

MSP AS A LEGAL ENTITLEMENT FOR ALL FARMERS

One of the key demands of the ongoing farmers' agitation in India is related to statutorily guaranteed remunerative prices. Protesting farmers are demanding that the Minimum Support Prices actually accrue to them in a legally binding manner, and the state be obligated to ensure the same. The immediate questions from those who are skeptical about this are around, how can this be implemented? Would this not have huge implications on the government exchequer? Will this not be a great interference in markets as we have known them? What about consumer prices also rising and consumers being affected, and general inflation in the economy? Will it not affect our export competitiveness? And so on.

From the side of proponents of MSP as a legal right, this is a [Position Paper from Alliance for Sustainable & Holistic Agriculture \(ASHA-Kisan Swaraj\)](#) on how this is indeed possible, in fact desirable and how certain other consequences can be managed with good planning.

In ASHA, our definition of a Farmer is the same adopted by the National Policy for Farmers (2007). *Since this definition of Farmer is de-coupled from Land ownership, and is cognisant of multiple kinds of agricultural production even without land ownership, it is assumed that nothing additional needs to be instituted within the law for the entitlement to accrue to a Farmer, other than a Panchayat-issued certificate wherever such identity is under dispute/question.*

Secondly, ASHA recognises that the cost of production varies across the country for the same commodity (this is the reason why the scale of finance is also fixed differently). For a uniform MSP to benefit the largest number of farmers at the national level, bulkline costing is to be adopted, and not just a weighted average of cost of production in different states.

It has to be noted that the current procurement regime should not be equated with an MSP regime – often, a critique of the current regime is what is thrown up whenever a discussion on statutory MSP regime comes up.

This note also argues that the price guarantee mechanism is a better enabling policy tool than direct income support, and the two mechanisms, which are not substitutable for each other, can co-exist to improve the lives of our farmers. Minimum Income Guarantee for farm households in fact requires the price route to be addressed firmly.

CONTEXT

Farmers are not able to recover their full cost of production in their market interfaces. The “cost of production” as officially estimated does not actually reflect the resources spent by the farming household; further, farmers are not able to recover a decent margin over even officially estimated costs. Official analysis like the Ramesh Chand Committee Report (2015) has also pointed out how cost estimations are going wrong. If the farmers do not recover their cost of production, how is their family supposed to run? How are they expected to pay minimum wages to their farm workers? How are they supposed to contribute to the growth plans that our policy makers have? The irony is that today, while the Government of India announces “Minimum” Support Price for 23 crops, there is really no meaningful mechanism to translate that MSP into a reality, especially for a majority of farmers in the country whose crops are not procured. It is unclear why MSP announcements happen for 23 crops, in the absence of such a mechanism.

Why MSP guarantee?

Farming is an extremely risky enterprise. Moreover, Indian farmers are mostly small and marginal, and mostly rainfed, with the accompanying disadvantages. There is understandably a large variation on the supply side given the many risks in farming, whereas the demand side is mostly stable at any point of time (low elasticity in demand), which causes volatility in prices.

Further, there is low income-elasticity when it comes to food which means demand for farm produce lags behind the general growth rate of the economy. For these reasons, an intervention to assure remunerative prices to producers is well-justified.

It is also worth noting that in the economic paradigm adopted, including in the formal development planning processes adopted in India, the idea has been to keep food prices low, even if cost of production of food is high. This was to benefit other sectors including workers in other sectors. But this policy approach was at the expense of farmers, who ended up cross-subsiding others in the economy. It is time that this paradigm is altered.

One approach to this is to provide direct income support like PM-KISAN. However, in ASHA, we believe that income support or cultivation support as is being given in Telangana on a per-acre basis are additional tools over and above price guarantee, whereas MSP guarantee is a more powerful and flexible policy tool that can bring about many important and desirable changes in Indian agriculture like land use/cropping changes, import substitution, and promotion of agro-ecological practices. Such a policy tool will lead to significant income improvements too.

It is also noted that a market-centric paradigm that has facilitated big capital to function in unregulated markets, along with a technology-centred paradigm that has focused on yield maximisation to the exclusion of other imperatives, has failed all over the world and in India too. It is clear that another approach is needed which is a uniquely-Indian solution to suit our own crisis in agriculture in India, rather than a blind emulation of failed policies from elsewhere.

Farmers need to be protected and supported through a price guarantee mechanism given our economy's inability to provide employment in other sectors.

MSP as a legally guaranteed entitlement is as per Article 21, Article 38(2), Article 39(a), Article 43 of Constitution of India, and India's commitments as per UN Declaration on the Rights of Peasants and Other People Working in Rural Areas.

It is against this backdrop that we demand a MSP guarantee legislation to be enacted in the country by the Government of India, to confer an entitlement on all farmers a minimum remunerative price in their market interfaces for their agricultural produce. We further justify this proposal for the following reasons.

- Price is the most important, proximal and direct way of improving farm incomes. Government of India has a stated goal and commitment of doubling farmers' incomes. Farmer incomes have to be improved because a large number of farmers have negative net returns and low/unstable incomes in this sector are increasing societal disparities. The goal of doubling farmers' incomes requires prices to be guaranteed.
- The MSP legal guarantee regime is expected to cover those farmers who do not benefit from the current procurement regimes. Further, most farmers are also out of the purview of regulated markets. Several sell their produce to local traders at village level due to various constraints including small volumes of surplus. Many such farmers have the potential to benefit from this MSP legal guarantee. Those marginal producers who

are net food consumers are likely to benefit from the expanded procurement for PDS/other food schemes that is proposed here.

- Such a price guarantee has the potential to facilitate crop diversification by farmers into cropping systems that suit their growing conditions, rather than growing only those crops which present a more predictable price scenario during marketing stage, distorted more so by the current procurement regime centering around paddy and wheat, and the FRP regime that is applicable only for sugarcane. Such crop diversification would mean that we won't have excessive stock piles of paddy and wheat, and can lead to import substitution in the case of pulses and oilseeds, saving the valuable forex of the country.
- Such a price guarantee is expected to have an auto-correct system that pushes the government to promote our farming paradigm towards low-cost, low-external-input farming, so that the public financing burden on the government to support high MSPs flowing out of higher cost of production in an intensive-agriculture paradigm reduces.
- The largest number of consumers in India are also partaking in the food production processes. It is hoped that a better deal for farmers will convert itself into a better deal for the same set of people as consumers too, with additional purchasing power in their hands (while consumer protection in case required cannot be at the cost of farmers).
- Such an MSP guarantee tool, when used to incentivise particular crops and particular practices of farming, will usher in greater sustainability into farming ("Less externalities, more MSP" can be the driving principle here; similarly, food crops that too from rainfed lands can be given higher MSPs – millets, for instance; or oilseeds).

In this approach, it is not true that "markets" are being dismantled completely. Market forces will continue to operate in setting the price (demand and supply, quality, value addition, branding, premium labeling possibilities etc. etc.), but only above a bar of MSP which becomes mandatory on all players. This approach will work well with greater investments on farmer and consumer education and extension, to steer agriculture in a viable and sustainable direction for farmers.

WHAT ARE THE WAYS OF OPERATIONALIZING A LEGALLY GUARANTEED MSP TO ALL FARMERS?

In 2017-18, as part of the efforts and mobilization put in by All India Kisan Sangharsh Coordination Committee (AIKSCC), a Bill for guaranteed remunerative MSP was created and refined through nation-wide consultations, and the same was [finalized with the inputs of key leaders of 21 political parties](#). This Bill was introduced as a Private Member's Bill in both Houses of Parliament in 2018. ASHA-Kisan Swaraj was a key architect of that Bill. This note has additional improved elements incorporated.

We believe that it will take a basket of measures to make MSP a legal reality for all farmers. Such a basket of measures covers immediate term as well as long term approaches, and also the situations of a diverse set of farmers in the country, for diverse commodities. Operationalisation strategy for perishable and non-perishables could be different; while the prime focus has been on non-perishables, suitable modifications can be made for perishables too. **This should therefore be a package with differential emphasis on different "tools" or "modalities" (of guaranteeing MSP) for different commodities, farmer categories and states, depending on what suits them the best. It is worth noting that several modalities are already under use, as some scheme as the other, but not brought under a common legal framework.** The operationalisation modalities and key principles are described below.

1. **No purchase from farmer below MSP:** Making it mandatory (and hence a legal offence if not complied with) that all purchases of agricultural produce from farmers should be only at or above MSP, whoever the buyer might be (government procurement agencies, private traders and companies, farmer collectives or even end consumers). This is like the

government mandating a Minimum Wages Act for setting a minimum bar on how much wages are expected to be paid to all workers in the unorganised sector by any person or entity employing them. The penalty for the offence needs to maintain a good balance between being a deterrent against violations of the law, and for traders to continue to participate in the markets. While penalties are meant to improve the market conditions for farmers, an individual farmer can benefit only if the government opens accessible and adequate procurement counters, whereby, any farmer who is unable to realise the MSP on any given day can sell to the government counter at MSP - this is specially so in the case of non-perishables. Such fall-back procurement assurance has to be part of legal provisions, along with a bar on purchase below MSP.

2. **Expanded, decentralised and better systems of procurement for food schemes:** Expanding government's procurement for its food schemes like PDS, ICDS and MDMS – here, there is much scope for diversification of procurement into millets, pulses and even oilseeds so that the food schemes actually ensure nutrition security. This can be done by reducing the excessive procurement of paddy and wheat (which could lead to an estimated Rs.20000 crores of savings) and increasing procurement of other grains with set targets. At the consumer end, expansion means universalization of PDS coverage. This would ensure that disposal of stocks is not a major issue after procurement from farmers. It is obvious that this would have to incorporate many reforms and should be geared towards a decentralized and *localized* (at an optimal scale to be worked out for different commodities in different regions) approach of procurement (including through women's self-help groups at village level, FPOs, PACS etc.), storage, processing and distribution. In the case of special vehicles like Women's SHGs operating the procurement centre, the price payment may also be entrusted to them so that they can do so in gender-just ways.
3. **Smart Market Intervention Operations:** Smart, timely and limited market intervention so that declining prices can be propped up by the government agencies needs to be scaled up. Here, disposal has to be prompt (so that additional costs of holding large stocks can be minimised), after at least 2 months after harvest season gets over, and should be in distant open markets. This might require the government to under-write losses if any, of the intervening agency.
4. **Establishing low-cost agro-ecological agriculture on a large scale:** Scaling up low-cost, agro-ecology that can cut down on input subsidy investments for the government, and also bring down cost of production for farmers should be a key operationalization strategy. This would in the medium and long term ensure that MSP guarantee does not have inflationary tendencies for the whole economy, and does not imply huge public financing burden for the government, other than ensuring that economic and environmental sustainability issues are addressed in parallel. As part of this modality, particular crops and ecological production practices can be additionally incentivised.
5. **Negotiable Warehouse Receipts:** An important modality for operationalisation of MSP guarantee is to improve and expand schemes like the Negotiable Warehouse Receipt Scheme so that actual sales of agricultural produce can be spaced out throughout the year by farmers and not have huge arrivals only during harvest season leading to low prices. Such a warehouse receipt scheme should have the right of forfeiture of stored produce built in for the farmer, for farmers who use this instrument at a time when MSP is higher than prevailing market prices and if the prices continue to remain below MSP even after 6 months of storage and the forfeited produce becomes the responsibility of the government, with MSP payment to the farmer.
7. **FPOs as empowered market players:** Investing on FPOs, not as aggregating agents for big corporations, but as equal market players with entrepreneurial / trading abilities to bring in profits for member farmers, is an important strategy in this basket for MSP guarantee.

Such investments should include storage, processing and value addition facilities to ensure collective retention and other bargaining power in market interfaces other than strong institution-building investments to draw in and empower the most marginalized farmers (de-coupled from land ownership as a criterion for inclusion).

8. **Import policies for agri-commodities:** Ensuring that the landing price of an agri-import cannot be less than the MSP declared for that commodity in India would be an important strategy. Further, ensuring that the export-import decisions do not result in dumping of highly subsidized produce, and in local-market-distorting quantities is also a key operationalization strategy. This would require very smart ex-im decisions, full use of bound tariff rates keeping farmers' interests on priority and not just industry's interests, use of quantitative restrictions where needed and possible, use of special safeguard measures, careful use of Special Products provision, negotiated spaces on Public Stockholding for Food, keeping agriculture out of Free Trade Agreements and the like. This whole package of measures should be evolved into import substitution policies for certain commodities, wherein the excessive dependence on imports for particular commodities can be redressed over a period of time.
9. **Adequate Budgets/Investments for special vehicles like NDDB:** During the oilseeds revolution that India witnessed in the 1980s, NDDB got into Market Intervention Operations, with a price band policy that actually fixed procurement prices at at least 40% above CACP-recommended levels. NDDB got into its operations of procurement, investment on processing and further distribution and sales of branded edible oil through an initial Market Intervention Fund plus a special credit line from financial institutions. A similar or better package of investments can be made on some special cooperative vehicles that will guarantee MSP to members.

Price Deficiency Payment System can be an important measure for operationalization of MSP guarantee for certain commodities *which are mostly perishable in nature or those commodities where the downstream impacts on consumers need to be avoided*. However, such a PDPS modality should not be along the lines of Madhya Pradesh's *Bhavantar Bhugtan Yojana* where farmers faced huge losses while reports indicate that traders colluded and benefited. Under the MSP guarantee regime, PDPS should operate like a crop insurance product, for notified commodities, for all those who are growing that particular commodity in a particular notified area, based on average mandi price data for that area for 2-3 months during harvest time. This is not to be converted into an individual-farmer based mechanism, but applied to all cultivators of a commodity in a given designated/notified region, irrespective of the marketing channel. This will operate on price intelligence gathered from mandis. Here, improving the number of mandis will help, along with evolving more robust price intelligence mechanisms emanating from there. This will also require additional work around improving cultivation and trading records. *Where such a Price Deficiency Payment is notified for any commodity, the Offences and Penalties provisions on traders would not become applicable; the obligation on the state to provide the farmers' entitlement is the main provision in the law here.*

Alternatively, there can be a PDPS regime wherein a trader pays a farmer an MSP upfront at the time of purchase, but can claim compensation from the government, if the trader can prove that s/he has incurred a loss due to the price paid. This is to avoid possible trader collusion.

COMPENSATION MECHANISM TO SECURE FARMER'S ENTITLEMENT: Apart from the above mechanisms, the legal regime to guarantee MSP should obviously have an **institutional architecture** worked out for implementing the statute, and should also have a **compensation mechanism** set up at the taluka level, with time bound farmer-friendly procedures to compensate a farmer who does not discover MSP in her/his market transaction

despite all the above measures. Further, there should also be **penal provisions for buyers** who violate the law.

SOME FORESEEABLE LIMITATIONS & MEASURES TO OVERCOME THE SAME

MSP guarantee is not a silver bullet for all problems in Indian agriculture, and ASHA-Kisan Swaraj is not claiming it to be so. For instance, Climate Change and the fact that extreme weather events may not allow a farmer to even produce enough marketable surplus, is something that an MSP guarantee law cannot help solve. However, it is a very important solution that cannot be ignored.

- **Farmers trapped in Inter-locked markets**: In this proposal as outlined above, farmers would benefit if they can break free of inter-locked markets, if they can organize themselves to ensure that traders comply with the law and if the government becomes a market player through some modalities of intervention (the allusion to Minimum Wages Act is applicable here to the extent that it is a bar set for market players). It could very well be that only those farmers who are able to collectivise themselves and assert their entitlement vis-à-vis the buyers will be able to realise MSP. In those cases where the farmers are not able to break free of inter-locked markets, and not organize themselves to either take on traders not complying with the law or to get the government to intervene, this may be difficult. When accompanied by reforms in the agricultural credit sector, things could improve significantly.
- **“Invisible and Marginalised Farmers”**: It is also possible that farmers who don't own land, or have documents to show for land ownership or cultivation, might be left out of the MSP guarantee. A simple system of Panchayat-issued certificate is being proposed if a Farmer's identity is under dispute or question. Further, even such 'invisible farmers' are expected to benefit from measures like import policies being improved in favour of farmers, low cost agro-ecological agriculture being promoted, through special vehicles like NDDDB or even women's cooperatives taking up procurement, through FPOs etc. Further, those farmers who have very small volumes of marketable produce and are also therefore suffering exploitation or disadvantages now are supposed to benefit from at least some general modalities built into this law, apart from specific modalities like FPOs, procurement by women's collectives or federations of cooperatives. To bring in gender justice into the law, it is proposed that in at least all government interventions to begin with, payment to the farmer is made into a joint account of the land owner and spouse. It goes unsaid that such farmers need other investments as well as access to productive resources for their livelihoods to be secured.
- **Paperwork for Compensation**: Further, the compensation mechanisms proposed here will be useful only if a farmer is able to produce enough paperwork to show that her/his entitlement has not accrued (not in the PDPS option which is proposed to be like disaster compensation pay-outs). This can be overcome if most trading happens in regulated market spaces. This then requires more regulated mandis to be set up across the country where all the main crops that are grown in a region would be traded so that records of all trading are created.
- **Possible absence of traders from trading**: It is assumed that traders will not abstain from market transactions given that there will be a uniform MSP across the country, and traders only need to add their margins and take up further trading as being done hitherto. Initial conversations have indicated that this will not be an issue for traders; further, players in entire supply chains are not likely to abstain completely from trading. PDPS can be designed with compensation mechanisms built in for traders if required. In the proposal in this document, there is an assurance that every farmer will get a buyer who will buy at MSP (with the government procurement counter as the fallback option).
- **Food Inflation**: Increase in consumer food prices and general inflation in the economy can be expected. However, when offset with an improved/expanded PDS for poor consumers, this can address the risk of hunger and malnourishment of such citizens. Also, like

mentioned above, it should be remembered that most consumers in India are also farmers. Further, certain modalities mentioned, such as PDPS and procurement for PDS, MDM, ICDS, etc, here do not have a direct impact on food inflation. The more such modalities are used in implementation, the lower the impact of guaranteed MSP on food inflation for the end consumers. It is also worth noting that many welfare/environmental protection measures will have some such consequences and the government has to bear the cost of protecting the interests of farmers as well as consumers.

- Export Competitiveness Implications: Export competitiveness may get affected to an extent but this will be variable for different commodities. Products for which India is a unique and leading producer may not be affected. If required, those commodities which are India's key export commodities in volume and value, can have export promotion incentives built in. It is also assumed that for such export commodities, the market price for farmers may be higher than MSP.
- Trader collusion in PDPS: While the Price Deficiency Payment system usually runs the risk of large-scale trader collusion to keep prices down, given that this is being proposed as a revised modality which mandates MSP from the trader who can in turn claim compensation upon proving losses, or a PDPS designed like a disaster compensation payout, and with the government also mandated to be a market player through various interventions, this risk may have been addressed.
- Quality parameters: FAQ norms and parameters might be used to deny MSP to farmers. However, this can be prevented by more regulated markets being set up.
- Reforms in scheme guidelines: It is presumed that while implementing this Act, there will be reforms undertaken in the current procurement regimes (for example, more thrust on decentralised and localised procurement and distribution; or spreading the benefit of procurement by government to a larger number of farmers and also disposal regimes (of procured produce), without which this law will increase public financing burden.
- Inadvertent promotion of cost-intensive cropping: To ensure that the MSP guarantee regime does not end up promoting a cost-intensive farming paradigm with corporations making additional profits with unsustainable inputs, it requires constant monitoring and explicit corrections to steer the incentives towards low-external-input farming, and reduction of cost of production. This requires an alternative investment paradigm since it involves knowledge-driven, farmer-to-farmer processes. It is also presumed that a farmer will actually move towards low-external-input farming to maximise profits once an MSP is guaranteed.
- Trade transactions disappearing under the radar: There is an apprehension that the penal clauses might force several trade transactions to go under the radar of regulatory bodies. However, for the farmers, when the option of fall-back counters and compensation exist, it is expected that many of them will start pushing back against this possibility. But the best chance that farmers have against this possibility is in freeing them up from inter-locked markets.

PROGRESSIVE AND INCREMENTAL INCLUSION OF STATUTORY COMPONENTS

It is possible that the government need not enact a full statute in all its possibilities and scope as envisioned in the AIKSCC Bill to begin with. Certain chapters and provisions can be kept for kicking into enforcement only at a designated future date, for instance.

Feature of the statute	AIKSCC Bill	Possible Minimal version to begin with
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Components to be addressed	<p>Three aspects:</p> <ul style="list-style-type: none"> · Improvements in cost estimations and initiation of system for cost estimations for perishables; · Having an MSP fixing formula that allows for remunerative returns over and above the comprehensive cost of production; · Operationalisation aspects of such an improved MSP 	Assume that at least the current MSPs need full operationalization, even if improvements are needed
Which agricultural commodities?	All agricultural produce including perishables, milk, meat, fishery produce, forest produce etc.	Guarantee for just cereals including millets, oilseeds and pulses for which MSP is already announced as a first step
Institutional Architecture	Central and State Commissions newly created for the purpose	Use existing CACP at the centre and marketing departments and agencies at the state level for implementation
Operationalisation features	Several mechanisms as described in this note are part of this Bill	Government can begin with a law that simply prohibits any buying below MSP for 23 crops, along with fall-back procurement counters and compensation mechanism for those farmers for whom the entitlement does not accrue.