Special Issue Vol-01, Jan. to March 2021

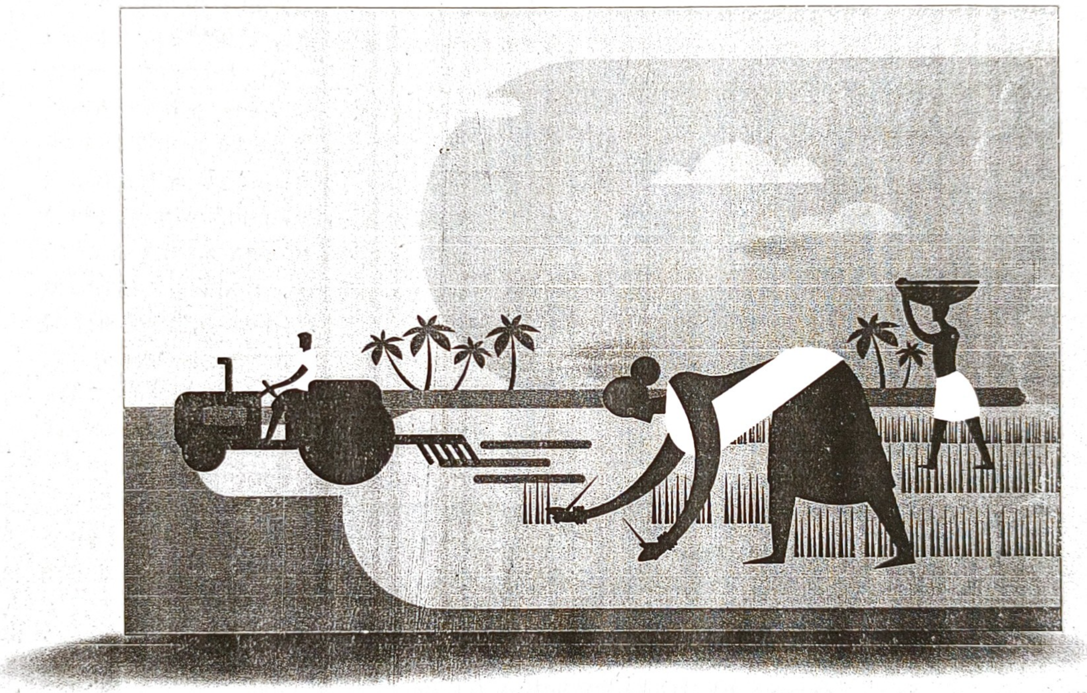
Vidyawarta®

Peer Reviewed International Refereed Research Journal

MAH/MUL/03051/201

ISSN-2319 931

New Agriculture Acts 2020 : Problems and Prospects



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A Study New Agricultural Bill & Online Agricultural Marketing

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Abstract

The paper first describes the evolution of the three bills need to be read together. They share a premise that they will enable private players to invest in agri-food supply chains more easily, lead to gains in efficiency downstream along the supply chain (and upstream in the input supply chain) and that these gains will be passed on to farmers in the form of higher output prices or lower input prices as the case may be. September 14, 2020, these ordinances had been brought to Parliament as legislative bills for "discussion", approval and have since been passed.

Keywords: Agricultural Bill, online Agricultural.

Introduction:

The three bills need to be read together. They share a premise that they will enable private players to invest in agri-food supply chains more easily, lead to gains in efficiency downstream along the supply chain (and upstream in the input supply chain) and that these gains will be passed on to farmers in the form of higher output prices or lower input prices as the case may be. To both the uninitiated and those who familiar with agricultural marketing reform, these three bills represent complex issues.

On the one hand, many have hailed the bills as a watershed, while others have critiqued them as sounding the death knell for farmers. Many, such as the former Prime Minister H.D. Deve Gowda, are rightly distressed by the manner in which the bills were pushed through Parliament in a hurry. Some fear that this is the thin edge of the wedge, a dramatic start to an irreversible withdrawal of the state from a critical sector in the economy, paving an easy path for big business. The government has maintained that those who object are being obstructionist and themselves once supported reform; there are widespread accusations that farmers are being misled and confused, instigated by political parties. To both the uninitiated and those who familiar with agricultural marketing reform, these three bills represent complex issues. This article attempts to provide context to and clarity on these bills, focusing on specific aspects and then analyzes the wide-ranging but uncertain implications for Indian agriculture.

I first outline the context of these momentous reforms—for they are indeed momentous—and describe the key features of these bills. I then discuss why they invoke great anxiety even amongst those who support agricultural marketing reforms. I argue that this discomfort has as much to do with what the bills say as it does with what is left unsaid. Marketing reforms, especially those that involve deregulation and the retreat of the state, necessarily need to be situated in the larger context of state intervention and as such it is essential to have a clearer articulation of the intended trajectory of policy, especially with regard to existing state support. This is especially important because at a time when much of the developed world is re-evaluating the sustainability of their agri-food supply chains, India, as a nation of smallholders, has an opportunity to create a model of agriculture that at its core strengthens collective farmer organizations and small and medium-scale local enterprises, as opposed to behemoths that control entire supply chains.

2. What are these three bills?

Each of the three bills deals with one aspect of agricultural marketing. Collectively, they are designed to reduce barriers that diverse agri-food supply chain actors face in connecting to farmers. They aim to do so by reducing reliance on traditional APMC-based intermediaries ('disintermediation') and by creating a unified national market ("one nation-one market"). Despite the titles of the bills highlighting 'farmers', rather than focusing directly on farmer welfare all three bills rely overwhelmingly on supply chain actors to take advantage of the new rules and share their gains with the farmers.

The first, and perhaps the most far-reaching and controversial, is called the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020. This bill attempts to bypass the state-level APMC Acts and can hence be referred to as the 'APMC Bypass bill'. This bill limits APMC's oversight and jurisdiction to the APMC 'market yard'. Outside of the market yard, entities are free to transact in agricultural produce in what would be referred to as the 'trade area'. Thus, a trade area is where trade happens that is not already under APMC (Section I.2.m). Transactions in the trade area are free of an obligation to pay a fee to the APMC and no licences are required by buyers. These trade areas across the country therefore constitute an alternate marketing space that purports to operate seamlessly across the country. At first glance, it would seem that given all the structural problems with the functioning of agricultural markets in India, these three bills are cause for unbridled joy. The preamble promises that the bill focuses on "creating of an ecosystem where farmers and traders enjoy freedom of choice", there are "competitive alternative trading channels" that "promote efficient, transparent and barrier-free inter-State and intra-State outside APMC" (Section II.4.1). This bill also aims at a "facilitative framework for electronic trading". The APMC Bypass bill thus also permits electronic trading platforms. Permitting trade areas and electronic platforms thus wrest control from state governments since the states no longer have jurisdiction over either of them.

The second is the Essential Commodities (Amendment) Bill, 2020 that attempts to remove the arbitrariness and unpredictability in notifying stocking limits, by linking it to transparent rule-based price triggers. Accordingly, a form of restriction will be deployed only in "exceptional circumstances". The bill suggests that for horticultural produce, stocking limits can only be invoked if there is a 100% increase in retail price and 50% increase in retail price of non-perishable agricultural foodstuff, using a base price. The base price would be the retail price in the preceding 12 months or the average retail price of the last five years, whichever is lower. There are currently debates on whether these are too high to be relevant or too low so as to the render the amendment meaningless, but this bill has generated comparatively less controversy. There is a view too that removing the threat of stocking limits would be especially welcomed by large businesses that hitherto found this to be a constraint.

The third ordinance, the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020 is more easily referred to as the 'Contract Farming bill' and aims to provide a framework for written agreements between farmers and sponsors without mandating them. It allows 'Sponsors' to engage with farmers via written contracts, if they choose to use such contracts. Unlike the APMC Bypass bill, the contract farming legislation has a longer history of extensive consultations with stakeholders. Yet, bewilderingly, the 2020 bill seems to have broken with the past by abandoning the 2018 proposed model contract farming act in favour of a national legislation.

The new effort is a lighter framework that permits contract farming with minimal obligations. A second significant departure is the expansion of the scope of the bill to include farm services, i.e., "supply of seed, feed, fodder, agro-chemicals, machinery and technology, advice, non-chemical agro-inputs and such other inputs". The Contract Farming bill explicitly excludes land leasing and forbids the Sponsor from erecting built structures on farm land. The bill also provides for timely payments by the Sponsor to the farmer. As with the APMC Bypass bill, this bill frees downstream players in the supply chain from state APMC regulations, enabling them to undertake written contracts freely across the country, outside the purview of any 'State Act' or ECA (II.7.1 & 2). Commentators have predictably hailed the passing of these three bills as a game changer, the 1991 moment for Indian agriculture. These would "unshackle" the Indian farmer, fulfil the dream of a "one-nation, one-market" and bring farmers up to speed on "futuristic technology". At first glance, it would seem that given all the structural problems with the functioning of agricultural markets in India, these three bills are cause for unbridled joy. The three bills indeed change the rules of the game dramatically. However, in their current form, will the perceived benefits materialize? The outcomes are unfortunately highly uncertain.

After all, the bills mark a significant departure from the anachronistic APMC Acts that did not keep pace with the rapidly evolving agricultural supply chains in the country. In recent years, agri-tech start-ups have proliferated in India and estimates suggest that one in nine agri-tech start-ups worldwide is established in India, relying on venture capital to rapidly scale up their businesses and impact. A 2019 NASSCOM report asserts that India's agri-tech start-ups had a delightful year: by June 2019 they had raised funding to the tune of $248 million, compared with $73 million in all of 2018. More than 60% of the funding was directed to those working on market linkages. Crop advisory services and inputs are other key areas.

Social enterprises centred on producer well-being too have emerged in a big way (Kanitkar and Chebrolu, 2019). Farmer Producer Organizations (FPOs) are the 'new age cooperatives', despite the challenging issues they face in becoming viable enterprises. Organized retail and food-tech companies are growing rapidly as well, with even traditional grocery stores modernizing their backend, demanding strong backward linkages with producers. Many of these start-ups have also become vehicles for delivering financial and extension services, strengthening smallholder access to modern technology. The Covid-19 lockdown too has accelerated many of these trends with new players.

All the three bills lower entry barriers for these new players and reduce the costs of transactions in the new trade areas. Although in many states these players are already thriving, these bills could potentially expand the number of players, from the stream it is today into a gushing river. There are clear opportunities for such enterprises to explicitly serve the interests of the farmer in multiple ways, especially those driven by social goals or farmer-based organizations. Yet even those who have been strong advocates of reform along these lines have been left with deep misgivings about the three bills, asking if this is in fact the reform we need. In other words, the three bills indeed change the rules of the game dramatically. However, in their current form, will the perceived benefits materialize? The outcomes are unfortunately highly uncertain. Some of this uncertainty is on account of some glaring lacunae in these bills; some of it also relates to the fundamental premise of this approach and the future of state intervention in Indian agriculture.

In the next sections, I focus on the many lacunae in the three bills and then offer a perspective on why the anticipated gains of this reform package might not materialize or be modest at best, with potentially perverse consequences if the shortcomings remain unaddressed.

In general, neither farmers nor agribusinesses in India are keen on written agreements, preferring to rely on trust and mutual understanding to sustain the relationship, albeit for different reasons. Farmers often fear written contracts and even when they don't, they are unlikely to be able to seek formal dispute resolution. Firms, on the other hand, only use written contracts to demonstrate seriousness of intent and, even in this case, they are unlikely to ever enforce the contract, except to sound out a warning to all contract farmers. Typically, though, as one business said: "we would never take a farmer to court; it would jeopardize relations with all the farmers and not just the one who defaulted". The current Contract Farming bill thus appears to overestimate the enthusiasm of agribusinesses to enter into contracts. That said, there is also a fear that big businesses might embrace contract farming not so much to guarantee markets or prices but to exercise indirect control over farm land in the guise of securing farmer services.

A second well-entrenched myth is that traditional supply chains in India are associated with intolerably high wastage and this is provided as a justification for large-scale private investment along the supply chain. These claims have thus far relied largely on ghost statistics. A careful recent work on this by the Indian Council for Agricultural Research shows that the post-harvest losses of various commodities range from 3.9-6% for cereals, 4.3- 6.1% for pulses, 5.8-18.0 % for fruits and 6.8-12.4% for vegetables. These suggest much scope for improvement but are not compelling evidence of the failure of existing supply chains. The evidence of impacts upstream on technology adoption is equivocal as well. On the one hand, we have examples that suggest that businesses can transform the way farmers do things. Pepsi is widely credited with teaching farmers to grow tomatoes on raised beds, increasing yields. Yet, the evidence is mixed. Existing work on dairy supply chains for example suggests that technology adoption and the adoption of safe practices does not improve significantly when linked to modern supply chains. This is not to dismiss the potentially large benefits that private firms can deliver to the farmer, especially in the context of weak public extension systems, but it is important that these claims are not overstated.

Third, the three bills are designed to foster contested markets where multiple buyers will bid up prices that therefore benefit farmers. This is certainly true, especially when buyers are not all local, making it hard to collude. My own research on contract farming suggests that where multiple firms contract for produce in the same village, it is hard for agribusinesses to short-change the farmers. That said, it is not clear that non-traditional buyers won't themselves collude or in their own words, "coordinate" on pricing. Contracting firms that operate in clusters often agree on prices before the season and commit to not outpricing each other. Further, it is not uncommon for buyers to carve up territories so as not to step on each other's toes.

Globally, many also note that initially cost savings by agribusinesses are passed on to farmers who are then subsequently and gradually squeezed over time, a phenomenon referred to popularly as 'agribusiness normalization'. It is also common enough that businesses end up consolidating, so that whereas farmers enjoy the advantages of multiple buyers initially, they end up facing a single buyer eventually. In each of these cases, there is a high likelihood that new players will offer better access to markets for farmers, but it is eminently possible that this happens without produce for Nestlé, until the agreement soured because Nestlé wanted to take over the factory rather than contract with the cooperative. The emergence of Business-to-Business (B2B) models among agri-tech firms, less challenging to agribusiness than Business-to-Consumer (B2C) models, for instance, suggests that these firms end up as intermediaries connecting large retail with farmers, implying reinter mediation rather than disintermediation of the supply chain. While substantial gains may exist for these players, it is a moot question on what the farmers' position in these chains will be.

Conclusion

The three bills on reforming agricultural markets mean little to the farmers without a coherent vision and blueprint for Indian agriculture that provides the right context. To suggest that protesting farmers are misled or confused is to evade these crucial issues. The way forward for the government is to revisit and rethink the newly enacted legislation and provide clarity on the vision it has for Indian agriculture. It must do so not by bypassing the states and its farmers but by including them.

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