ONE COUNTRY ONE MARKET: A MYTH

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INTRODUCTION

It would not be wrong to say that the world today is shrinking. The countries today are more open in trade than they ever were in the modern history. There is integration of the world economies to form a global hub. All this is happening because all nation countries have understood the importance of world trade. They are no more afraid of the foreign ghosts. In fact there is a growing acceptance to the fact that removal of trade barriers and encouraging world trade leads to economic efficiency and thereby increases welfare.

Economic efficiency is promoted not only through decentralisation of governmental functions to levels of government closest to the beneficiaries – the principle of 'subsidiarity' as it is sometimes called – but also by creating a common market within a large geographical area otherwise separated by jurisdictional boundaries. Even independent nations have come together to form economic unions to reap the advantages of a large internal market that allows free play of market forces with unfettered flow of products and factors of production within the union enabling all constituents to grow according to their comparative advantage, the European Union being an outstanding example.

In such an international scenario, it is not only important to open the economy to foreign trade but it is equally important to create a common national market. It is important that there are no restrictions on the movement of goods, services and factors of production within the country. Such free trade will enable different states of the country to specialize in areas in which they have the minimum opportunity cost and thereby increase economic efficiency.

The constitution of the country understands the vital importance of free trade within the country. Part XIII of Constitution that deals with the question of freedom of internal trade opens with the mandate:
Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free. (Article 301).
Although provision was made for parliament and state legislatures to impose restrictions on trade if felt necessary in 'public interest', care was taken to see that such powers are exercised with the utmost circumspection, presumably in exceptional circumstances.

However, the actual situation in the country is dismal. Where the entire world is integrating into one market, India is sacrificing the advantage of one large domestic market by its fragmentation. There are several acts and orders that prevent the free flow of goods and factors of production within the nation. Though the intentions behind most of these acts were good, they have failed to achieve their long term goals and are in fact leading to market distortions.

SOME DEFINITIONS

TRADE

Trade is the voluntary exchange of goods, services, or both.

Trade exists for man due to specialization and division of labor, most people concentrate on a small aspect of production, trading for other products. Trade exists between regions because different regions have a comparative advantage in the production of some tradable commodity, or because different regions' size allows for the benefits of mass production. As such, trade at market prices between locations benefits both locations.

Apart from enabling producers in gaining market access to distant and more remunerative markets, trade also helps generate employment with very little capital investment. In case of agricultural products, higher trade flows generally results in the producers getting a higher share of the consumer price, thus enhancing their income.

TRADE BARRIERS

Trade barriers refer to government-imposed policies to restrict trade. These policies might include quota, licenses, bans, duties etc.

Imposing trade barriers restricts regions from fully realizing the benefits of trade. A protectionism regime causes over-allocation of resources in the protected sector and exploitation or under-allocation of resources in free trade sectors. This usually leads the country into economic disequilibrium, which hampers growth.

Free trade environments offer greater and better choices in the market, leading to enhanced consumer satisfaction. With trade barriers in place, the government curbs consumer rights to enjoy competition in the market.

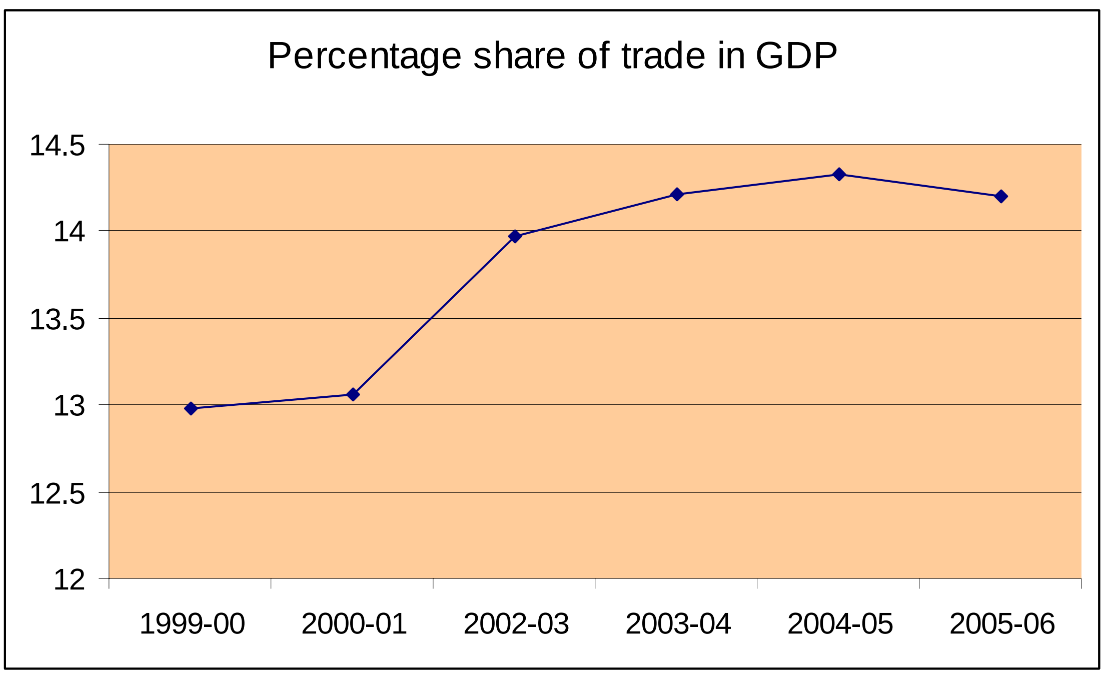
INTERNAL TRADE IN INDIA

The picture of trade within India is not very encouraging. The share of trade in the Indian economy has remained pretty low over the last few decades. The contribution of internal trade to GDP has ranged between 12.9% - 14.3% during the period 1999-00 through 2005-06 peaking at 14.32% in 2004-05. Even at such low levels, this sector was responsible for the employment of more than 36 million people, a majority of whom were self employed, engaged in the retail and wholesale trade.

CONTRIBUTION OF INTERNAL TRADE TO GDP
(At 1999-2000 prices) (Rs Ten Million)

YEAR	Contribution of Trade to GDP	Total GDP at Factor Cost	Percentage share of trade in GDP
1999-00	231878	1786525	12.979
2000-01	243505	1864773	13.058
2002-03	286060	2047733	13.969
2003-04	315966	2222591	14.216
2004-05	342297	2389660	14.324
2005-06	369885	2604532	14.201

Source- Handbook on Statistics, CSO



Internal trade is made up of trade in goods and services across the country. The major problems faced by the trading community are the diversity of controls exercised by multiple authorities at different levels, restrictions on inter-state and inter-district movement of goods, lack of uniformity in standards laid down by different authorities and agencies and in taxes.

All this has led to breaking up the vast Indian market into a large number of smaller regional markets. The paperwork involved in complying with the various controls, regulations and licenses, the cost involved in terms of time and resources and the inevitable corruption and malpractices that this leads to have served as big drag on the efficiency of trading operations in the country. There is a need to look into the impediments that hinder efficient trading. But before doing that, it is extremely important to understand the take of the Indian Constitution on matters relating to internal trade.

THE CONSTITUTIONAL PERSPECTIVE

While the Indian Constitution does not restrict free flow of trade and commerce; the Centre and the States have the power to regulate it. *Article 19(1)(g)* of the Constitution, *inter alia*, guarantees to every citizen the right to adopt any trade, business or profession, subject to "reasonable restrictions", which may be introduced in the interest of the population. The indirect reference to absence of barrier also comes from *Article 14* of the Constitution, guaranteeing equality before the law and equal protection of the laws.

Article 301 of the Constitution "throughout the territory of India" allows a State legislature to "impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that State as may be required in the public interest".

Article 302 authorizes Parliament to impose, by law, restrictions on the freedom as described in *Article 19* in the public interest. Although *Article 302* does not require the restriction to be necessarily reasonable, that requirement follows (by judicial interpretation) from Article 14 and (by express provision) *Article 19(1)(g)*, with *Article 19(6)*. Parliamentary power under *Article 302* is also subject to the restriction imposed by *Article 303(1)*. This prohibits the enactment of any law (by Parliament or State legislature), which gives preference to one State over another, or a law discriminating between the States regarding trade and commerce.

Under *Article 303(2)*, however, the aforesaid restriction can be relaxed by Parliament through law, for dealing with a situation arising from the scarcity of goods in any part of India.

The State Governments are empowered by constitution to legislate on trade and commerce for subjects under the State list, entry 26 (subject to the Concurrent list, entry 33). However, the provisions of *Article 301* are applicable to trade and commerce within the State also. According to *Article 303(1)* neither the State legislature nor Parliament shall have power to make any law, which in effect discriminates between States regarding trade and commerce in any of the lists in the Seventh Schedule. *Articles 302* and *303(2)* are not relevant to the power of States.

Article 304(a) provides that a State legislature may, by law, impose on goods imported from other States or the Union Territories any tax, where similar goods manufactured or produced in that State also receive similar treatment. However, there should be no discrimination between the imported and manufactured goods. This article permits State legislatures, by law, to impose such reasonable restrictions on the freedom of trade, commerce or intercourse with or within that

State, as may be required in the public interest. At the same time, by the constitutional provision, no Bill or amendment for the purpose of *Article 304(b)* shall be introduced or moved in a State legislature, without the prior sanction of the President. *Article 304(b)* applies only if the restriction is "reasonable". Courts have held that the test of reasonableness is the same as that applied under *Article 19(6)*.

By dint of these constitutional provisions, the Indian states usually impose taxes and other measures on imports of products form other states and UTs. Therefore, these provisions act as a barrier on the inter-state movement on goods, the extent of which depends on the amount of taxation.

Although *Article 301* is generally in consonance with *Article 19(1)(g)*, there exist certain differences among them as well, as seen in the following.

(i) Article 19(1) (g) is confined to citizens, while Article 301 is not.

(ii) Article 19 (1) (g) refers to "profession, occupation, trade or business", while Article 301, speaks of "trade, commerce or intercourse".

(iii) Article 19(1) (g) does not contain the words "throughout the territory of India", which occur in Article 301. In this sense, Article 19(1) (g) may be relevant for international trade also. Article 301 may not apply to international trade.

(iv) Article 19(1) is subject to the provisions of Article 19(6) (which permits the State to impose certain types of restraints). Article 301 is not so subject, though it is very likely that it will be construed as so subject (on the principle of harmonious construction).

(v) Article 19(1) (g) confers a fundamental right (on citizens). In contrast, the right conferred by Article 301, though a constitutional right, is not a fundamental right.

(vi) Article 19(1) (g), though it is subject to Article 19(6), is not made subject to any other express qualifications. But Article 301 is made subject to Articles 302 to 307.

(vii) Article 19 is primarily intended to restrict legislative or executive action, but has no direct relevance to the concept of federalism. In contrast, Articles 301-307 have a direct relevance to the concept of federalism. Of course, this does not imply that Article 301 is confined to federal controversies. Its possible scope can be much wider.

(viii) For the reason mentioned earlier, in many proceedings invoking Articles 301-307, disputes can arise between the Union and a State, or between States, - thus attracting Article 131 of the Constitution. In contrast, in cases under Article 19 (1)(g), the controversy will be normally litigated between the Government and a citizen.

Due to the Constitutional overlap, the Centre cannot overrule the State Governments. Any decision on the removal of the inter-state barriers must be taken in agreement with the States. This constitutional overlap led to the persistence of the barriers on internal trade.

RESTRICTIONS ON TRADE

1. Essential Commodities

There are restrictions on the trade of Essential Commodities under the Essential Commodity Act, 1955. Essential Commodities is a generic term and has not been defined under the Act. However, the act defines essential commodities as the following classes of commodities:

1. Items of mass consumption: Foodstuffs (including edible oilseeds and oil) tea, drugs, textiles.
2. Items of agricultural origin: Cattle fodder, seed of food crops, seeds of fruits and vegetables.
3. Intermediate products: Insecticides, fungicides and medicines.
4. Industrial products: Coal, iron and steel, paper, petroleum, cement, textile machinery, electric cables, general lighting service lamps and switches.

LIST OF COMMODITIES DECLARED ESSENTIAL UNDER THE ESSENTIAL COMMODITIES ACT, 1955.
(As on 15.12.2004)
Declared under Clause (a) of Section 2 of the Act
1. Cattle fodder, including oilcakes and other concentrates.
2. Coal, including coke and other derivatives.
3. Component parts and accessories of automobiles.
4. Cotton and woollen textiles.
5. Drugs.
6. Foodstuffs, including edible oilseeds and oils.
7. Iron and Steel, including manufactured products of Iron & Steel.
8. Paper, including newsprint, paperboard and strawboard.
9. Petroleum and Petroleum products.
10. Raw Cotton, either ginned or unginned and cotton seed.
11. Raw Jute.
Declared as essential through notifications under sub-clause (xi) of clause (a) of Section 2 of the E. C. Act
12. Jute textiles.
13. Fertilizer, whether inorganic, organic or mixed.
14. Yarn made wholly from cotton.
15. (i) seeds of food crops and seeds of fruits and vegetables,
(ii) seeds of cattle fodder and (iii) jute seeds

Regulations under the Essential Commodities Act, 1955:

In 1955, the Essential Commodity Act was passed by the government of India to control and regulate production, manufacturing and distribution of essential commodities in India. Under this act, the central government had the powers to make orders for the following:

(i) Regulating by licenses, permits, etc. the production, storage, transport, distribution, disposal acquisition, use or consumption of an essential commodity;
(ii) Increasing cultivation of food grains;
(iii) Controlling prices;
(iv) Prohibiting the withholding from sale of any essential commodity;
(v) Requiring a stockholder to sell any essential commodity to the Government;
(vi) Regulating or prohibiting any commercial or financial transactions in food items or cotton textiles which may be detrimental to the public interest;
(vii) Collecting any information;
(viii) Requiring production of books of accounts etc; and
(ix) Any incidental matters.

Justification for Regulations:

These controls have been traditionally justified on the grounds that they are necessary to control hoarding and other types of speculative activity.

Problems due to restrictions:

Most of the provisions in this Act have become irrelevant in the context of having achieved self-sufficiency in production. They hamper the market from performing its productive and commercial role. A large number of permits and licences are required to be obtained from the authorities under the Essential Commodities Act and periodically returns have to be submitted and inspections carried out, which add to transaction costs. Some notifications under the same Act restrict movement of goods from the surplus states to deficit states. These controls and restrictions, which include the ever present threat of arrest, act as disincentives to production and distribution of essential commodities by organised companies that can exploit economies of scale.

State-wise position on restrictions imposed by State Governments/Union Territories on movement of food and agricultural produce

State	Status
Andhra Pradesh	*A.P paddy (Restriction on movement), 1987: According to this order no person shall attempt to move or abet the movement of paddy from any place in the state to any place outside the state except under a permit issued by the State government or an authorised officer. The order gives the implementing authority the power to enter, search and seize. However, the order has been kept in abeyance from July 27, 2000.*
Gujarat	Periodic movement controls on groundnut and groundnut oil.
Jammu & Kashmir	Ban on movement outside the state of foodgrains (except Basmati rice), pulses, singharas, oil seeds, cheese & butter and vegetables of all kinds.
Madhya Pradesh	*M.P Rice Procurement (Levy) Order, 1970: It imposes restriction for rice milled in the state, by forcing the millers to give a prescribed percentage of their production in levy to the State government. For rest quantity they have to obtain release order and transit permit from the concerned district collector for movement to other districts or states.*
Maharashtra	*Maharashtra Raw Cotton (Procurement, Processing, marketing) Act, 1971: Since 1972-73, Maharashtra State Cotton Marketing Federation has been making compulsory procurement of cotton with a ban on movement of cotton produce in and out of state, on the basis of guaranteed minimum price. (Since Maharashtra is the largest producer of cotton in the country, the State Monopoly Procurement Scheme causes distortion in trade and pricing. This often leads to smuggling of cotton between Maharashtra and adjoining states as prices go above or below the federation's buying prices.)*
Orissa	Restriction on movement of rice and paddy from one district to another within the state. The producers/cultivators can move their surplus stocks of paddy outside the state with permission of concerned sub-collectors.
Tamil Nadu	Restriction imposed on of paddy/rice out of the state, which is

	conditional to 100% levy.
Uttar Pradesh	*U.P Rice and Paddy (Levy & Regulation on trade) Order, 1985: This applies to the whole of U.P, including the border areas. As per this Order, every licensed miller shall sell and deliver to the government, at the notified price, 60% of each variety of rice. The movement or sale of rice can be done only after obtaining a release certificate from the Centre In-charge/Senior Marketing Inspector/Marketing Inspector (after having to sold to the State government as per the levy).*
West Bengal	*West Bengal Rationing Order, 1964: It delineates 'Rationed areas', which is an area where a rationed article is sold. The movement of foodgrains in these areas is restricted to those appointed by the State authorities.*
Delhi	Control Orders issued in respect of wheat, rice, pulses and sugar but these do not provide for any restriction on movement.
Pondicherry	*Pondicherry Paddy and Rice Procurement (Levy) Order, 1996: According to this, every trader who wishes to transport paddy/rice outside the state shall have to obtain a permit and measure transport levy at 20% of the quantity transported. The traders are also to pay 10% as purchase levy to the government.*

Recommendations:

The Essential Commodities Act dated back to an era of food scarcity when secured supply of essential commodities was considered a necessary government responsibility. Today, the problem is not of scarcity, but of plenty. There is a need to amend the Essential Commodity Act to make it an emergency provision that will have to be formally invoked by notification for a limited period.
Also, there is a need to enact a Central Act to *ban controls on movement* within and between States.

Though more than 200 orders have been passed under the Essential Commodities Act, it will be useful to look at a few of them in detail here:

(A) State Levy Control Orders

Under the Essential Commodities Act, various State Levy Control Orders have been introduced, which require private mills to deliver between 7 and 75 per cent of their rice production to the Food Corporation of India (FCI) and to State Governments for the public distribution system (PDS) and buffer stocks. 'For these deliveries, the mills receive a state-prescribed pan-territorial and pan-seasonal levy price that is based on the minimum support price (MSP) for paddy plus "average" rice milling costs. Only after meeting levy commitments, from which rice hullers and shellers are exempt, can private mills sell their remaining rice output in the open market'. The 'compulsory levy of rice' is prejudicial to rice-millers and puts them at a disadvantage vis-à-vis the hullers and shellers who do not have to make any contribution towards levy.

Statement Showing The Percentage Of Statutory Levy In Various States For Collection Of Rice From The Millers/Dealers On Delivery Of Rice During 2004-2005 Kharif Marketing Season

Sl. No.	Name of the State / UT	Category	Quantum of Levy
1	**2**	**3**	**4**
1	ANDHRA PRADESH	MILLERS/DEALERS	100% till February, 2005, subject to overall delivery of 75% levy, on the condition that deliveries in excess of 75% would be of parboiled rice till the entire estimated procurement of 6.00 lakh tonnes of parboiled rice during KMS 2004-2005 is achieved.
2	ASSAM	MILLERS	50%
3	BIHAR *	MILLERS/DEALERS	40% or 2500 qtls. compound levy on millers. 25% or 500 qtls. compound levy on wholesalers.
4	CHHATISGARH	MILLERS/DEALERS	50%

5	DELHI *	MILLERS/DALERS	75%
6	GUJARAT *	MILLERS	10%
7	HARYANA *	MILLERS/DEALERS	75%
8	HIMACHAL PRADESH	HIMACHAL PRADESH	50%
9	KARNATAKA *	MILLERS/DEALERS	33.33%
10	MADHYA PRADESH	MILLERS/DEALERS	30% (Raw rice)
11	MAHARASHTRA	MILLERS	30%
12	ORISSA	MILLERS	75%
13	PUNJAB	MILLERS/DEALERS	75%
14	RAJASTHAN	MILLERS/DEALERS	75%
15	TAMIL NADU *	MILLERS/DEALERS	50%
16	UTTAR PRADESH	MILLERS/DEALERS	60% (Western UP) 40% (Some Districts in Eastern U.P.)
17	UTTARANCHAL	MILLERS/DEALERS	60%
18	WEST BENGAL	MILLERS	70%
19	CHANDIGARH *	MILLERS/DEALERS	75%
20	PONDICHERRY *	MILLERS/DEALERS	10% (20% transport levy)

* - State Governments of Bihar, Gujarat, Karnataka, Tamil Nadu Delhi and Pondicherry and Chandigarh Administration have issued Levy Control Orders, but these have not been operationalised so far during the current season.

These restrictions take the right of the farmers away as these prevent the farmers from obtaining the maximum return for their produce. They also act as a disincentive for the farmers. Since most of the produce is taken by the state, the farmer has no incentive to produce good quality products. Due to this, the quality of foodgrain procured by the state is sub standard.

(B) Maharashtra Raw Cotton Act, 1971

The Maharashtra Raw Cotton (Procurement, Processing and Marketing) Act, 1971 was passed on December 23, 1971. The main objective of the act was to supply unadulterated cotton to consumers at a reasonable price, and to guarantee the purity of cotton and honest trade practices at processing centres. It is one of the few legislations in the country which had a 'sunset' provision in that, as the Objects clause of the legislation emphasised in its opening sentence, it was to be "an Act to provide for carrying on *for a certain time* of all trade in raw cotton by the state of Maharashtra".

Section 1(4) specifically provided that the Act shall remain in force up to and inclusive of June 30, 1980, and shall then expire.

The Act prohibits carrying on of business in kapas (Section 17), cotton ginning and pressing (Section 18), and transport of kapas outside the state (Section 19). Every grower of cotton is required to sell his produce to government (Section 20). Grading and pooling of kapas tendered at collection centres has been made obligatory (Section 22). Advance price payable to the tenderer is to be 80 per cent of the guaranteed price (Section 25).

It is difficult to understand as to why monopoly procurement is necessary only for the cotton crop and not other agricultural commodities. The only ostensible reason for the continuance of the scheme is to pander to the vote bank of cotton farmers in Vidarbha and Marathwada. Also, making a 'sunset' provision in the Act has in practice been meaningless because the act continues to be in force.

Apart from other problems associated with this scheme, this scheme has meant fragmentation of the cotton market by erection of barriers at the state boundaries. This scheme has been a failure in benefiting the farmers too. There is considerable harassment of the cotton farmers due to malpractices at procurement centres, including delays in getting payment for the cotton tendered. Also, it is seen that in the years of low production of cotton, when the market prices in the nearby states are high, cotton is smuggled out from the state to take advantage of the higher prices in these states. In the years in which cotton crop is good and prices in the nearby states are low, huge quantities of cotton are smuggled into the state and brought to the procurement centres as the produce of Maharashtra farmers. It is necessary to remember that no state can operate as an island economy trying to rewrite the rules of the market place.

Unfortunately, the constitutional validity of the Act has never been tested and the scheme has been continued with impunity for the last 38 years. Economic reforms initiated since 1991 too have not made any difference to the continuance of the scheme. The only difference, if at all, is that the scheme is now being extended from year to year instead of being extended for three years at a time!

2. Agricultural Commodities

The wholesaling of agricultural produce is governed by the Agricultural Produce Marketing Acts of various State governments. The specific objective of market regulation is to ensure that farmers are offered fair prices in a transparent manner. The APMC Act empowers state governments to notify the commodities, and designate markets and market areas where the regulated trade takes place. The Act also provides for the formation of agricultural produce market committees (APMC) that are responsible for the operation of the markets. The market committees have the authority to levy and collect market fees on all transactions carried within regulated markets. Although the fee is borne by the trader, not the farmer, the indirect impact comes on the latter group ultimately.

Currently there are more than 7,000 regulated markets in the country.
Once a commodity is notified, the earlier version of APMC Act made its transaction mandatory in the regulated market. Various Government Committees noted that this monopoly introduced with the objective of benefiting farmers, has had limited success and recommended suitable reforms. Licensed traders have practically prevented new players from entering these markets. Such entry barriers have created a significant increase in transaction costs apart from lack of accountability, as a result of which important supporting services such as grading, standardization and market facilities have been neglected.

The market fees charged on value of produce sold (known as the *Mandi tax*) do not reflect the actual operation and maintenance cost of the wholesale market. The principle behind the heavy government involvement in agricultural marketing is the premise that government needs to protect farmers. This may have been a valid consideration in the past, but currently acts as an impediment for horti-business development. Furthermore, the non-transparency in the bidding procedure followed in the markets is questionable, which hurt the farmers' interest.

Apart from the mandi tax (usually two and a half percent in most of the states), there are several other charges applied on the products entering the regulated market yard (e.g., rural development cess, 2 percent; infrastructure cess, 2 percent; education cess, 0.5 per cent etc.). While the actual utilization of the collected funds for these purposes is questionable, it is the farmer who has to indirectly bear the entire burden, as the trader takes account of these transaction charges in his bidding. The state governments usually find these mechanisms a major source of extra budgetary income, outside the purview of audit. Direct marketing enables farmers to sell their produce directly to the processors or bulk buyers at lower transaction costs and better prices than what they get from intermediaries or from the wholesale markets. However, the APMC Act in earlier period did not allow direct buying by processing industries, exporters or wholesalers before the 2003 Model Act was introduced, which allowed private agents to set up a market or buy produce directly from farmers. For this purpose the necessary license will be given by an authority of the government such as the State Agricultural Marketing Board.

The Model Act in principle follows the framework of the existing APMC Act with some modifications and additions to facilitate contract farming and direct marketing. The waiving of the market fees only applies to specified produce sold under contract farming; direct sale is still subject to the market fee. Despite clear advantages of the amended version of the Act, there is further scope for reforming it in the interest of the farmers. While Tamil Nadu has already changed the provisions, Maharashtra, Haryana and Karnataka and certain other states have partially modified their laws. On the whole, direct marketing under the model act ensures higher income to the farmers, as the trader need not pay any additional cess, apart from market fee. Apart from this, it has been observed that wherever the private players have entered, the local mandis became quite responsive to the farmers and started functioning in a much better manner, an event that is no less important.

Multiple collections of mandi taxes is another major problem, as Market Committees insist on collection of market fee again when the product comes from another Market Committee jurisdiction. If a product comes from outside the State, then the seller has to pay the market fee again, even if he has paid it in the state of origin. This procedure of double taxation needs to be removed.

3. Non timber forest products

Non timber forest products (NTFP) are considered as any commodity obtained from the forest that does not necessitate harvesting trees. It includes game animals, fur-bearers, nuts and seeds, berries, mushrooms, oils, foliage, medicinal plants, peat, fuelwood, forage, etc

The policy environment relating to NTFPs in India is characterised by the underlying belief that forests are state property and thus all products growing in forests are owned by the state. The state's control even extends to designated forest products growing on private lands and non-forest common lands. Thus bamboo or kendu leaves on private lands are subject to the same control as if growing on forest lands. Even mango kernel is a controlled item, although most mango trees grow on private lands. So is mahua flower, although 80% of mahua trees are on lands that are not under the control of Forest Department.

Importance:

About 100 million people living in and around forests in India derive their livelihood support from the collection and marketing of nontimber forest products (NTFPs). These NTFPs provide subsistence and farm inputs, such as fuel, food, medicines, fruits, manure, and fodder. The collection of NTFPs is a source of cash income, especially during the slack seasons, because of their increasing commercial importance.
Today in India, NTFPs provide approximately 40% of total official forest revenues, 55% of forest-based employment, and 70% of the total exports from forest products (Tewari and Campbell, 1997).
Also, many NTFPs, such as mahua flowers, hill brooms and tamarind, are consumed or traded locally by the forest dwellers without contributing much to government revenues.

Restrictions:

There are various State Forest Acts which put restrictions on storage, transportation, processing as well as marketing of NTFP. There are laws relating to the amount of NTFP that can be stored whether by gatherers or growers. The law also requires the registration of growers of specified forest products whose production is in excess of the specified quantity. Similarly, for transporting NTFPs, transit permits issued by the forest department are still required for most products for their movements within and outside the State. Restrictions for primary level value addition may also exist, for instance sal plates made of sal leaves need a transit permit.

SUMMARY OF THE STATE TRADING REGULATIONS PROMULGATED BY THE STATE GOVERNMENTS

STATE	RESTRICTIONS	IMPLICATIONS
Andhra Pradesh	Andhra Pradesh Minor Forest Produce (Regulation of Trade) Act, 1971 and the AP Scheduled Areas NTFP (Regulation of Trade) Act	Trade in NTFPs is declared state monopoly whether ownership is with government or not
Bihar	Bihar Kendu Leaves (Control of Trade) Act, 1973; Bihar Forest Produce (Regulation of Trade) Act, 1984	Bihar State Forest Development Corporation operates as state government agent for the collection and marketing of kendu leaves, sal seed, mahua (*Madhuca latifolia*) and harra
Gujarat	Gujarat Minor Forest Produce (Regulation of Trade) Act, 1979	Minor forest products identified include tendu leaves, mahua flowers, fruits, seeds and gum
Himachal Pradesh	Himachal Pradesh Resin and Resin Produce (Regulation of Trade) Act, 1981	Resin, bamboo and *Acacia catechu* (khair) collection through Himachal Pradesh Forest Development Corporation Ltd
Madhya Pradesh	Madhya Pradesh Vanopaj (Vyapar Viniyam) Adhiniyam, 1969	Items under monopoly include tendu leaves, sal seed, harra and gums; Madhya Pradesh Minor Forest Produce (Trade and Development) Federation acts as agent of state Government
Rajasthan	Rajasthan Tendu Leaves Act, 1974	Rajasthan Tribal Area Development Federation collects and markets NTFPs
Orissa	Orissa Forest Produce (Control of Trade) Act, 1981	Bamboo, Sal seed and Kendu leaf are nationalized and brought by law under the direct control of the state parastatals

Justification for restriction:

Laws and policies leading to government control were justified ostensibly to protect the interests of the poor against exploitation by private traders and middlemen. Since the state could generate revenue (royalties) through exercising the monopoly right, it was steadily extended to cover a myriad of NTFPs.

Problems arising due to restrictions:

On paper, the state agencies worked with multiple objectives – to collect revenue; to protect the interests of the gatherers as sellers; and to satisfy the conflicting demands by industry and other end users. In practice, a hierarchy of objectives developed – industry and other large end-users had the first charge on the product at low and subsidised rates; revenue was maximised subject to the first objective which implied that there was no consistent policy to encourage value addition at lower levels (local processing was in fact discouraged for many commodities, such as kendu and hill brooms; criminal cases were initiated against those who tried to process or store these NTFPs); and the poor gatherers' interests were relegated to third place.

Kendu leaves and the poor

One of the biggest paradoxes of the kendu leaf is that the largest KL growing areas are also the major food scarce zones in the State. Bolangir produces some of the best quality kendu leaves in the country, but it also has the greatest number of KL pluckers migrating to other States for work. The district presents a typical example of an ungrateful state which fills its exchequer with the sale proceeds of KL collected by its poor subjects, but does hardly anything to fill their empty stomachs.

Source: Agragamee (1997)

Traders for items such as kusum, char and mahua seeds have to register themselves with the Forest Department and obtain transit permits. Higher level processing requires permission through registration from the Forest Department. The processor/manufacturer is supposed to submit prescribed declaration, accounts and returns. The Forest Department is the enforcing authority for these laws. These restrictions and permits mean that the traders are at the mercy of Forest Department all the time. Sometimes government officials harass traders and producers even when they are on the right side of law. For example, a household can legally store up to 2 quintals of mahua flowers for its own consumption, but villagers have often faced harassment by the local excise officials and the licensed liquor brewers for being in possession of much lesser quantities. There is no publicity regarding lifting of restrictions for fear of over-harvesting.

Laws restricting free movement of NTFPs, even when these are not nationalised, bring uncertainty in market operations, and inhibit gatherers from maximising returns to production. Government controls lead not only to corruption but also imply greater hold of existing players on the market rendering it difficult for new players to enter the market.

Recommendations:

Rather than be a monopoly buyer of NTFPs or try to regulate price through administrative mechanisms, government should adopt market-friendly policies, facilitate private trade, and act as a watchdog rather than eliminate the trade.

It should encourage local bulking, storage and processing, and bring large buyers in touch with gatherers, so as to reduce the number of layers of intermediaries.

Government should encourage the formation of self-help groups among the forest dwellers so that such groups are able to bargain better with the trade.

Finally, a more effective implementation of credit-oriented and poverty alleviation programmes will help the poor in recovering from debt bondage, which is the single most important factor for their dependence on traders and depresses the price that forest dwellers are able to negotiate with them.

4. Land Purchase

Many Himalayan states such as Jammu and Kashmir, Sikkim, Arunachal Pradesh and parts of Himachal Pradesh and Uttaranchal have laws that prevent non-domiciles from acquiring property. In fact there are legislations preventing even the non-agriculturalists from buying agricultural land in their own states. Some of these laws identified are:

- Himachal Tenancy Land Reform Act (1972)
- The Uttaranchal (the Uttar Pradesh Zamindari Abolition and *Land* Reforms *Act*, 1950)
- Zamindari Abolition Acts of various states

In fact, one of the major factors that depress the price of agricultural land is the ban on purchase of agricultural land by people other than farmers, that obtains in some states including Maharashtra and Gujarat. This does not allow the higher prices that buyers other than traditional farmers could have paid for the land. Lands used as orchards, farm land near tourist locations, scenic land, lands suitable for farming and habitation by middle and upper middle classes, farm lands with easy access to central places and areas with much potential for gentlemen farming or corporate farming are so affected. It also leads to much under investment in land for farming and for dual use of land. The urban rural divide is accentuated by such restrictions, and clearly the farmers are most hurt by these restrictions, and builders and other land developers with connections with the decision making authorities are the gainers. Most importantly the social losses are large since the price of land is unable to play the role that it must – allocating land among its many uses to the best social use.

RECOMMENDATIONS

For the progress of the nation, it is very important that the country is made into one economic zone, one market. There is a need to amend the archaic laws that prevent smooth trading in the country.

Some of the policy reforms needed are:

- Amend Essential Commodity Act to make it an emergency provision that will have to be formally invoked by notification for a limited period.

- Enact a Central Act to *ban controls on movement* within and between States.

- Phase out of all forms of monopoly purchase.

- Invite private agencies to procure grain within the state.

- The Food Corporation of India could also conduct open market operations within a price band.

- *De-Licensing:* Remove licensing controls and *de-reserve* all agro-based and foodprocessing industries including sugar, its derivatives and milk processing, in a time-bound manner.

- Amend Agricultural Produce Marketing Acts of States to allow direct purchase of grain and other produce from farmers by agro-produce trading, storage & processing companies.

- Rather than be a monopoly buyer of NTFPs or try to regulate price through administrative mechanisms, government should adopt market-friendly policies, facilitate private trade, and act as a watchdog rather than eliminate the trade.

- Encourage local bulking, storage and processing of NTFP, and bring large buyers in touch with gatherers, so as to reduce the number of layers of intermediaries.

- Encourage the formation of self-help groups among the forest dwellers so that such groups are able to bargain better with the trade.

- Create smoother land laws and remove restrictions on purchase of land by non – domiciled.

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