

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020 or

“THE APMC BYPASS BILL 2020”¹

CONTEXT

Farmers' interfaces with market continue to be on an unequal playing field – the reason why APMC statutes were brought in, continues to remain, and nothing much has changed on that front for small and marginal holders of the country. In fact, the new Bills bring in players bigger than the local traders and it is not just local monopsonies with cartelized trade but big monopolies that can be expected now. The interface of farmers with markets will now be more unequal than ever before. Swinging from stifling protectionism (at least in the posturing even though in reality farmers' interests were not actually protected) to complete liberalization and de-regulation is a wild swing from one end to the other, without taking into consideration farmers' realities.

It is worth noting that farmers' freedom was never curtailed legally in the APMCs Act. It is also important to note that only 35% of produce traded in regulated markets. However, APMCs provide space for farmers for collective bargaining on price & non-price issues (grading, weighing, moisture measurement etc.).

While the other trade needs to be de-criminalised, that cannot be understood to be de-regulation. That would be a complete and callous neglect of farmers' interests. It should also be acknowledged that farmers' woes with markets and unremunerative prices are due to many other inter-locked factors including agri-credit needs being met by local traders and that unequal international trade dumping subsidized produce into India. Another point worth noting is that even state governments are inaccessible for farmers, when it comes to just returns, leave alone a Joint Secretary in the Union Government.

For the government, price intelligence comes from the mandis, and the government intervention in markets depends on this, beyond procurement for food schemes. Mandi traders in turn taking cues from spot exchanges.

While the ostensible reason for bringing a Central Act is that state governments are not adopting and implementing Model Acts brought in by the Centre, it should be noted that many changes have already been made post-2003 using GoI Model Act. Meanwhile, the ones who opted for de-regulation have not seen their farmers' fate change in any way – Bihar, for example.

Also, it is the ECA Amendment along with APMC Bypass Bill that will ultimately work against both farmers and consumers – we should read the Bills together.

SOME CLEAR DISCONNECT-FROM-GROUND, DEFICIENCIES AND AMBIGUITIES IN THE BILL:

- Trader to trader transactions were not being regulated earlier – they are not Farmers' Produce – now, they have been brought in without any basis.
- It is unclear why separate definitions and clauses have been included for Farmers' Produce (Sec.2(a)) and Scheduled Farmers' Produce (2 (j)) when the intention is to de-regulate both, but one category put under state APMC Act discretion.
- Sec 2(d) “Farmer” means a person engaged in production of farming produce by self or by hired labour or otherwise and includes FPOs. Most FPOs are not engaged in production and they cannot be equated with Farmer.

¹ This is what the Bill in effect is about, and therefore, we have chosen to rename it as such.

- FPOs are now put on par with existing traders and big corporations to compete for farmers' produce in the market space. It is unclear why they are being over-regulated when the FPO movement itself is in a nascent stage in the country, requiring the government to announce separate investments and enabling measures for them. It is also unclear why the government is proposing to regulate decisions within an autonomous farmers' body which runs with decisions made by member farmers themselves.
- Central government is abdicating all oversight responsibility since it does not want to prescribe a system of registration of all traders of all farmers' produce.
- The entire grievance redressal system is visualised only around prompt payments, that too based on a 'receipt of delivery'. The entire grievance redressal depends on this receipt – how many farmers will get it in “trade areas”?
- How will same day payment happen for inter-state trade since disintermediated trade unlikely for inter-state trade, that too without the buyer looking at samples of produce delivered.
- Exploitation of farmers is understood to be only around prompt price payment without acknowledging that it is around price realisation also, and critically so as far as farmers are concerned. There are also several non-price related matters on which farmers are exploited.
- The Bill says Central government **MAY** develop a price information and market intelligence system – without such a data system, can the government intervene at all and will it intervene at all?
- Electronic trading like in e-NAM is riding on top of physical mandi structure in the country, not as a parallel system – if Mandis are destroyed without much trading, will e-NAM happen with farmer participation?
- Fragmented markets – many electronic platforms disconnected from each other – what will offer reference price then? Fragmented markets also mean monopsonistic markets.
- Fragmented regulatory structures are going to create more uneven playing field for farmers.

Ultimately, this is going to lead to replication of old structures outside the mandi. In fact, the most advantaged, trade-ready and well-equipped who would like to operate now outside the regulated mandi and also without paying a fee in the trade area, will be the existing local traders and commission agents! Creating two market spaces with two completely different set of rules is a recipe for disaster.

WHAT THE GOVERNMENT OUGHT TO HAVE DONE TO REGULATE MARKETS THAT DE-CRIMINALISE TRADE TRANSACTIONS OUTSIDE MANDI SPACES:

Government cannot swing between extreme protection to extreme liberalizing. The unequal playing field whenever farmers interface with markets continues – we need protection but not a License Raj. Elements of such protection are:

- **Remunerative price** is the protection that farmers seek. **MSP should be guaranteed** by the government as an entitlement of all farmers. Such an entitlement of farmers, and an obligation on the government can be met through numerous measures and mechanisms put into place. So, any trading below MSP should be made good by the govt – either to a loss-making trader or a loss-making farmer.
- **Oversight over all trade is important** – it could be through multiple functionaries and not just APMC Committees. It could be department officials designated for the purpose for specific commodities. It could be Panchayats for farmgate purchases. There should be records of the trade at the least from these people – date, quantity, seller, buyer, price, and any quality related data. There should be a registry of all buyers/traders. This is not the same as a license raj. It is not enough to say PAN card is essential. What we need is a “online register SHALL be maintained”. **Registration** of all players a Must and **record-keeping of all transactions** too to the extent

possible. Numerous oversight agencies and functionaries can be notified, depending on commodity. While it is acknowledged that not all primary transactions can have oversight, there should be effort to cover as many as possible.

- **APMC market yard and “trade areas”** should be **equalized** in terms of cess/fees collection and oversight mechanisms. Otherwise, all trade will move out of yards. Licensed traders will move out first!!
- A Central Act might be alright, **provided State governments have the authority to regulate and also collect fees for intra-state trade**. Centre can have the authority for inter-state trade. Any trading above a particular ceiling in volume and value and any inter-state trading of a certain scale could have the Centre getting into a licensing system (a parallel might be in the Food Safety and Standards Act 2006 which registers all players and beyond a certain ceiling, licenses). After all, bigger players who play unfairly can do greater damage than local players and they need to be regulated more rigorously.
- **Price Intelligence** is important for government intervention to kick in. In fact, data architecture to be fully worked out (of players, transactions, prices), incorporated into the regulatory system and implemented for transparency, oversight and policy action.
- **Grievance redressal** & Penalties should be for all kinds of exploitation and not just prompt price payment. It should be at taluka and district level.
- **FPOs should be kept out of the purview of this legislation** – it is an internal arrangement between farmers within their own institution. However, rules for such FPOs should ensure that they do not get captured by corporations. Further, definition of Farmer should exclude FPO
- **Trader to trader transactions** should be kept out of purview of this regulation
- Government has to grow a national spot exchange (a Hub & Spoke model) to connect e-platforms including e-NAM that offers a template for inter-operability– such an **exchange should be transparent and needs a regulatory oversight**.
- **Government should commit within the same legislation** (*a la* Food Security Act 2013 which has enabling provisions) to maximum procurement of various commodities tied with local food schemes, and market intervention from the state, to agri-credit reforms to benefit small and marginal holders and particular neglected regions, to crop insurance and disaster compensation and to empower FPOs as enabled players in the market.