

Diagnosing and overcoming sustained food price volatility: Enabling a National Market for Food

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The agricultural markets in India suffer from high price volatility. When food prices are high, consumers protest and in the years when food prices are low, farmers are in distress and demand loan waivers. Four policy pathways address this issue: storage, national trade, international trade and futures trading. We argue that the Constitution imposes an obligation upon the Union government to achieve a national market. We work out an implementable set of steps through which the Union government can obtain a national market for agricultural produce.

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1 Introduction

One major symptom of the difficulties of Indian agriculture is high food price volatility. At present responsibility for dealing with food price shocks is distributed across various departments at the Central level, and between the Union and the states. While the Ministry of Agriculture is primarily responsible for production, Department of Food and Public Administration is responsible for trade and supply of food, state governments are responsible for Agricultural Produce Committees (APMCs) and warehouses. The Director General of Foreign Trade under the Ministry of Commerce is responsible for the control of exports.

Increasing food prices and food price shocks have stopped being a problem of a single *part* of the Indian economy which can be solved by a single agency. We conjecture that there may be a Samuelson's Cobweb model at work. There is a year in which sugarcane output is high, this gives a crash in prices, then producers pull back from allocations of land and agricultural inputs, this gives a decline in output, which gives a surge in prices, and so on. A country that is locked into this behaviour will experience an endless cycle of boom and bust in food prices.

There are four features of public policy which address this problem. Speculative activities on *futures markets* create publicly visible estimates of future prices, which can help production decisions look forward into the future instead of looking at present or past prices. *Warehousing* makes it possible to shift selling across time, and thus obtain more stable prices. *International trade* makes it possible to export goods when production is bountiful, and vice versa, thus stabilising prices. *Domestic trade* yields the same impact, as India is a continental economy with heterogenous production shocks across the country.

In this paper, we focus on the last question: how can domestic trade in agriculture be obtained? This requires shifting from the present constraints into a National Market for Agriculture.

Unlike markets for other goods and services, where India has increasingly graduated from narrow markets to national markets, the food market has a large number of restrictions, regulatory requirements, tax rules, and cartelisation. These prevent the development of a national market in food. There is a need to remove the laws promoting cartelisation and fragmentation of the market *and* take positive measures to integrate the presently fragmented markets. Such a national market will reduce rent seeking in agricultural trade and may reduce price volatility.

This paper offers a tangible strategy through which the national market in food

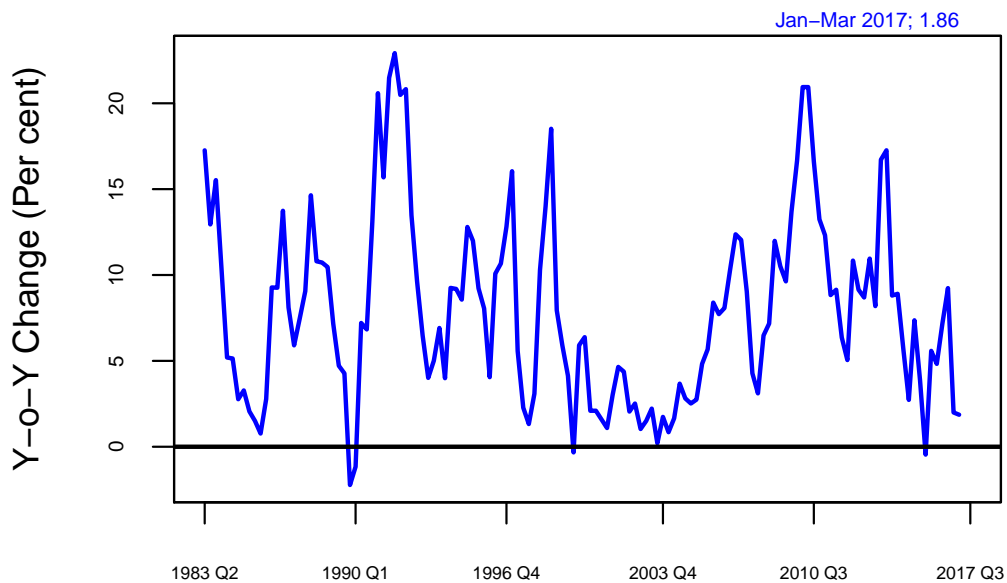


Figure 1: Food inflation

can be achieved. Under Article 301 of the *Constitution of India*, the Central Government has a *duty* to enable a national market for food.

2 The problem

A recurrent problem of Indian agriculture is a boom-and-bust cycle in prices. We see periods of large increases in food prices followed by large decreases. As an example, Figure 1 shows the sharp fluctuations in the year-on-year change in the overall WPI (Food articles) index. Food inflation fluctuates within a very large range, from slight deflationary values to +20%.

We utilise tools of business cycle analysis, for periods of acceleration and deceleration in prices. Figure 2 shows the upswings and downswings in WPI food price inflation. The shaded portion shows the episodes of decline in WPI food inflation. Figure shows that since 1983 (April-June), there have been 14 episodes of upswings and then downswings in WPI food price inflation, in a period of 34 years. On average, each complete episode runs for 2.4 years.

How do we explain this? One element of the story may be the Samuelson *Cobweb model*. As an example, consider the cultivation of sugarcane. The production decision tends to look back at last years price of cane. Quantities of land

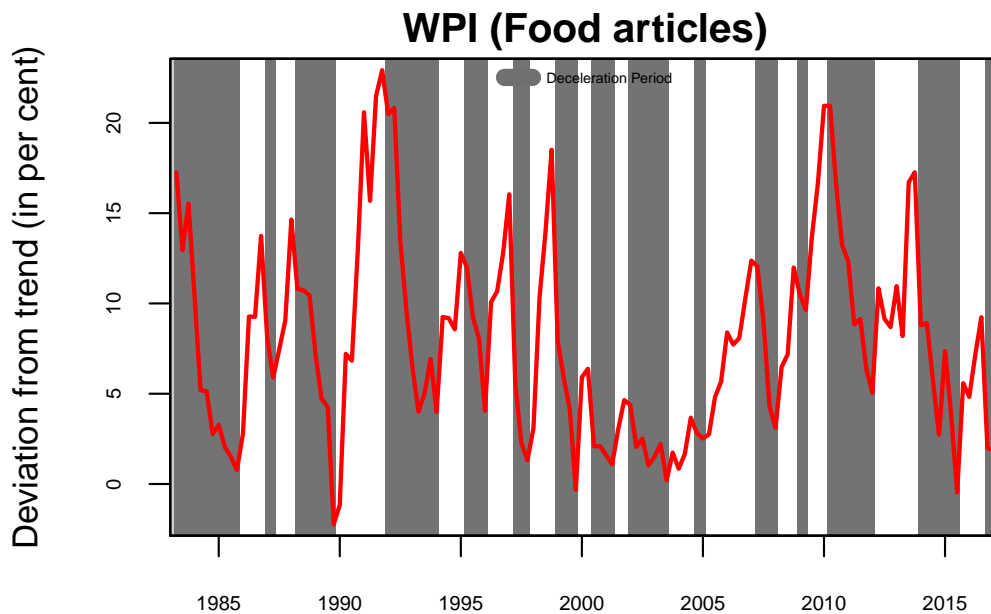


Figure 2: Periods of upswings and downswings in WPI Food inflation

and other agricultural inputs are chosen from this point of view. Suppose that adverse weather conditions gave crop damage. This results in a leftward shift of the supply curve and increase in the price. In response to this increase in prices, cultivators will increase their allocation of resources. This gives a surge in output, and a decline in prices. This, in turn, kicks off a reduction in inputs, and so on. This gives a cycle of high prices followed by low prices.

As an example, Figure 3 shows the year-on-year change in Tur dal prices in recent years. Tur dal prices sky-rocketed in 2015. In response to the spiralling prices, farmers increased the cultivation of Tur. Increased arrivals in Mandis, along with curbs on storage led to a steep fall in Tur dal prices after September 2016.

What are the mechanisms through which the market economy deals with these problems? There are four elements to the solution:

1. Futures markets: The observation of a future price helps the production decisions look forward and not look back;
2. Storage: When prices are low, economic agents should be able to store goods, and thus carry them into future dates with high prices;
3. International trade: When prices are low, it should be possible to export, and when prices are high, it should be possible to import. This would stabilise prices.
4. National market: Domestic trade would have the same effect as interna-

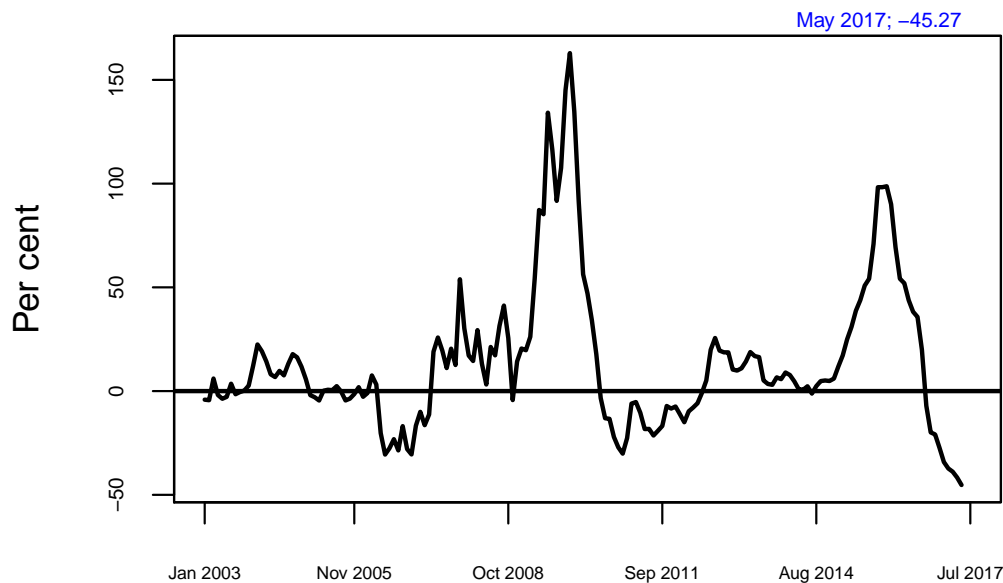


Figure 3: Fluctuations in Tur dal prices

tional trade given that India is a continental economy with many diverse weather events across the country.

In the overall treatment of agricultural policy in India, these four issues are of particular importance. In this paper, we focus on the question of the national market.

3 National market in Food

3.1 Rigidities and restrictions in current market structure

In a *normal* market increased demand is signalled by increased prices. As prices increase, producers get a signal to produce goods which are now in demand. Traders get a signal to transport goods from areas where they are *cheaper/ in greater supply* to areas with increased prices. This in turn creates greater supply and this consequently moderates prices.

The essence of the problem lies in the magnitude of the price change that is required to elicit the required change in the quantity. For an analogy, if consumers shifted from television sets to computers, a fairly large increase in production of computers would come about with a modest increase in the price. In Indian

agriculture, very large changes in the price are required to obtain the required change in the quantity. *This points to rigidities in the economy through which small price signals are ineffectual.*

The critical question that we need to address is: *How do we obtain a more flexible and responsive agricultural market, that is able to respond to changes in demand with modifications in output without requiring extreme price fluctuations?*

The problem of intermittent surges in food prices has persisted in India in spite of various reforms measures taken in the last ten years. The biggest set of reforms have been with regard to the APMCs with the *Model APMC Act, 2003*.¹ However, these reforms largely focused on addressing some of the concerns in the local market for food within the existing framework of state APMCs established under state APMC laws. As this paper will show, these laws promoted local monopsonies where APMCs were granted varying degrees of exclusive powers over their “market areas”. The reforms to this system have fallen short in removing monopolistic and un-competitive practices in the inter-state trading of agricultural products. For example, the Andhra Pradesh law specifically prohibits persons from buying any notified agricultural product in a notified area unless that person is registered with the APMC as a trader.² The very existence of APMCs provide barriers to trade in agricultural goods and the development of a functional market. For example, even where private markets are allowed, Karnataka prohibits competing private APMCs from coming up by requiring a minimum distance between old APMCs and new private ones.³ Even other government sponsored surveys have noted this failure of competitive markets:

*“Existence of established traders and barrier to new entry is a typical market phenomenon; and less number of active traders during slack season also reduces competition.”*⁴

We therefore think that amongst other reasons for the frequent occurrence of price shocks in agricultural food products, two important reasons are:

1. Absence of a national market in food; and

¹Government of India. *The State Agricultural Produce Marketing (Development and Regulation) Act, 2003*. Model Act. Sept. 9, 2003.

²Section 7 read with section 23 of the Andhra Pradesh. *Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966*. Nov. 18, 1966.

³Regulation 87B of the Karnataka. *Karnataka Agricultural Produce Marketing (Regulation and Development) Rules, 1968*. Feb. 4, 1967.

⁴P G Chengappa et al. *Competitive assessment of onion markets in India*. Tech. rep. Agricultural Development, Rural Transformation Centre, Institute for Social, and Economic Change, 2012, at pg. II.

2. Large number of distortions in local markets for agricultural food commodities which prevent them from functioning competitively.

3.2 What is a national market for food?

India currently has a national market for most goods other than agricultural products. Commodities can be transferred freely throughout the country without being subject to state-specific restrictions. This is not the case with agricultural food products. Unlike other commodities or consumer goods, markets in agricultural food products are governed by legal requirements or restrictions which were put in place with the intention of *creating* markets (such as APMCs) but have had the effect of keeping markets non-competitive, segregated and *localised*.

For most other commodities, there are no restrictions on who can purchase or sell goods. Usually a simple registration under the relevant shops and establishment laws allows for trade in all consumer goods. Most control orders governing trade have been removed by the government. For example, until 1989, the Aluminum Control Order required all domestic producers to produce specified types of aluminium, in specified ratios and sell them at specified prices. There were similar rules of cement consumption and many other commodities, which have also been abolished. Yet, the present provisions and rules of many APMC laws enact and enforce similar rules for agricultural products.

We believe that the process of creating competitive *local markets* in food commodities can be done by the Central Government using its powers under the Constitution.⁵ The Central Government can create the *legal infrastructure* for an integrated *national market for food*. This would *override* the existing restrictive framework currently in place in most states.

3.3 The Constitutional requirement of a national market

Article 301 of the *Constitution of India*, states that trade and commerce throughout India shall be free. This is subject to reasonable restrictions the Parliament and state legislatures may impose in the public interest. APMC laws, regulations and other administrative practices that regulate trade in food commodities may be said to come within this power to impose restrictions.

⁵The power of the Central Government to take such steps is discussed later with reference to two five-judge bench cases of the Supreme Court.

However, the availability of such power to impose restrictions is not a justification for using them. The superior constitutional mandate is to ensure free trade throughout India. Restrictions have to be secondary to this constitutional requirement. While courts have upheld many such laws and restrictions as within the state's legal power to impose restrictions, courts have not commented on whether these are *viable* mechanisms of acting in the public interest. The Central Government therefore has an obligation to create a better-regulated, *national* market that allows producers and consumers to trade freely without being subject to undue local and state-level restrictions.

3.4 What is preventing a national market in food?

We believe that there are two specific problems which prevent a national market for agricultural food products from being enabled.

1. **Legal Restrictions placed by states:** The barriers and restrictions on trade in agricultural goods placed by individual states are so high that it is not commercially feasible to enable a national market. The APMC laws, storage laws and other legal structures promote oligopsonies with cartels of buyers within the state.⁶ National players without affiliation to such cartels are unable to participate in agricultural trade. A report by NCAER confirms the following:

“Such restrictions and also harassment by officials, corruption and bribery, have resulted in slow movement of grains from surplus to deficit regions, increase in price variation across regions and added to cost of marketing/trading, making domestic prices internationally uncompetitive” (Current Status of Select Indian Agricultural Markets: Primary Survey, 2008).⁷

2. **Technical barriers to trade:** There are other state laws (primarily on taxes) which require so many technical compliance requirements that physically moving goods across markets is extremely difficult. Some of these are: the checks placed on each APMC border, the checks placed on each state border, the tax compliance procedures, and the time taken to comply with each check.

These are similar to ‘technical barriers to trade’ which sovereign nations

⁶For a comprehensive discussion on restrictive administrative practices, see “Efficient Redistribution through Deregulation of Domestic Grain Markets”, pages 5-7.

⁷Akhouri A. Bhide S. Chadha R. Elumalai K. Kumar P. Pratap D. and Tandon A. *Current Status of Select Indian Agricultural Markets: Primary Survey*. Tech. rep. National Council for Applied Economic Research, 2008, page 2.

try to place to evade or defeat obligations placed under the WTO treaties. These are essentially transaction costs that can be compared to a “tariff” on inter-state trade.⁸ Such a tariff adds to “final cost paid by consumers and creates a deadweight loss in the economy.”⁹ Therefore, each state essentially “treats goods produced in other States as equivalent to imports”.¹⁰

As may be noticed, these two problems arise from existing laws and administrative practices in compliance with such laws. The solution to these problems therefore requires the identification of these laws and *legal solutions* to these problems.

The marketing and movement of agricultural food products is subject to a number of other legal constraints that enable a regional and monopolistic system of controls in addition to the APMC laws.

1. State control over production and trade in essential commodities:

Under the *Essential Commodities Act, 1955*, state governments have been delegated the authority to control the production, supply and distribution of essential commodities.¹¹ Powers under this law are used to suddenly prevent storing of large quantities of agricultural commodities when the government perceives ‘hoarding’ is leading to price increases. This severely hampers storage capabilities of any ‘national’ business which may smoothen demand by seasonal storage.

There is increasing literature and evidence showing that an encouragement of private trade, and the removal of restrictions also helps in reducing high public costs of storage and associated costs (S. and P.V., 2003).¹²

2. Incomplete markets in futures: Presently there are a number of restrictions on trade in futures of agricultural commodities. Options on commodities are totally prohibited. This prevents a functioning system of risk management for national players in agricultural commodities.

3. Arbitrary export and import controls: Export and import controls are placed whenever domestic prices fluctuate. This reduces incentive for farmers to actually plan for export markets. In turn international traders cannot depend on long term contracts being fulfilled and may stop depending

⁸See, Jha S. and Srinivasan P.V. “Efficient Redistribution through Deregulation of Domestic Grain Markets”. In: (2003), page 8.

⁹S. and P.V., “Efficient Redistribution through Deregulation of Domestic Grain Markets”, page 14.

¹⁰Bibek Debroy and Kaushik Basu. “Barriers to inter-state trade and commerce: The case of road transport, paper prepared for the Commission for Contemporary Studies”. In: (2002).

¹¹See India. *Essential Commodities Act, 1955*, Sections 3 and 5.

¹²S. and P.V., “Efficient Redistribution through Deregulation of Domestic Grain Markets”, page 3.

on Indian exports. This leads to lack of investment in production of food which may be exported. Intermittent and frequent exports bans on onions and rice are examples of measures which may be destroying normal market mechanisms from being employed.

All of the above-mentioned factors are important constraints in the creation of a national market for food products. The *Committee on Agricultural Reforms*, echoes these concerns. It specifically notes that the present agricultural marketing system suffers from “high incidence of market fee/charges and lack of competition with long chain of intermediation”.¹³ In order to resolve these issues, the *Committee on Agricultural Reforms*, recommended, *inter alia*, a “barrier free national market for the benefit of farmers and consumers”.¹⁴

Removing the constraints mentioned above would serve two objectives:

1. It would increase local competition by allowing more private players and by removing the monopoly of APMCS; and
2. By removing administrative hurdles at intra-state and inter-state levels, it would enable a national market for food products.

There is a large variation of price of the same commodity across various markets in India. This is not explained away by mere transportation costs. Even within the same geographical area there is a wide variation in the price. This has been observed in a large number of academic papers about the Indian markets:

*It was rather ironical to observe that farmers who sold through regulated markets were paying higher per quintal marketing cost compared to those who were selling through informal channels mostly within the village.*¹⁵

For a standard commodity like *masoor dal*, figure 4 shows that there is variation of price of a standard commodity across markets which is long term and persistent. The lack of convergence over the last decade is a strong indicator of fragmentation of the market.

¹³Ministry of Agriculture, Department of Agriculture and Co-operation, Government of India. *Final Report of Committee of State Ministers, In-charge of Agriculture Marketing to Promote Reforms*. Ministry of Agriculture, Jan. 22, 2013.

¹⁴See GOI, *Committee on Agricultural Reforms*, Preface, para 3 at p. iv.

¹⁵D. and A., *Current Status of Select Indian Agricultural Markets: Primary Survey*, page 55.

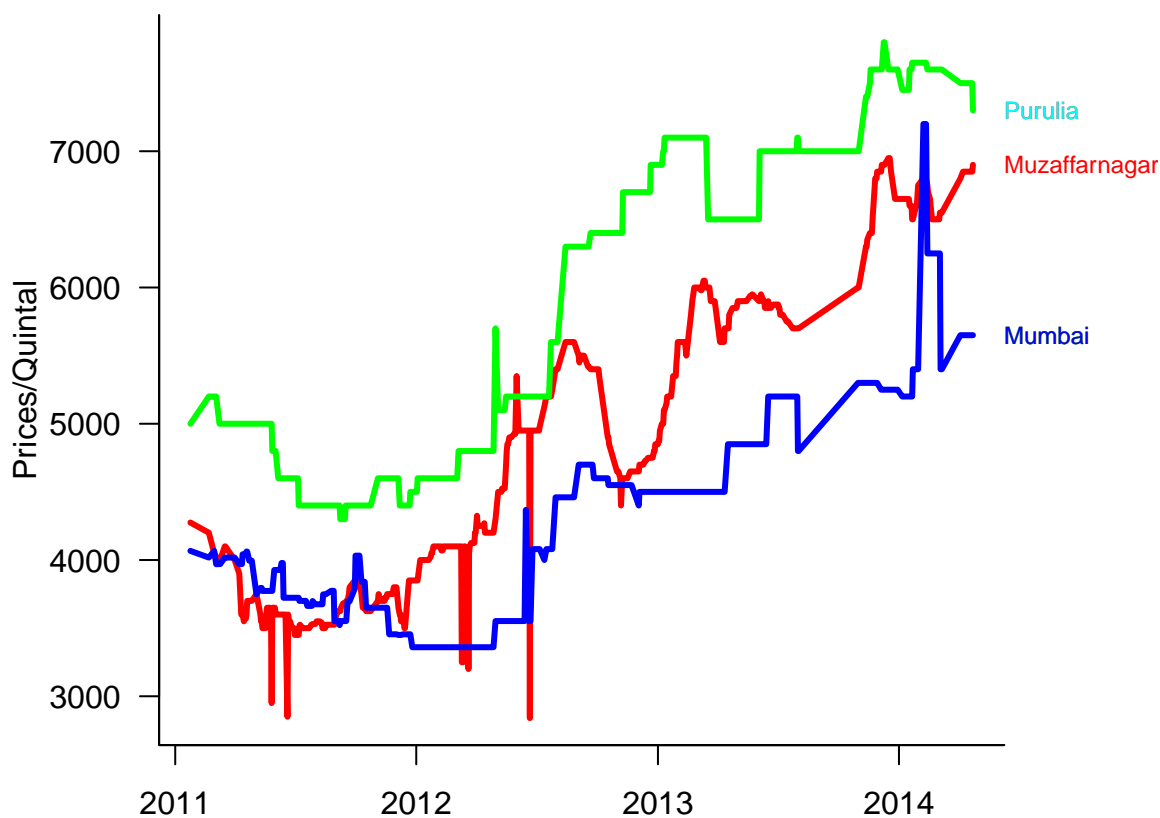


Figure 4: Variation of masoor dal prices in different markets of India

3.5 Movement towards a national market

There has been gradual, incremental movement towards removing some of the restrictions discussed above. A number of states including Meghalaya, Uttarakhand, Haryana, Assam and Andhra Pradesh, recently issued notifications delisting fruits and vegetables from their respective APMC Acts.¹⁶ Even in the past, states have progressively denotified commodities under APMC Acts. For example, in 2012, Maharashtra state government moved 30 fruits and vegetables out of APMC regulation.¹⁷ Bihar, Kerala, Daman and Diu, Lakshwadeep, Andaman

¹⁶Indian Express, “Most Cong states follow Rahul diktat to remove levy on fruits, vegetables”, available at: <http://indianexpress.com/article/india/politics/most-cong-states-follow-rahul-diktat-to-remove-levy-on-fruits-vegetables/> (visited on Mar. 2, 2014).

¹⁷Jayashree Bhosale, “Maharashtra lets farmers bypass APMC”, The Economic Times, Apr. 5, 2012, available at: http://articles.economictimes.indiatimes.com/2012-04-05/news/31294046_1_apmc-act-vegetables-maharashtra-farmers(visitedonApr.22,2014).

and Nicobar islands, Manipur and Dadra and Nagar Haveli have no APMC Acts. Bihar repealed its APMC Act in 2006 and privatized its agricultural marketing infrastructure.¹⁸ In September 2011, a committee of State ministers on agriculture marketing asked State Governments to amend their APMC Acts to create barrier-free national market and encourage private investment.¹⁹

These reforms however are incremental, and do nothing to remove the *legally mandated* monopsonies and restrictions that have been imposed on the agricultural market. Additionally, these reforms are narrowly targeted at removing food products out of the ambit of APMC's, rather than enabling a competitive national market.

4 Legal power to enable a national market

The Constitution distributes legal powers on various subject matters to various parts of the government. Any legal move to enable a national market by the union will have to be within the 'powers' of the union executive and legislature. This requires an analysis of the provisions of the Constitution which pertain to markets and food.

We found two relevant provisions in the *Constitution of India*, which empower the union government to enable a national market for food:

1. Entries in the Seventh Schedule of the *Constitution of India*
2. Article 301 of the *Constitution of India*

4.1 Entries in the Seventh Schedule of the *Constitution of India*

It may be argued that since the term 'agriculture' has been provided in Entry 14 of List II of the Seventh Schedule, the state legislature and executive have authority

¹⁸Anindita Dey, "Non-APMC states asked to regulate marketing practices", Business Standard, Aug. 21, 2011, available at: http://www.business-standard.com/article/markets/non-apmc-states-asked-to-regulate-marketing-practices-111082100031_1.html (visited on Apr. 22, 2014).

¹⁹PTI, "Panel urges States to amend APMC Act to remove 'barriers'", Business Line, Sept. 8, 2011, available at: <http://www.thehindubusinessline.com/industry-and-economy/agri-biz/panel-urges-states-to-amend-apmc-act-to-remove-barriers/article2436638.ece> (visited on Mar. 2, 2014).

The entries from List I of the Seventh Schedule of the *Constitution of India*, show that Parliament has legislative power to do both of the following:

- Regulate *all* inter-state trade and commerce;
- Regulate *intra-state* trade and commerce in, and the production, supply and distribution of “foodstuffs, including edible oilseeds and oils.”

List and entry	Subject of entry
List I Entry 42	“Inter-State trade and commerce.”
List II Entry 26	“Trade and commerce within the State subject to the provisions of entry 33 of List III.”
List II Entry 27	“Production, supply and distribution of goods subject to the provisions of Entry 33 of List III.”
List III Entry 33	“Trade and commerce in, and the production, supply and distribution of, - (a) the products of any industry where the control of such industry by the Union is declared by Parliament by law to be expedient in the public interest, and imported goods of the same kind as such products; (b) <i>foodstuffs</i> , including edible oilseeds and oils; ...”

Table 1: Constitutional entries on national market for food

over agricultural matters. However, that argument does not hold for marketing where there is a specific Constitutional requirement for a national market in India. The general rule of interpreting the Constitution requires that provisions of the articles of the constitution should override entries in the schedule as substantive powers to government are derived from the provisions. Therefore Parliamentary action on creating a national market would trump state laws when Article 301, Entry 33 of List III, Entry 26 of List II and Entry 42 of List I of the *Constitution of India*, are read together.

A constitution bench of the Supreme Court in *Belsund Sugar Co. Ltd. Vs. State of Bihar and Others*, has held that laws made under the State List of the Seventh Schedule are subject to laws made under Entry 33 of the Concurrent List.²⁰ This case concerned the legality of the levy of market fees under the Bihar Agricultural Produce Markets Act, 1960 (“Markets Act”). The relevant contention was whether the Market Act applies to the purchase of sugarcane and the sale of sugar, since the “regulation of these transactions is already effected by the Bihar Sugarcane (Regulation of Supply and Purchase) Act, 1981 (“Sugarcane Act”). The Supreme Court made the following points relevant to the focus of this paper:

1. If the Market Act were concerned solely with the location, management and maintenance of markets, the law would fall solely within Entry 28

²⁰Supreme Court of India. *Belsund Sugar Co. Ltd. Vs. State of Bihar and Others* (1999)9 SCC 620. Aug. 10, 1999.

of List II (“Markets and Fairs”). However, the Market Act deals with the supply and distribution of goods as well as trade and commerce within the markets and market areas. Because of this,

*“the provisions of Entry 33 of List III override the legislative powers of the State Legislature in connection with legislations dealing with trade and commerce in, and the production, supply and distribution of, goods enumerated...foodstuffs, including edible oilseeds and oils.”*²¹

2. The Supreme Court noted that as the Bihar legislature had itself enacted the Sugarcane Act under Entry 33 of List II, the field covered by this Act would be governed by the Sugarcane Act *to the exclusion* of the Markets Act.²²

4.2 Article 301 of the *Constitution of India*

A national market for food can be enabled by using the constitutional provisions enabling free trade and commerce, and Parliament’s power to regulate trade and commerce in foodstuffs.

Part XIII of the *Constitution of India*, provides for free trade and intercourse throughout India, subject to the provisions of this Part. Article 301 of the *Constitution of India*, reads:

Freedom of trade, commerce and intercourse.–

Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

1. **There is a limited power to impose restrictions on free trade in public interest:** Under Article 304(b) States can only impose “reasonable restrictions” on free trade and commerce in public interest. Making a law under Article 304(b) therefore requires a careful, empirical demonstration of the benefits of restricting trade before any such restriction is imposed. If such benefit cannot be demonstrated, the laws/regulations restricting trade should be removed.
2. **Parliament has the authority to create an authority to regulate interstate trade and commerce:** Article 307 empowers Parliament to create any authority and vest it with any power to regulate and promote interstate commerce.

²¹Supreme Court of India, *Belsund Sugar Co. Ltd. Vs. State of Bihar and Others*, at pages 638-639.

²²Supreme Court of India, *Belsund Sugar Co. Ltd. Vs. State of Bihar and Others*, at p. 639.

A constitution bench of the Supreme Court in *Atiabari Tea Company Vs. State of Assam*, has held the following:

1. Article 301 applies not only to inter-state trade, commerce and intercourse, but also intra-state trade, commerce and intercourse.²³
2. Article 301 is to be regarded as “*imposing a constitutional limitation on the legislative power of Parliament and the Legislatures of the States...wherever it is held that Article 301 applies the legislative competence of the Legislature in question will have to be judged in light of the relevant articles of Part XIII.*”²⁴ Therefore, any laws (central or state) which impede free trade and commerce, have to be valid under Part XIII even if they were otherwise validly enacted as per the distribution of legislative powers.
3. Article 301 also applies to tax-related administrative measures. The Court stated that:

*“If the movement, transport or the carrying of goods is allowed to be impeded, obstructed or hampered by taxation without satisfying the requirements of Part XIII the freedom of trade on which so much emphasis is laid by Article 301 would turn out to be illusory...taxing laws are not excluded from the operation of Article 301...if any Act imposes any direct restrictions on the very movement of such goods it attracts the provisions of Article 301, and its validity can be sustained only if it satisfies the requirements of Articles 302 or 304 of Part XIII.”*²⁵

The jurisprudence above has been set by five-judge benches of the Supreme Court, and definitively proves that Parliament has adequate legislative authority to enact laws regulating both inter-state trade and commerce *and* intra-state trade and commerce in foodstuffs.²⁶

There is therefore, adequate constitutional and legislative power that the Central Government and Parliament can exercise to enable a national market for food in India.

²³Supreme Court of India. *Atiabari Tea Company Vs. State of Assam* AIR 1961 SC 232. May 2, 1961, para 42.

²⁴Supreme Court of India, *Atiabari Tea Company Vs. State of Assam*, para 38.

²⁵Supreme Court of India, *Atiabari Tea Company Vs. State of Assam*, para 49-50.

²⁶The Supreme Court has held in a case directly relating to the definition and scope of “food-stuffs” in Entry 33 of List III, that the language of the entries in the Seventh Schedule should be given the “widest scope of which their meaning is fairly capable.” See Supreme Court of India. *Raghu Seeds and Farms Vs. Union of India* (1994)1 SCC 278. Oct. 28, 1993 at p. 281-282

5 Proposed Solutions

A national market in food can be created in the following ways:

1. *Use the powers under the Union List and Concurrent List to replace existing legal framework on agricultural marketing with a modern framework conducive to the creation of a national market.*
 - The existing APMC framework allows APMCs to perform a market-creation framework by giving them monopolistic powers and mandating various restrictions on the storage, sale and distribution of agricultural food commodities. APMCs are not feasible without such powers, and piece-meal efforts to tweak state APMC laws are not a long-term solution. This existing framework therefore needs to be replaced with a modern framework that enables a national food market. This can be done by the following:
 - Use Part XIII and Entry 33 of List III of the Seventh Schedule of the Constitution of India to draft a legislation with the following elements:
 - * Allow farmers and traders of agricultural commodities absolute “freedom to buy and sell” across state lines.
 - * The legislation should *override* state APMC laws and restrictions that restrict a farmer’s right to sell food commodities within and outside the state.
 - * APMC markets should become one among a number of other markets and mandis that may come up in a competitive market.
 - However, existing monopolistic practices in food storage, distribution and marketing may remain even if the monopolies under state APMC laws are done away with. The requirement of regulation in order to remove these monopolies (and whether such a requirement exists), should be carefully examined.
2. *Create a statutory body (ideally a Commission) to identify technical barriers to agricultural trade*
 - Article 307 of the *Constitution of India*, can be used to create a statutory body to review laws and regulations that create administrative procedures that restrict the free movement of agricultural food products.²⁷

²⁷**Article 307. Appointment of authority for carrying out the purposes of Articles 301 to 304.** - Parliament may by law appoint such authority as it considers appropriate for carrying out the purposes of Articles 301, 302, 303 and 304, and confer on the authority so appointed such powers and such duties as it thinks necessary.

- Such a Commission should be established with the broader goal of reducing technical barriers in the trade of *all* goods, and its first priority should be the reduction of barriers to trade in agriculture. The Commission should ideally make its recommendations to an inter-ministerial group of the Union Cabinet as well as to state governments. The inter-ministerial group should consist of the ministers representing the ministries of Finance, Food, Consumer Affairs and Agriculture.
- The statutory body should continuously review existing and new administrative practices and co-ordinate with states to dismantle such measures.
- The statutory body should also recommend a harmonised set of administrative practices designed to allow states to collect taxes and duties in the *least restrictive manner* possible, and allow for smooth movement of agricultural food products. This body would try to achieve the same results as the WTO *Agreement on Technical Barriers to Trade*.²⁸

6 Conclusion

A major problem in Indian agriculture is the large volatility of agricultural prices. We hypothesise that there is a Samuelson's Cobweb model at work. Four elements of public policy come into the picture in order to avoid this problem: futures markets, warehousing, international trade and a national market. This paper has focused on the fourth of these, the national market.

The growth of a national market in agricultural food products is currently restricted by a set of archaic laws that keep food markets un-competitive and localised. Additionally, administrative practices used to collect taxes and duties at state and sub-state levels effectively act as technical barriers to the free movement of agricultural food products. The Central Government can solve this problem using Part XIII of the *Constitution of India*, (See section 4) to enable a national market for food through (See section 5):

1. Creating a statutory body (ideally a Commission) that would identify technical barriers to agricultural trade within India and require them to be dis-

²⁸The preamble to the *Agreement on Technical Barriers to Trade*, states that member countries wish "to ensure that technical regulations and standards, including packaging, marking and labelling requirements, and procedures for assessment of conformity with technical regulations and standards do not create unnecessary obstacles to international trade".

mantled. The statutory body should also recommend a harmonised set of administrative practices designed to allow states to collect taxes and duties in the *least restrictive manner* possible, and allow for smooth movement of agricultural food products.

2. Using the powers of the Union Government under the *Constitution of India* remove monopolies and punitive provisions under existing APMC laws, and replacing them with a modern regulatory framework conducive to the growth and operation of a national market in agricultural food commodities. The question of whether a new regulatory framework is required to replace the APMC framework (or whether the repeal of state APMC laws in itself will enable a national market by breaking existing monopolistic practices) needs to be carefully studied.

References

- Andhra Pradesh. *Andhra Pradesh (Agricultural Produce and Livestock) Markets Act, 1966*. Nov. 18, 1966.
- Chengappa, P G et al. *Competitive assessment of onion markets in India*. Tech. rep. Agricultural Development, Rural Transformation Centre, Institute for Social, and Economic Change, 2012.
- Constitution of India*. 1952.
- D., Akhouri A. Bhide S. Chadha R. Elumalai K. Kumar P. Pratap and Tandon A. *Current Status of Select Indian Agricultural Markets: Primary Survey*. Tech. rep. National Council for Applied Economic Research, 2008.
- Debroy, Bibek and Kaushik Basu. "Barriers to inter-state trade and commerce: The case of road transport, paper prepared for the Commission for Contemporary Studies". In: (2002).
- India. *Essential Commodities Act, 1955*.
- India, Government of. *The State Agricultural Produce Marketing (Development and Regulation) Act, 2003*. Model Act. Sept. 9, 2003.
- Karnataka. *Karnataka Agricultural Produce Marketing (Regulation and Development) Rules, 1968*. Feb. 4, 1967.
- Ministry of Agriculture, Department of Agriculture and Co-operation, Government of India. *Final Report of Committee of State Ministers, In-charge of Agriculture Marketing to Promote Reforms*. Ministry of Agriculture, Jan. 22, 2013.
- S., Jha and Srinivasan P.V. "Efficient Redistribution through Deregulation of Domestic Grain Markets". In: (2003).
- Supreme Court of India. *Atiabari Tea Company Vs. State of Assam AIR 1961 SC 232*. May 2, 1961.

Supreme Court of India. *Belsund Sugar Co. Ltd. Vs. State of Bihar and Others*
(1999)9 SCC 620. Aug. 10, 1999.
– *Raghu Seeds and Farms Vs. Union of India* (1994)1 SCC 278. Oct. 28, 1993.
World Trade Organization. *Agreement on Technical Barriers to Trade*. 1995.