of the APMC Acts of different states and this diversity has increased over time because of various amendments made to the acts by each state. When they were enacted, the APMC Acts of most states specified that the sale and purchase of notified agricultural commodities should be carried out in market yards (mandis) established/notified by the government. State governments notified markets and market areas where the APMC Acts were applicable for specified commodities. The market committees that managed these notified regulated markets were provided with resources and subsidised credit to build infrastructure for the sale of farmers' produce such as weighing and packaging facilities, storage facilities, and auctioning platforms. Auxiliary infrastructure for facilitating easy access to other services such as banking facilities and sale of inputs, as well as civic amenities for the farmers, was also created in the regulated markets.

The APMC Acts typically mandate that prices in the regulated markets be determined through open auctions or closed tendering. The auctions have to be conducted in a transparent manner. These markets are managed by market committees that consist of farmers' representatives, traders, warehousing entities, and administrative officials. Market fees, commission rates, and other charges for various agencies are defined and have to be imposed uniformly on all trade without discrimination. Payments to farmers have to be made within a specified time-frame. The market committees formulate rules to prevent malpractice in buying produce from farmers. In case of grievances, farmers have the option to complain to the market committees for dispute settlement (Acharya, 1998).

State governments, and State Agricultural Marketing Boards established by the state governments, are responsible for supervising the functioning of these regulated markets. The State Agricultural Marketing Boards typically comprise representatives of the state government, farmers, farmer organisations, cooperatives, elected local bodies, traders, and commission agents.

2.2 Problems in the implementation of the APMC Acts

Although the APMC regulations were designed to safeguard the interests of farmers, the actual implementation of these regulations has remained far from ideal and several problems in the functioning of the APMC markets persist. It has been found that commission agents and Marketing Committee members often formed cartels and colluded to manipulate prices (Banerji and Meenakshi, 2004; Chengappa *et al.*, 2012; Harriss-White, 1980, 1996a). Given the inadequacy of formal-sector credit, particularly for small peasants, it is common for the traders and commission agents to provide credit to farmers and tie crop sales with repayment of credit, charging a high rate of interest from farmers (Bhaduri, 1986; Bhogal and Singh, 2015; Gill, 2004; Harriss-White, 1996a, 2010). These commission agents often have strong

connections with the police and the bureaucracy, and have political links, which facilitates their domination of the regulated markets (Harriss-White, 1996a; Kapur and Krishnamurthy, 2014).

Problems of inter-linked contracts and cartelisation and the exploitation of farmers by commission agents are serious and need considerable political will in order to be dealt with. While the APMC Acts and other laws have provisions against such unfair and exploitative practices, the roots of the problem lie in unequal agrarian relations, which work as a barrier against effective democratisation and participatory management of resources as well as institutions like markets. This opens up the space for corruption and political patronage to serve the interests of large traders, and makes regulation ineffective. Lack of adequate access to formal-sector credit also forces farmers to depend on informal moneylenders and traders for credit.

An important failure of state intervention in agricultural marketing has been that no serious attempt has been made to make agricultural markets accessible to women farmers. Despite a considerable degree of feminisation in agricultural production, the marketing of produce remains a domain dominated by men. State-regulated markets remain male-dominated spaces in most parts of India. Women are hired as labourers in the mandis — for tasks such as cleaning, winnowing and packing — but are seldom seen participating in trade, either as peasants or as traders.

The solution to these problems lies in strengthening regulation and democratising the functioning of the mandis. Democratisation in rural society requires the state to intervene firmly to implement redistributive agrarian reforms, curb inequalities in ownership of land and wealth, and establish systems of participatory governance in which all classes, social groups, and men and women have a voice. Strong affirmative action is needed to make mandis more gender-neutral places. The deregulation of agricultural markets is antithetical to democratisation and will result in legalising monopolistic practices, ending any possibility of the democratic management of agricultural marketing, and opening up agricultural marketing to the monopoly control of gigantic agro-business corporations. As argued by Harriss-White (1996a), "deregulated imperfect markets may become more, not less, imperfect than regulated imperfect markets".

3 The Deregulation of Agricultural Markets

The liberalisation of agricultural markets is aimed at reducing control and regulation of domestic agricultural trade by the government. The case for the liberalisation of agricultural marketing rests mainly on two arguments: first, that liberalisation would result in increased competition which, in turn, will result in better price realisation for farmers, and secondly, that liberalisation will result in an increase in investment from the private sector in agricultural marketing. In this section, we summarise the history of policy efforts to liberalise the agricultural marketing system and the approach of the FPTCA, and then critically assess the arguments for agricultural liberalisation through the FPTCA.

3.1 The push towards deregulation

The deregulation of agricultural markets has been a part of the central government's agenda for some time now. Over the last two decades, there has been a distinct shift in the role of the government, from resolving market imperfections and protecting the interests of farmers to being a facilitator of the penetration of the private corporate sector into agricultural marketing. The deregulation of the APMC Acts has been a critical piece of this new strategy.

It may be noted that, at the level of the central government, the liberalisation of the APMC Acts has been most aggressively pursued by the BJP-led NDA governments though Congress governments have also made some moves in this direction.

The earliest proposal for the liberalisation of agricultural marketing was prepared by the Shankerlal Guru Committee (Government of India, 2001). The committee argued that,

In promoting vibrant competitive marketing systems, Government needs to examine all existing policies, rules and regulations with a view to remove all legal provisions inhibiting free marketing system. Today, State Governments alone are empowered to initiate the process of setting up of a market for certain commodities, which are regulated and for certain areas, in which the Regulation is enforced. These provisions will have to be replaced by providing an omnibus provision that anybody can set up a market, provided minimum standards, specifications, formalities and procedures which may be let down by the Government of India are complied with.

The Guru Committee also recommended that the Essential Commodities Act (1955) be 'repealed'.

Subsequently, a Task Force was constituted to suggest measures for implementing the Guru Committee's recommendations. The Report of the Task Force on Agricultural Marketing Reforms (Government of India, 2002) argued that,

> under the present Acts, State Governments alone are empowered to initiate the process of setting up of regulated agricultural markets. As a result, the private sector cannot take initiative in setting up markets equipped with best facilities. High investments with entrepreneurial skills required for creation and managing the market infrastructures have to come from (the) private sector. In order to encourage (the) private sector to make massive investments required for development of alternative marketing infrastructure and supporting services, provisions of the APMC Act would need modification to create a lawful role for the private sector in market development. Government's role should be that of a facilitator rather than that of having control over the management of markets.

Taking the process further, the then NDA government drafted a model State Agricultural Produce Marketing (Development & Regulation) Act in 2003 which allowed various alternate private marketing channels in agricultural marketing. This model act comprised provisions to allow contract farming, direct purchases from farmers, and the establishment of private markets for agricultural produce by farmers, consumers, or any private person in any area. It also proposed levying a single market fee in the entire notified area and replacing the licensing system with a simple registration.

Box 1. Key Extracts from Early Five Year Plan Documents

- *First Five Year Plan (1951)*

  Some of the States which have adopted the Agricultural Produce Markets Acts have a large number of markets which still continue to be unregulated. It is necessary to extend the operation of the Act so as to cover all the important markets in each State by 1955-56, as this is the first step in improving marketing facilities.

- *Second Five Year Plan (1956):*

  The primary consideration for the development of agricultural marketing is so to reorganise the existing system as to secure for the farmer his due share of the price paid by the consumer and subserve the needs of planned development To achieve these objects, malpractices associated with buying and selling of agricultural produce have to be eliminated, arrangements made for the efficient distribution of marketable surpluses from producing to consuming areas and cooperative marketing has to be developed to the maximum extent possible. Rural marketing and finance have to be integrated through the development of marketing and processing on co-operative lines. Programmes for co-operative marketing and processing which have been drawn up so far for the second five year plan have been outlined in an earlier chapter. Here it is proposed to refer to other aspects of agricultural marketing. It is estimated that cooperative agencies may be able to handle about 10 per cent of the marketable surplus by the end of the second plan. The rest of the surplus will continue to be sold through other marketing agencies. In the interest of the primary producer, therefore, the importance of regulating markets and market practices needs more emphasis. Moreover, the success of cooperative marketing itself depends on the efficiency with which regulated markets function. It has been observed that in States in which regulated markets have not been established to any extent, the cultivator is in a situation of much greater disadvantage than elsewhere.

  The past few years have not been a period of marked progress in the regulation of agricultural markets. It had been recommended in the First Five Year Plan that the operation of the State Agricultural Produce (Markets) Act should be extended so as to cover all important markets before the end of the plan period. Before the plan seven States had this legislation in operation. During the plan only three more States have enacted legislation. The number of regulated markets which stood at 265 in 1950-51 has increased to over 450. In some of the States which have the necessary legislation trade in a number of important commodities is now being regulated, as for instance, in foodgrains, fruit and vegetables, cattle, etc. The practice of sales in villages is not free from abuse, but it has not yet been regulated to any extent. Municipal markets in towns, where the produce is received on consignment basis and also brought directly by the producers have so far remained generally outside the scope of the State Agricultural Produce (Markets) Act. 'Except in relation to proposals for co-operative marketing, plans of several States for the next five years do not

provide adequately for the regulation of agricultural markets. Some States have, however, framed targets for this purpose. Those who have not done so should review the present position and draw up suitable programmes for regulating all important wholesale markets during the second plan. On the programmes so far drawn up it appears that the number of regulated markets will be doubled by the end of the second five year plan.

- *Third Five Year Plan (1961)*

  The total number of markets in the country is about 2500. The number of regulated markets increased from about 470 at the end of the First Plan to 725 at the end of the Second Plan. In the course of the Third Plan it is proposed to bring the remaining markets within the scheme of regulation.

- *Fourth Five Year Plan (1969)*

  The objective is to see that imperfections in the marketing system do not act as constraints on agricultural production. One of the measures proposed for development of the marketing infra-structure is the expansion of the system of regulated markets. At the beginning of the Third Plan, legislation for establishment of such markets was in force in 9 States. Since then, 4 other States have enacted the Agricultural Produce Markets Act. In the Fourth Plan, the remaining States, namely, Assam, Kerala and Jammu and Kashmir, are expected to place the legislation on the state book. On the eve of the Fourth Plan, the number of regulated markets and sub-market yards was 1616. About 2100 markets and sub-market yards are yet to be brought under regulation. This task will be pursued in the Fourth Plan period.

Source: Five Year Plan Documents

However, the agenda to push the states to reform their APMC Acts took a backseat, though it was not abandoned completely, after the BJP-led NDA lost elections and the Congress-led UPA came to power in 2004. Figure 1 shows that many states amended their APMC Acts by 2012 to simplify the rules as well as to allow the greater participation of the private sector. The most drastic change was introduced in Bihar where the State APMC Act was repealed completely in 2006. Several states introduced provisions that allowed direct purchases from farmers, allowed licensed traders to buy from all regulated markets in the states, eased processes for obtaining licenses to operate in regulated markets or introduced explicit provisions to allow for the creation of marketing infrastructure by private-sector actors.

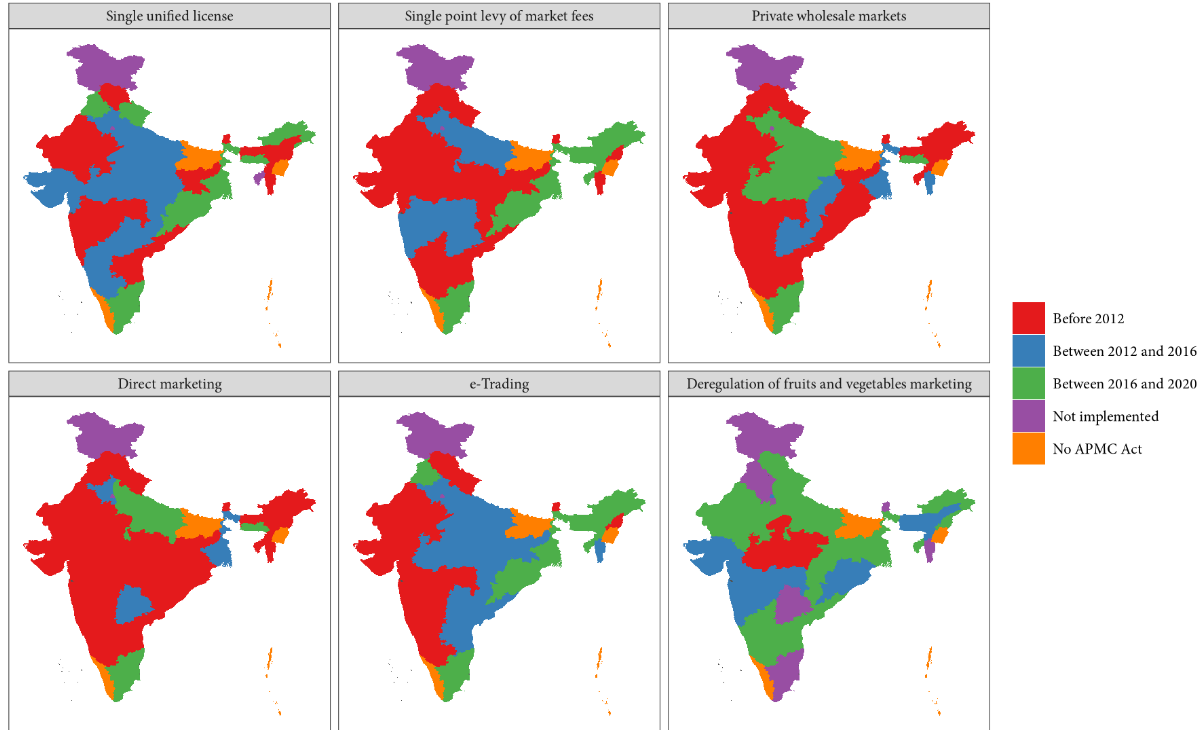
The project of liberalising agricultural marketing was pushed with renewed vigour at the national level after the BJP returned to power in 2014. In his first budget speech, the then Finance Minister Arun Jaitley emphasised the idea of setting up a National Agricultural Market. This was to be achieved through the setting up of a pan-India electronic trading platform which would allow buyers to bid online for farmers' produce from anywhere. For this, a central sector scheme for the Promotion of a National Agricultural Market through an Agri-Tech Infrastructure Fund (ATIF) was approved in 2015 and the e-NAM platform was launched on a pilot basis in 2016 with a target of integrating 585 mandis in the next two years. To integrate the mandis into this online platform, the State APMC Acts needed to be modified so that e-auctions would be considered a valid/legal mode of price discovery.

In 2017, the central government came up with a new Model Agricultural Produce and Livestock Marketing (Promotion and Facilitation) Act. In addition to the earlier provisions, the new model act treated an entire state as a single market, included e-auctions as part of the auction mechanism, and allowed third-party assaying and grading certification. The new model act also allowed warehouses and cold storage facilities to be declared as market areas.

Over the last few years, the central government has used various methods to coerce the state governments to amend their respective APMC Acts to liberalise agricultural markets.

In the terms of reference specified at the time of its constitution, the central government specifically asked the Fifteenth Finance Commission to consider using performance-based incentives for the provision of grants. Consequently, in its report for the year 2020-21, the Finance Commission introduced the performance-based grants and recommended that the states that pass the Model Agriculture Marketing Produce and Livestock Marketing (Promotion and Facilitation) Act, the Model Agricultural Produce and Livestock Contract Farming and Services (Promotion & Facilitation) Act and the Model Agricultural Land Leasing Act, 2016 in their legislatures would "become eligible to avail the grants awarded by us from 2021-22 onwards" (Finance Commission, 2019, *pp.* 42–43).

Figure 1: State-wise status of different types of agricultural marketing reforms



Sources: Based on data from

1. Government of India (2013)
2. Directorate of Marketing & Inspection (https://dmi.gov.in/Documents/ReformStatus.pdf and, `http://web.archive.org/web/20161231215721/http://dmi.gov.in/Documents/Reform_Status.pdf`).

This was an unusual recommendation. Although several Finance Commissions in the past have used developmental indicators to measure States' resource requirements in order to facilitate them to take policy measures for development in the states, and more recently, to impose fiscal discipline on the states, there are not many precedents for a Finance Commission to demand specific legislative changes by states in order for them to become eligible for grants. The most important, and perhaps the first such case, was when the 13th Finance Commission made the amendment/enactment of FRBM Acts by states a precondition to get state-specific grants. But the Fifteenth Finance Commission went a step further, unprecedented in the history of Finance Commissions, to demand that states enact legislation in areas that were not directly related to state finances or fiscal discipline. Using the devolution of tax resources, a right of states under the federal system of government, to coerce states to implement specific legislative changes in areas that fall squarely in the domain of the legislative powers of the states under the constitution is a clear case of violation of the Seventh Schedule.

In April and May, even as the country struggled with an unprecedented lockdown, several government spokespersons including the Minister of Agriculture (April 29)[3], the CEO of NITI Aayog (May 12)[4], the Finance Minister (May 15)[5] and a member of the NITI Aayog (May 15)[6] called upon the states to seize the opportunity offered by the COVID-19 crisis and undertake the deregulation of agricultural markets, enact legislative changes to allow contract farming, and liberalise tenancy laws. The central government advised state governments to bring state-level ordinances to quickly introduce these 'reforms' so as to take advantage of the lockdown. Accordingly, some state governments, in particular those ruled by the BJP and its allies, introduced such ordinances. Madhya Pradesh introduced an ordinance to suspend the regulation of agricultural markets and allow traders and corporate buyers to freely negotiate prices with farmers in the villages and buy directly from them. The Karnataka government has also used an ordinance to allow traders and private companies to buy produce outside the regulated markets. In Uttar Pradesh, Uttarakhand, Telangana and Andhra Pradesh, private cold storage facilities and warehouses were deemed as APMC markets so that traders could freely buy produce from there without any regulation.

Undermining the powers of the states

It is quite remarkable that, until just a few months ago, it was undisputed that the powers to make laws related to agriculture and agricultural marketing were a state subject, and the central government had been putting pressure on the state governments to bring about the reforms.

The division of powers between the central and the state governments is specified in the Seventh Schedule of the Constitution, and agriculture is part of the domains in which laws are made at the state level. This is the reason that all laws related to agricultural marketing thus far have been state-level laws. Since the time of the adoption of the constitution, all states have had their own APMC Acts, which

[3] https://www.youtube.com/watch?v=GfAL99A7RVM
[4] https://bit.ly/30WHJdt
[5] https://bit.ly/30FGq2p
[6] https://bit.ly/3d7nWNi

have been enacted and amended at different points of time, and vary considerably in terms of their provisions.

The enactment of central laws, and that too by bringing ordinances when Parliament was not in session, and without engaging in wider consultations with either the state governments, farmers or other sections of the public, marks a drastic change in the strategy of the central government. On June 3, the Union Cabinet approved three ordinances including the Farmers' Produce Trade and Commerce (Promotion & Facilitation) Ordinance 2020. All three ordinances were promulgated by the President and notified on June 5. The bills based on the three ordinances were placed before the Lok Sabha and Rajya Sabha during the short monsoon session, and despite stiff resistance from the opposition and without having adequate strength in the Rajya Sabha, the bills were declared to have been passed.

In passing the new agriculture-related acts, the government has used the Entry 33 of the Concurrent List of the Seventh Schedule to claim powers to legislate on matters related to agricultural trade. This entry of the constitution was amended in 1954, as Article 369 was about to lapse, to retain with the central government powers to control the supply of essential commodities including foodstuffs, oilseeds, fodder, cotton, and jute. The amendment to Entry 33 had a very specific context and historical background. At the time of amendment, seven members of the Joint Select Committee of the Parliament that examined the bill wrote a note of dissent in which they warned:

> What powers would really be left to State Legislatures if Parliament takes over for itself powers to frame laws in regard to trade and commerce within a State in respect of raw cotton, food-stuffs, jute, cattle fodder, oilseeds, etc.? State autonomy would be rendered illusory and State powers and rights would be progressively pulverised if Parliament exercises legislative powers and functions over these subjects.
>
> Source: Lok Sabha (1954)

This apprehension has come true with the enactment of the FPTCA and the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, as the central government has gone far beyond the spirit of the 1954 Amendment to enact legislation that directly overrides the powers of the states.

Not only has the enactment of the FPTCA (and the other two farm bills) undermined the legislative powers of state governments, various provisions in these acts also undermine executive powers of state governments. Barring the registration of traders, the act does not allow state governments any possibility of intervention in agricultural trade under the act to protect the interests of farmers in the states. The state government cannot impose any tax on the trade, regulate the trade in any way or intervene in dispute resolution.

3.2 Key provisions of the FPTCA

The FPTCA aims to achieve deregulation of the agricultural marketing system through the following provisions.

As per the FPTCA, any area or location outside the physical boundaries of the market yards run by marketing committees or notified under the state APMC acts can be considered a "trade area" and agricultural trade occurring in such trade areas

is exempted from regulation under the state APMC Act. In other words, provisions of this act supersede the definition of market areas around the market yards where agricultural trade is allowed to take place under the provisions of the APMC Acts and rules formulated by the market committees.

The act allows any trader the freedom to engage in intra-state or inter-state trade of agricultural produce with farmers or other traders for any purpose including wholesale trade, retail trade, export, processing, and value addition.

Besides direct engagement with farmers, the act allows private traders to set up private market yards or electronic trading platforms to facilitate the trade and commerce of scheduled agricultural produce (agricultural produce which is notified under state APMC Acts).

While the act provides for the possibility that the government *may* prescribe a system of electronic registration and the modalities of transaction later, the only requirement so far to trade physically or electronically in scheduled agricultural produce is that the trader should have a permanent account number (PAN) allotted under the Income-tax Act or any other such document that the government may notify.

The act does not provide for any regulations for the process of price discovery between the buyer and the seller, and price fixation is entirely left to mutual consent between the buyer and the seller. The act prescribes that payments to farmers should be made on the day of delivery, or within three days in certain conditions.

3.3 Would the FPTCA improve price realisation for farmers?

Proponents of the liberalisation of agricultural marketing have argued that the licensing requirements for traders under the APMC Acts acted as an entry barrier, caused the fragmentation of markets, and reduced competition. Until recently, under the APMC Acts of most states, traders were able to buy produce only from the regulated market for which they had obtained a license. These provisions, it was argued, result in low price realisation by farmers (Chadha, Davenport and Elumalai, 2018; Chand, 2012, 2016; Landes and Gulati, 2004; Ministry of Finance, 2015; Subramanian, 2014).

Would liberalisation of agricultural marketing through the FPTCA result in better price realisation for farmers?

The prices that farmers get are determined by overall supply and demand conditions and, within the overall limits determined by the conditions of demand and supply, by the extent of concentration of market power in the supply chains, and the position of individual farmers in the system of agrarian class relations.

At the macro-level, the deregulation of input prices over the last three decades has resulted in a steady increase in the cost of production, which has put upward pressure on the MSP. On the other hand, increasing integration with the world market, large build up of public stocks of grain, and an economic slowdown have exerted downward pressure on prices in the open market. Consequently, in recent years, open market prices have been considerably lower than the MSP for a number of key crops. Given this, government procurement has become critical in ensuring returns from rice and wheat cultivation. On the other hand, low price realisation has become a widespread problem for crops and regions that are not covered by public procurement.

The concentration of market power further squeezes price realisation for small farmers within this overall macroeconomic context. It is because of the concentration of market power and weak class position of small producers that traders and other agents can collude, engage in unfair practices, and use various forms of interlocking to bring down the prices received by farmers (Crow, 2001).

Over the last few decades, the share of top, organised-sector agribusiness companies in the volumes they acquire, process, and supply to consumers has steadily increased because of economies of scale, because of ending the reservations of various activities in many agro-processing industries for small-scale units and various advantages provided by the government during the period of neoliberal reforms. This is seen in sectors such as rice milling, pulse processing, edible oil production as well as other agricultural supply chains (Chengappa, 2004; Sarma, Pais and Bansal, 2019; Srinivasan, 2005). Market concentration in the supply chains puts a downward pressure on producer prices, and increasing competition in the first level of trade — between farmers and the lowest rung of traders (many of whom are effectively simply agents of agribusiness companies) — can only mitigate downward pressure on producer prices to a small extent. The increasing penetration of agribusiness companies into agricultural marketing is likely to increase concentration in supply chains and is likely to put downward pressure on producer prices rather than result in better price realisation for farmers. In other words, greater control by large agribusiness companies could reduce competition rather than increase it.[7]

The APMC Acts typically mandate that produce be sold through open auctions or a system of closed bids. These systems, although imperfectly implemented, were designed to provide a fair and transparent price discovery mechanism. The FPTCA does not specify any such mechanism to be followed in trading areas, and the prices are to be solely determined by mutual agreement between a buyer and a seller. It is expected that, given the tax advantages offered by FPTCA, private traders would shift to trading outside APMC markets, and, over time, auctions at APMC markets could cease to be relevant for price discovery.

The FPTCA also does not specify regulations for ensuring that farmers are not duped through unfair practices like the use of non-standard weighing systems or through the imposition of excessive charges for various services. The dispute settlement mechanism specified in the act would also work against farmers as critical powers have been provided to the bureaucracy while elected representatives (in local bodies or the state legislature) or organisations of farmers have no role. Disputes related to trade under the FPTCA cannot be challenged in the civil courts and the higher judiciary will be beyond the reach of most farmers.

There is no empirical evidence to suggest that farmers in states that have liberalised their trade more than other states have seen better price realisation. In fact, given the role of public procurement in price realisation, the empirical evidence would suggest that, for rice and wheat, public procurement and not the liberalisation of the agricultural marketing system is the key determinant of price realisation by farmers. The role of public procurement is so significant that, given the low price realisation in Bihar, a state that abolished its APMC Act altogether, a

[7]For example, in a study of Ara mandi in Bhojpur district of Bihar, Kapur and Krishnamurthy (2014) found a sharp decline in the business of small commission agents and mandi based traders after the abolition of the APMC system and the bulk of agricultural trade became concentrated in the hands of a small group of large traders.

part of wheat and paddy grown in Bihar is transported to Haryana and Punjab, states where wheat and rice are procured by the government, for better price realisation (Sharma, 2018). Even for other crops, there is no evidence that differences in the extent of liberalisation of APMC regulations have had any significant impact on price realisation by farmers.

3.4 Would FPTCA result in greater investment in agricultural marketing infrastructure?

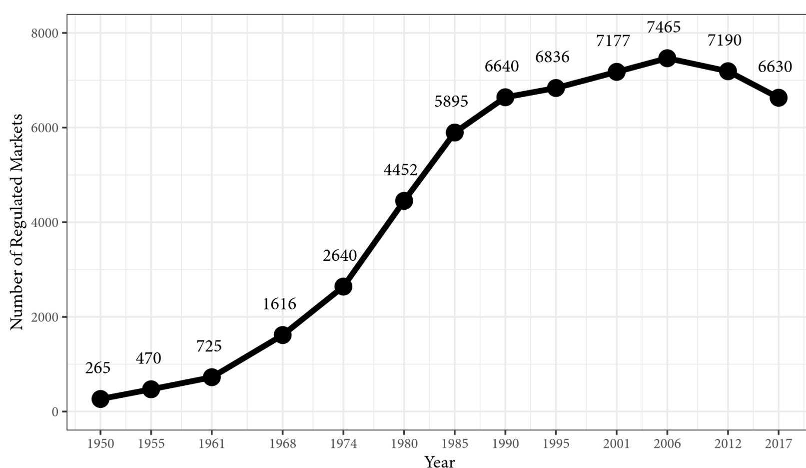
Investment in the creation of agricultural marketing infrastructure declined and not many new regulated markets were created after the liberalisation of the economy began in 1991. While the number of APMC markets had increased significantly in the first four decades after Independence, from 265 in 1950 to 6,640 in 1990, the rate of growth slowed down in the 1990s and almost stopped after 2001. In recent years, the number of regulated markets functioning in the country has actually declined, from 7,465 in 2006 to only 6,630 in 2017 (Figure 2). The number of rural periodical (weekly, fortnightly, etc) markets, only about twenty per cent of which are covered under the APMC Acts, has also declined (from 27,294 in 2001 to 22,505 in 2012) (Government of India, 2001, 2013).

It is highly likely that public investment in creating new APMC markets and improving the infrastructure of APMC markets would fall further after the enactment of the FPTCA. This is likely because of the poor resource position of the central government, the even more dire situation of state finances, and the likely fall in the revenues of the market committees of the existing regulated markets. There is some evidence that the revenues of market committees have already seen a fall (Kasabe 2020) though it is difficult to distinguish between the shifting of trade away from the regulated markets because of the FPTCA and a decline in agricultural trade because of the prevailing economic crisis.

Under the programme of liberalisation, the focus of government policy has been on trying to get private sector investments to take the lead in creating market infrastructure. In this context, it was argued by the government, and several scholars, that the restrictions imposed by the APMC Acts have discouraged private investments (Chand, 2012; Gulati, 2020). Government of India (2013) argued that, "Under the present APMC Act, only State Governments are permitted to set up markets. Monopolistic practices and modalities of the State-controlled markets have prevented private investment in the sector". Ministry of Finance (2015) has also argued that private investment has not emerged in agricultural marketing because "the players in the private sector cannot viably compete with the APMCs in which the initial investment was made by the government on land and other infrastructure". It went on to suggest that state governments should "provide policy support for setting up infrastructure, making available land, etc., for alternative or special markets in private sector".

The natural question that follows then is whether the FPTCA is likely to result in an increase in private investment in agricultural marketing. There are several reasons why this might not turn out to be so.

Figure 2: Number of regulated markets in India



Sources:

1. Plan Documents, Various Five Year Plans, Planning Commission
2. Economic Survey, 1996-97
3. Various documents of the *Directorate of Marketing and Inspection*, Ministry of Agriculture, Government of India
4. Central Statistics Office (2010), Manual of Agricultural Prices and Marketing

Existing opportunities and incentives have failed to attract private investment

First, considerable scope existed for private investment even before the FPTCA was enacted and low levels of agricultural investment cannot be explained by the restrictions imposed by the APMC Acts.

The APMC Acts, even in the pre-liberalisation period, did not impose a blanket restriction on selling agricultural produce outside the regulated markets and did not require that all agricultural produce be necessarily sold in such markets. The APMC Acts typically notified market areas where the provisions of the act applied. In these market areas, all purchase, sale, storage, and processing activities of specified commodities were mandated to take place under the provisions of the act and the rules and regulations established by the respective market committees. The acts also barred the establishment of parallel infrastructure for the sale and purchase of specified commodities and agricultural produce within the market area or within a specified distance (for example, five kilometers in Punjab) of a notified market yard. There was no bar on the establishment of any infrastructure beyond such limits and outside notified market areas. There was also no bar, notwithstanding notification of any market area or market yard, on direct sale by producers to consumers or any kind of retail sale. In fact, in some states, for example in Maharashtra, the

act required all market committees to necessarily provide space within the markets from which producers could engage in direct retail sales to consumers.

In most states, APMC mandis are too few and far between. Consequently, except in agriculturally well-developed states such as Punjab and Haryana, there is no statutory restriction on the sale and purchase of agricultural produce in most parts of states. In other words, the problem is really the inadequacy of regulated markets. In states with a low density of regulated markets, farmers, especially small and marginal farmers, are not able to access these markets because of the high cost of transportation. As a result, farmers are often forced to sell their produce to private traders in local markets even if they would prefer to sell in the regulated markets.

The Swaminathan Commission in 2004 recommended that a regulated market should be available to the farmers within a radius of five km. That is, the government should establish a network of regulated markets so that each market serves an area of no more than eighty sq. km. However, in reality, the all-India average of the area served by a regulated market is about 496 sq. km (see Table 2). There is also a wide variation in the density of regulated markets among the states. While the density of regulated markets is relatively high in Punjab (116 sq. km./market) and Haryana (157 sq. km./market), the network of regulated markets is very sparse in many other states, with the lowest being in Meghalaya (11,215 sq. km./market). The density of regulated markets is not even close to the benchmark recommended by the Swaminathan Commission in any state.

Over the last two decades, various provisions of the APMC Acts were relaxed by the states to attract private investment (Table 1). However, this progressive liberalisation has not resulted in a significant mobilisation of private investment to set up market infrastructure.

In 2006, Maharashtra amended its APMC Act to allow private traders and corporates to buy all farm produce directly from farmers, bypassing the APMC markets. Under this system of direct marketing licenses (DML), any person or firm could get a license to make direct purchases against a small license fee and a bank guarantee to protect farmers from defaults. While a few big corporates such as Reliance, Big Bazaar, Tata, etc. obtained licenses, the amount of trade through the direct marketing system has remained low. For example, in 2016–17, the value of purchases made under DML was only about five per cent of the value of the produce sold in the APMCs. Similarly, the proportion of trade occurring through private agricultural markets is very small compared to the volume of trade occurring in the APMCs (See Table 3).

Bihar repealed its APMC Act in 2006 with the intention of attracting private investment. Despite this, little private investment has been made in the development of agricultural markets. Various proposals for a public-private partnership to develop agricultural infrastructure have not yielded any investment (Intodia, 2012). On the other hand, even the marketing and other infrastructure available in the mandis before the repeal of the act eroded with time (Intodia, 2012; Lok Sabha, 2019). In a detailed assessment, Intodia (2012) concluded that the repealing of the APMC Act had resulted in a "deterioration of the facilities and poor functioning of the markets". It has been reported that farmers sell fruits and vegetables in makeshift markets along roads to traders who charge a market fee from both farmers and buyers without providing any infrastructure and facilities (Singh, 2015).

In 2018–19, the Ministry of Agriculture and Farmers Welfare itself reported to the Standing Committee on Agriculture of the 16th Lok Sabha that:

Table 1: Number of regulated markets and average area (sq kms) served per market, by state, 2017

States	Area	Number of regulated markets	Area served/market
Andhra Pradesh	162,970	191	853
A & N Islands	8249		
Arunachal Pradesh	83,743	13	6442
Assam	78,438	226	347
Bihar	94,163		
Chandigarh	114	1	114
Chhattisgarh	136,034	187	727
Dadra & Nagar Haveli	491		
Daman & Diu	112		
Goa	3702	8	463
Gujarat	196,024	400	490
Haryana	44,212	281	157
Himachal Pradesh	55,673	56	994
Jammu & Kashmir	222,236	25	8889
Jharkhand	79,714	190	420
Karnataka	191,791	513	374
Kerala	38,863		
Lakshadweep	32		
Madhya Pradesh	308,144	545	565
Maharashtra	307,713	902	341
Manipur	22,327	0	
Meghalaya	22,429	2	11,215
Mizoram	21,081	0	
Nagaland	16,579	19	873
Delhi	1484	9	165
Odisha	155,707	436	357
Puducherry	562	8	70
Punjab	50,362	435	116
Rajasthan	342,240	454	754
Sikkim	7096		
Tamil Nadu	130,058	283	460
Telangana	114,840	260	442
Tripura	10,493	21	500
Uttar Pradesh	240,928	623	387
Uttarakhand	53,484	67	798
West Bengal	88,752	475	187
Total	3,290,840	6630	496

Source: Lok Sabha (2019)

Table 2: Value of agricultural produce transacted at APMCs, through direct purchase licenses and through private agricultural markets in Maharashtra, 2015–17

Variable	2015–16	2016–17
Value of Commodities transacted through APMCs (Rs. Crore)	42875	48000
Value of Commodities Transacted through Direct Marketing Licenses (Rs. Crore)	1553	2218
Direct Marketing Turnover/APMC Turnover (per cent)	3.6	4.6
Value of Commodities transacted through private agricultural markets (Rs Crore)	3230	2460
Private Agricultural Markets Turnover/APMC Turnover (per cent)	7.5	5.1

Source: NABARD (2018)

The marketing infrastructure for agricultural produce is not in good shape in the States/ UTs where [the state-level] APMC Act is not in operation.

1. In Bihar, the marketing and other ancillary infrastructure available in the mandis before [the] repeal of their APMC Act in 2006 (has) eroded with time.
2. In Kerala, private shops for collection of Agricultural Produce exist throughout the state at the vicinity of producing centres for e.g. there are coconut collection shops, rubber purchasing shops in producing centers. Cardamom is sold through auction at [the] Puttadi auction centre in Idukki district and managed by [the] Spices Board. Tea is sold through auction at [the] Tea auction centre, Kochi. There also exist Vegetable Fruit Promotion Council Kerala (VFPCK) markets which facilitate marketing of fruits & vegetables.
3. In Sikkim marketing takes place in Kisan bazaar[s] and Weekly Grameen Haat/ Rural Periodical Markets.
4. In Manipur & Mizoram there is no systematic marketing infrastructure exist[ing] for agricultural produce.
5. In [the] case of [the] Andaman & Nicobar Islands, most of the markets are very small with little infrastructure (flooring & roofing) as throughput of these markets are less, catering to a very small population.

Source: Lok Sabha (2019).

This suggests that, of the states and UTs that did not have APMC Acts, only Kerala had alternative, commodity-specific systems of marketing and procurement. In all other states and UTs, marketing infrastructure was very poor.

Given the low density of regulated markets in many states, the closure of many regulated markets over the recent years, and increasing deregulation through amendments to APMC Acts in many states, there was plenty of scope for private corporate investment in the development of agricultural marketing infrastructure. Despite this, investment by private agribusiness corporations in the development of agricultural market infrastructure has remained low.

Complementarity of public and private investment

Secondly, public and the private investment are complementary. The creation of basic infrastructure in the public sector results in downstream private sector investment in cold storage, agro-processing, and retail. A decline in public investment could become a barrier for private corporate investment as well. It has already been suggested that, in addition to the benefits provided through FPTCA, the government will need to provide cheap land, extend the use of existing public facilities (for example, through lease arrangements between existing regulated markets and private companies), and provide cheap credit to make private investment attractive.

Economic crisis is likely to slow down private investment

Thirdly, an unprecedented economic crisis caused by the COVID pandemic (and reckless policies used to deal with it) is likely to result in a general slowing down of private investment. While countries across the world are using public investment to rebuild their economies, relying on private investments for creating basic infrastructure in the current context does not seem to be a promising strategy.

3.5 Impact on the system of procurement

Public procurement has become exceedingly important in recent years because returns from agriculture have been squeezed due to increasing cost of production and greater integration with the world markets. The deregulation of input markets and withdrawal of public provisioning of various services has been responsible for the increase in cost of production.

Public procurement is, however, restricted primarily to rice and wheat, and is limited because of the ability of the government to store and distribute the grain. The government neither has infrastructure for storage nor an institutional structure for the distribution of other commodities. Even in the case of rice and wheat, there is a close relationship between the existence of market infrastructure and public procurement. In fact, the creation of market infrastructure is a necessary requirement for large-scale public procurement to take place. At the same time, public procurement has also historically been an important instrument of resource generation for the market committees, which has helped in investment for the improvement of market infrastructure.

The existence of regulated markets and procurement centres is a precondition for procurement. Government agencies carry out procurement in market yards and in special procurement centres established by the Market Committees and the State

Marketing Boards. Farmers in states that do not have enough designated market yards or procurement centres do not have the option of selling grain to government agencies.

The FPTCA would create conditions in which the maintenance, upkeep and modernisation of regulated markets will become uneconomical and suffer because of lack of resources. There is no doubt that the degeneration of the regulated market system will work to reduce farmers' access to public procurement.

4 Concluding Remarks

If the FPTCA is not likely to result in an increase in investment in agricultural marketing and better price realisation for farmers, what should be the agenda of the government to ensure that these take place?

First, the problems of existing regulated markets, such as cartelisation, the use of unfair practices, the interlocking of trade with provision of credit, and the low participation of women as peasants or traders, are rooted in the lack of implementation of agrarian reforms and effective democratisation of social, political, and economic institutions in Indian villages. Failure of governance and ineffective regulation are an outcome of the political dominance of big capitalists, merchants, and landlords. An end to the economic exploitation of the peasantry can only be achieved through the implementation of redistributive agrarian reforms and effective democratisation. These are critical to making regulatory systems more effective. Farmers, a vast proportion of whom are smallholders, need more effective regulation, and not less regulation, in the arena of agricultural marketing.

Second, public investment in agricultural marketing has dried up since India adopted the economic reform programme in 1991. There is a massive shortage of market yards and procurement centres in most states. Markets where farmers are assured of remunerative prices need to be made accessible to all farmers. This requires the establishment of more regulated markets so that all farmers can take their produce to such markets near their villages. The need for technological modernisation of the agricultural markets has become ever greater in the post-COVID context. Expecting that the private sector will take the lead in creating this basic infrastructure, particularly when the economy is going through a severe crisis, is completely unrealistic. This basic infrastructure needs to be created through public-sector investment even for private sector investments in downstream activities such as agro-processing and retail to become attractive.

Third, inadequacy of formal sector credit is a key problem for farmers. The problem of inadequacy of formal-sector credit for agriculture has intensified in the post-reform period and is particularly grave for tenants and other poor peasants. Debt relief has been a long-standing demand of farmers. Providing debt relief and expanding the availability of affordable formal-sector credit would ease farmers' dependence on informal sources such as commission agents and traders.

Finally, making agriculture remunerative for farmers is a key challenge. This requires an overarching review of the policy changes that have been introduced in the areas of input pricing, trade liberalisation, and pricing of agricultural produce as part of the liberalisation programme. These changes have been the main cause of the deep agrarian crisis that rural India finds itself in today.

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This monograph provides a critical assessment of the likely impact of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 (FPTCA). It has been argued by the government that liberalisation of markets will lead to transparent and barrier-free trade in agricultural produce, and that the emergence of alternative private marketing channels will result in better price realisation for farmers' produce.

This article argues that the regulation of agricultural markets is indispensable and needs to be made more effective. Ineffective regulation of agricultural markets results in various problems that disadvantage small farmers. These problems have their roots in inequalities of agrarian class structure and a lack of democratisation. Public investment in agricultural marketing has been woefully inadequate in the post-liberalisation period and needs to be considerably increased. The experience of last two decades suggests that the private sector is unlikely to lead the development of basic infrastructure. On the other hand, the FPTCA is likely to aggravate the agrarian crisis by weakening systems of public procurement and regulated markets.

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