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An Exploratory Study on Legal Provisions and Guidelines for the Formation of Farmer Producers Companies

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Abstract

The article analyses the trends, patterns and performance of Farmer's Producer Companies (FPCs) in India. Data used provided by NABARD and SFAC to explore the trends and patterns. A cross-case analysis was done to assess the performance and to draw inferences on critical common factors for success. The study shows that FPCs are emerging among other legal forms of FPOs. They are prominent in few states, which have enabling environment, enterprising farmers and have a history of collective action. The study shows heterogeneity in the product, functioning, how they work, deal with the issues, and mechanisms of FPCs. The article proposes establishing 'incubators' to handhold and support FPCs and different modes and categories for financing them.
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Introduction

At least 50% of farmers in each FPO (apart from the ones in hilly areas and North-Eastern States) should be small, marginal and landless tenant farmers. As per the new guidelines issued by the Agriculture Ministry, the Farmer Producer Organizations (FPOs), which were formed under a recently-announced scheme, will be given a maximum of Rs.18 lakh in the formative years, apart from an equity grant of up to Rs.15 lakh and a kitty for meeting administrative expenses, including salaries of key personnel.

Each FPO, barring those in hilly areas and North-Eastern States, should have a minimum of 300 farmer members and 50 per cent of them should be small, marginal and landless tenant farmers with maximum possible representation from women farmers. The FPOs founded in hilly areas and North-Eastern States, on the other hand, can have a minimum of 100 members, the guidelines said. Such minimum membership requirement was absent in earlier FPO schemes. The government has also made provisions from financially supporting CEOs and accountants appointed by these FPOs for a maximum of three years. While the CEOs can be given up to Rs 25,000 from the funds provided by the government, accountants can draw a maximum of

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Rs 10,000. In earlier FPOs, this remuneration available to CEOs was a maximum of Rs 10,000.

Reliable credit guarantee
The government said it would set aside Rs 4,496 crore for the formation and promotion of these 10,000 FPOs — of which 1,500 of them are to be formed in the as irrational districts — till 2023-24. They will also be financially supported for another five years till 2027-28 with an additional commitment of Rs 2,369 crore. Each PFO will be given up to Rs 18 lakh over the first three years of formation. Similarly, to ensure access to credit from mainstream Banks and Financial Institutions for FPOs, the government would create a dedicated Credit Guarantee Fund (CGF) which will provide suitable credit guarantee cover to accelerate flow of institutional credit to FPOs.

There are several conditions to accessing equity grant up to Rs 15 lakh per FPO provided by the government. The government also bars any member in an FPO from having over 10 per cent of the total equity share.

The government plans to push its scheme 'One District One Product" through this network of FPOs. In case the focused agriculture produce has been declared for a district, FPOs in that particular district will be encouraged for promoting processing, branding, marketing and export of the product for better value realization, the guidelines said.

Helping the formation of these FPOs would be Central organizations like Small Farmers Agribusiness Consortium, National Cooperative Development Corporation and National Bank for Agriculture and Rural Development, apart from State implementing agencies. The government also plans to establish a national project management agency and has made provisions for setting up cluster-based business organizations in different parts of the country, which apart from carrying out baseline feasibility study before the formation of FPOs, would handhold, advice and promote the FPOs.

Small holder farmers in developing countries are facing problems such as poor infrastructure, limited access to assets and services resulting in higher transaction cost and lower participation in market (Key et al., 2000; Barret 2008; Bernard and Spielman 2009; Fisher and Qaim 2012).

Farmers' collectives such as co-operatives and farmer producer organizations1 emerged as alternatives for increasing market participation and reducing transaction cost through collective action (Markelova et al., 2009; Valentinov 2007).

Co-operatives, even though successful in their initial phases, were unsuccessful in linking the smallholder farmers to the globalized markets (Singh 2008). The key weakness of the co-operative was lack of a face-full owner and poor governance structure (Borhstoem 2013). In India, co-operatives could not address the problem of small holder farmers due to its inward orientation, financial constraint, free-rider problem *etc*., with few exceptions of co-operatives dealing with high value crops (Datta 2004, Roy and Thorat 2008) and dairy sector. In developed countries, many of these co-operatives and farmer's organizations evolved into New Generation Co-operatives with restricted membership, producer member equity, tradable equity shares, patronage, value addition (processing, marketing), retaining the inclusiveness principle. (One member one vote) in decision making (Harris et al., 1996; Nilsson 1997; Singh 2008).

In 2003, Farmer Producer Companies (FPCs), a new form of farmer's collectives emerged under the provision Part-IX-A Chapter-1 of The Companies Act (Singh 2008). These originations are characterized by formal, autonomous, outward oriented organizations and can be regarded as a

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hybrid between private companies and co-operatives (Trebbin 2014). They were modelled as an interface between small holder farmers and markets by providing forward and backward linkages. In the initial stages they faced challenges such as lack of recognition or support of the government, lack of credit facility from bank, difficulties in getting licenses from Agricultural Produce Marketing Committees (APMCs) (Singh 2008). In 2013, Government of India formulated a policy guideline for Farmer Producer Organisations (FPOs) in India (GoI 2013). It put forth the role of centre and state government in promoting FPOs and declared FPOs on-par with co-operatives. Small Farmer Agri Business Consortium (SFAC), a registered body, was established as a nodal agency for promoting FPOs in India. Later, NABARD started promotion of FPOs using their Producers' Organization Development and Upliftment Corpus Fund. The Farmer Producer Organizations (FPOs) in the country are gaining momentum. It's almost a decade and half since the FPOs were formulated in India.

The studies published so far looked into the role and governance issues (Singh 2008, Trebbin 2014, Venkattakumar and Sontakki 2012). More recent studies had documented successful cases across country (Singh and Singh 2013, Bhamra et al 2016, Raju et al 2017, Sowmya and Raju (2017). Though these case studies provide lot of insights into the heterogeneity of the FPOs, they did little to compare them across to understand the common factors. Bhamra et al (2016) study did used a framework to evaluate each FPOs but not compared across the FPOs. A recent study by Dey (2018) developed and provided framework for comparing the performance and viability of the FPOs in India. Our study is developed in the similar frame. The objective of the study is to understand the current trends and patterns of FPOs in India, and to assess the performance and viability of the farmer producer Company (FPCs) in India. We explored trends and patterns in FPOs in general to understand how FPCs are evolving. The study tries to identify the critical common factors of successful FPC ventures. The study also analyses the issues, challenges and bottlenecks faced by selected FPCs and attempts to understand the best practices, the interventions and alternatives of the selected FPCs. The paper narrates broadly on FPOs and wells into detail on FPCs. We request the readers to go through note (1), as the subtle difference between FPOs and FPCs in the intertwined narrated are needed to be carefully interpreted.

Methodology.

To understand the current trends and patterns in FPOs, we analyzed the data on FPO supported by National Bank for Rural Development (NABARD) and Small Farmers Producer Organization (SFAC). NABARD and SFAC under various programs support FPOs and maintain a database on their name, location, commodity and business activity in their sites (provide the sites; NABARD- https://nabfpo.in/images/staticFPO.html, SFAC– http://sfacindia.com/List-of-FPO-Statewise.aspx). The state level distribution of the number of FPOs and their legal status were tabulated and visualized in GIS graphs. The commodity and business activities of FPOs were captured using word cloud. Word cloud is an image composed of words and size of each word indicates the frequency of the word. Visualization of commodity and business activity provide insights major commodity and business activity among the FPOs.

We used cross-case analysis to assess the performance and viability of the FPOs in India. Cross case is a qualitative method in which

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contrasting cases are compared. It explores why one case is different or same as others. There are two approaches in cross-case analysis
i) Variable-oriented approaches,
ii) Case based approach (Khan &Van Wynsberghe 2008).

We used the variable based approach. We adopted framework suggested by Dey (2018) on determinants of performance and viability of producer organization (Table 1). Though there are different dimensions, in the present draft, few are explored.

Table 1. Determinants of Performance and Viability of Producer Organisation

Checklist	Particular/Indicator
Incorporation of producer company and typology	Year of registration and registration number and location, Type: A/B/C/D (orientation/ nature of business)
Business domain	Procurement/production/distribution/ marketing/others
Promoting agency	Profit/non-profit entity
Orientation	Inward: Intercommunity trade and input supplies; Outward: Marketing and business expansion
Stakeholder	Core/secondary and their competence in business or market linkage and capabilities in collective action and cooperation
Life cycle stage and identifiable features	P1: Incentive structure and design; P2 Growth and glory; P3: Problem with attributes
Non-financial determinant **Governance and management**	Professional management, frequency of board meeting, proportion of small, medium and large farmers in the board of directors Leadership style Participatory decision-making Family influence in decision-making Internal mobilisation of funds/earnings surplus management

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External agencies and stakeholder support	□ Linkage with consortium of FPCs/state union/ membership in higher level organisation □ External support (technology/financial/ marketing) support during set-up □ Type of strategy stakeholder adopted to enhance cooperation
Community and agroecological factors	□ Type of community/religion/caste □ Frequency of communal riot/strike/ natural calamities and other perils □ Rainfall variation and other agroclimatic conditions
Financial determinant	Earnings/net income, patronage bonus, equity dividend drawn from balance sheet and income statement

The study was carried out on published cases. Four cases compared by Dey (2018) was used and two cases (two from Kerala) and another co-operative (Mahagrapes) was used for the study. The cases were selected on contrasting parameters such as lifecycle (P1, P2, P3), promoting agency (Kudumbashree, NGO etc.), Commodity, legal status (co- operative, FPCs). Details regarding the cases, region, commodity focus and business domain is provided in table 2.

Table 2. Details of selected cases for cross-case analysis

Case : FPC/NGCs [year]		**Locale/Region**	**Commodity**	**Business Domain**
Case 1	ThennalaAgro Farmers Producer Company Ltd. [2015]	Mallapuram, Kerala	Paddy	Production, processing of paddy and marketing of good quality organic rice
Case 2	Indian Organic Farmers Producer Company Limited	Kochi, Kerala	High value crops (Spices, cash crops)	Production, processing and marketing

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	[2004]			
Case 3	Vasundhara Agri-Horti Producer Company Limited (VAPCOL) [2004]	Maharashtra	Mango, Cashew	Procurement, processing, marketing
Case 4	Samarth Kisan Producer Company (SKPCL) [2006]	Madhya Pradesh	Soyabean, wheat	Marketing
Case 5	Bhangar Vegetable Producer Company (BVPCL) [2012]	West Bengal	Vegetables	Supply to Safal, Mother dairy
Case 6	Mahagrapes [1991]	Maharashtra	Grapes	Marketing, export

3. Results and Discussion

3.1 Current trends and patterns in FPO

As on March 2019, there were 2,083 FPOs supported by NABARD and 551 supported by SFAC in India. NABARD promoted FPOs through producer organization upliftment fund (Rs. 200 crores) since 2008-09 (Shah 2016). The FPOs supported by SFACs are skewed towards few states such as Kerala (108), Karnataka (113), West Bengal (Figure 1). On the other hand, the FPOs supported by NABARD are distributed across most states (Figure 2). But larger number (>150 FPOs) are in states like Karnataka (187), Tamil Nadu (170), Madhya Pradesh (160) and West Bengal (150). Concentration of FPOs in fewer states could be attributed to enabling environment (Modification in APMC act), enterprising farmers who are supported and nurtured through collective action (Shah 2016). Other factors such as the crop grown in the region and availability of market, or market opportunities for export from those of FPOs could also be attributed to this distribution. The number of FPOs supported by NABARD and SFAC is provided in appendix (Table A1).

3.2 Legal Status of the FPOs

India's National Bank for Agricultural and Rural Development (NABARD) defined Farmers Producers Organisation as the one type of Producer organisation (legal entity formed by primary producers viz. farmers, fishermen, weavers etc.) where the members are farmers (NABARD 2015). FPOs could be established as a company, society and trust (table 3). The FPOs established under Companies act have complex legal procedures, with various offences and penalties compared to the ones established under

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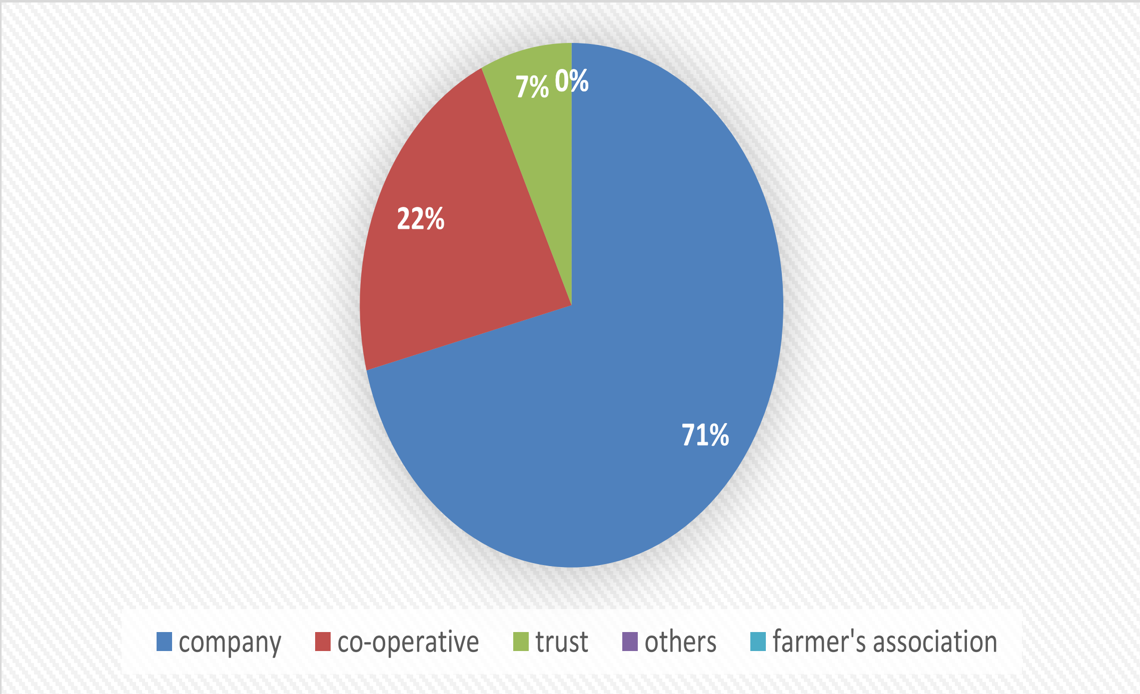
Society Act and Trust Act. Details on legal status is provided in NABARD (2015).

Table 3. Type of FPOs based on legal status.

Parameters	**Section 8 Company**	**Society**	**Trust**
Objectives	Non-Profit activities	Charitable, Literary, Scientific, etc.	Charitable, Socially beneficial
Statute/Law	Indian Companies Act, 1956	Societies Registration Act 1860	Indian Trust Act, 1882 or Bombay Public Trusts Act
Alternations of objectives	Complex legal procedures	Simple procedure	Normally only settlor can modify
Formation	Complex procedure, 3-6 months	Simple procedure	Simple and easy
Management	Formalities of Company law have to be observed	Few restrictions imposed under the Act	Very few restrictions under the Act
Meetings	To be held as per provisions of law which are quite extensive	Annual Meeting as per law and Rules of the society	No provisions laid down
Penalties	Various offences and lapses attract serves penalties	Few offences and penalties have been prescribed	Very negligible
Legal status	Full legal status	Legal status with certain limitation	Legal status with limitation
Statutory regulation	Exhaustive but mature	Very limited	Nominal
Removal of members	Not possible without consent	Possible without consent	Not applicable
Dissolution or takeover by state	Very difficult	Possible	Possible

Most of the FPOs supported by NABARD are company (71%), followed by co-operatives (22%) and trust (7%) (Figure 3). Irrespective of the complexities in establishing and running Farmer Producer Companies, larger number of FPOs in this legal status could be due to the policies and support provided to encourage FPOs as FPCs. These are seen as major institutional innovation in agriculture for empowerment of farmers through collectives. In Many states like Maharashtra, the responsibility to establish FPCs is given to line department of agriculture with Project Director, ATMA (Agricultural Technology Management Agency) at district level. Moreover, for the activities for which large finance is required, farmers see establishing FPC as opportunity to get finance from NABARD to start big processing units which otherwise would not have been possible for individual farmers.

Figure 3. Legal status of the FPOs supported by NABARD



Source: Calculated by authors based on NABARD Portal On Farmer Producers' Organizations ,

March 2019. https://nabfpo.in/images/staticFPO.html

3.3 Commodity/Services Focus of the FPOs

We summarized the products and services of FPOs supported by NABARD. Maize, followed by food grains, goat rearing, seed are the major commodity focus of the FPOs (Figure 4). Other important product included fishing, soybean, dairy vegetables etc. They are also engaged in services such as processing, procurement and marketing and to some extent in production, aggregation, contract, input selling, trading etc. The business activity of the FPOs by NABARD showed that most of the FPOs by NABARD are engaged in business activities such as marketing, followed by input supply, aggregation and processing (Figure 5).

Figure 4. Product and service focus of the FPOs supported by NABARD

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Source: NABARD (2019)

Figure 5. Business activity of the FPOs supported by NABARD.

Source: NABARD (2019)

In case of SFAC the data is provided at the cluster area (commodity and business activity) of the FPOs (Figure 6). Majority of them deals with high value crops such as cashew, cotton, vegetable etc. They are engaged mostly in processing, cold storage and custom hiring.

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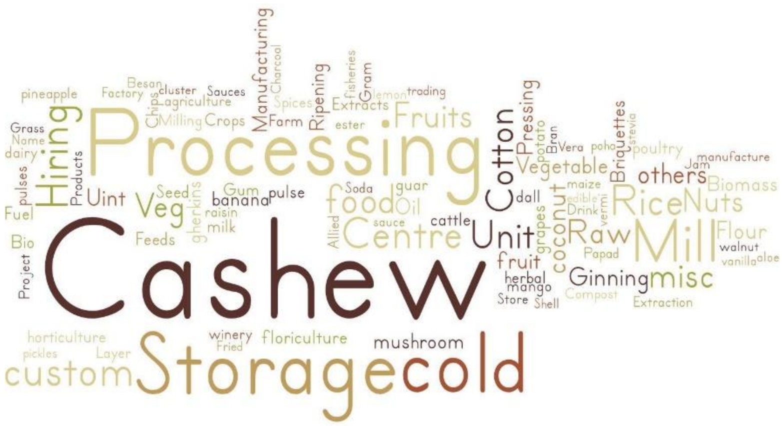
Figure 6. Cluster area (product and business activity) of the SFAC



Source: SFAC (2019)

3.4 Cross Case Analysis: Major Findings

The FPOs compared had different lifespan, and each of them are in different life cycle. We compared cases from Kerala (Case 1 and Case 2), case 1 belongs to stage 1 (introduction), and case 2 belong to stage 2 (growth and glory). We compared these cases with other cases in different region (case 5 which in stage 1 & case 4 which is in stage 2). One of the key findings comparing these cases is that there exists heterogeneities in terms of product, functioning, how they work, deal with the issues, mechanisms etc. The key take away from this is that there exists no role model for a successful FPCs, they are contextual and vary according to product, marketing and type of leadership available to them. But the contextual learning from these cases can help in decision making among other FPCs. Their success stories can be given wider publicity so that other FPOs can learn from them and develop their own methods, standards as per context/requirement. Though the products and services offered by the FPCs differ, they had done product differentiation. Product differentiation is not just based on value addition, but based on value creation.

We also compared them based on the stakeholders and promoting agencies. The FPOs in India are classified into four typologies (Trebbin 2014). The classification of the typology is based on orientation, nature of promoting agency, orientation of the community member (inward/outward). The description and classification is provided in the appendix table A2. The five FPCs compared in the study below falls to either type A or B. Most of the FPCs promoted by SFAC and NABARD are also either Type A or Type B (Tagat&Tagat 2016). These FPCs are welfare oriented while Type C &D are market oriented. Trebbin (2014) had shown that Type C & D outperforms Type A & B in the ways of their market performance. Another key finding is that all successful and viable FPCs were being supported. At initial stages they had struggled of their own due to lack of professional help and the success were due to the support provided by the promoting agencies. We explored whether the type of handholding agency matters for the success of the FPCs. While comparing cases

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with different supporting agencies it was found that the type (NGO, private, community based groups) does not matter instead the orientation, competencies and skills of the FPCs were important factors.

There are apprehensions whether state or agencies in development sector are the right ones to support FPCs (Dey 2018). Development agencies such as NGOs and SHGs are closely working with the people and have experience in developing an altruistic group. It is needless to mention that like any other community based organization, FPCs could suffer from issues such as principal agent problem and elite capture. In Maharashtra state, it has been observed that those successful FPC are led by one or two leaders, who are able to give direction, seek information from various sources, create market linkages and bring institutional support to the FPC. The collective action and decision-making processes, which are the founding principles of FPCs, are not observed or followed many times. This could defeat the sole purpose of establishing FPCs in a welfare orientation. So the right supporting agency in line with the objective of primary stakeholders (farmers) of the FPCs are required. On the other hand such organizations struggle with the right kind of professional managerial support.

3.5 Start-ups as Parallel

Based on the analysis done so far, in a policy perspective there are two paths ahead. One is to carry on us as Business as Usual (Provide grant-in-aid from government agency and other supporting agencies to handhold them) or to explore options. The cross–case analysis and review of the studies on challenges show that, FPCs struggle with developing business proposal, lack of technical support on developing their product, lack of funding, lack of legal support, attracting investors, and in general training and skill development of the members. In this paper, we propose establishing agencies to support FPCs on similar line of ‘incubators’ established for other Start-ups. The type of support provided by an incubator is provided in table 4. Such incubators could act as a promoter of FPCs and could bring business acumen to the FPCs. The idea is based on understanding of the heterogeneity among the FPCs and their needs are similar to that of start-ups. Start-ups, which are emerging in India, do have similar pattern, though they differ as they are driven by an individual as compared to FPCs which are driven by communities.

3.6 Supporting and Financing FPCs: Way Forward

The government grant provided for the FPCs in the initial stages hardly cover the expenses to be borne by members of the FPCs. Also, the grants provided by the promoting agencies (NABARD, SFAC) are with riders and compartmentalised into budget heads in which they need to spend. We propose to categorise the kind of support and financing provided to the FPCs into three categories i) support for incubation and hand holding, ii) support for FPCs in scaling, iii) support for FPCs at mature stage. This categorization is similar to that of proposed by Khanna and Ghatak (n.d.). This classification is based on the stages of FPCs; early stage, emergence and growth stage, mature stage. In early stage FPCs needs training and seed funding, while the ones, which are in growth, stage requires funding or scaling up and the mature FPCs need loans. The FPCs which are in initial stages could be handheld by an institutional support similar to ‘Incubators’, which could provide training and seed funding. The seed fund could be acquired from the present grant-in-aid provided by the government. While in growth stage, the funding should be provided as equity financing or venture capital. Though

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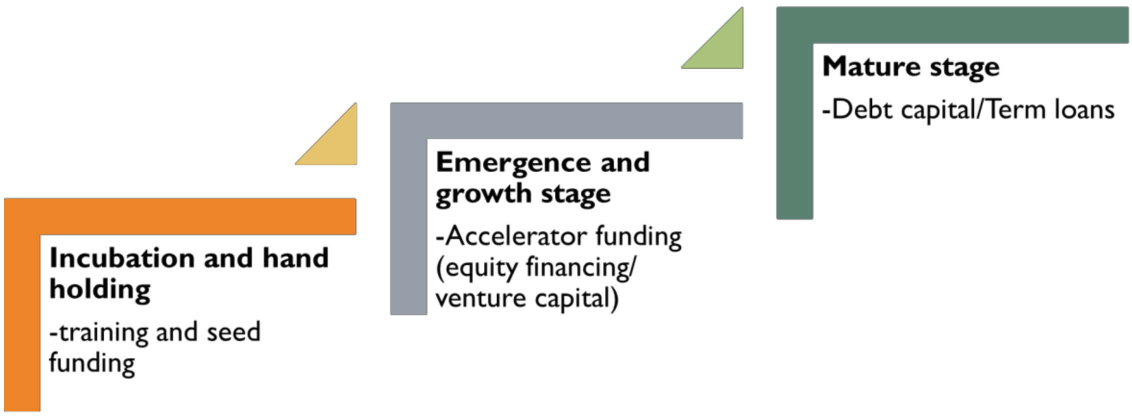
the FPCs have legal provisions of getting equity financing, state has no such provision. This re-emphasis of need for institutions such as 'incubators' which could assess the performance and business viability of the FPCs and can provide equity financing. Once the FPCs are well established, financial support could be provided through the banks. Before developing such policies for FPCs, the policy makers should accept the fact that FPCs are business ventures, so they could also fail.

Figure 8. Supporting and financing FPOs



Source: Modified by authors based on Khanna and Ghatak (n.d.).

4. Conclusion.

The study shows that FPOs are prominent in few states, which have enabling environment, enterprising farmers and have a history of collective action. The FPCs are emerging as a prominent form of FPOs. The study shows heterogeneity in the product, functioning, how they work, deal with the issues, mechanisms of FPCs. Hence, there are no 'success models', rather contextual learnings could help in developing successful FPOs. The paper emphasises establishing 'incubators' to handhold and support FPCs and different modes and categories for financing them. It also argues that the current strategy of targeted approach in establishment of FPCs is unsustainable. The policy makers need to accept the fact that FPCs are business ventures and they could also fail. There is a necessity for promotion of business acumen among FPCs and policy directives needs to be focused on them. While developing policies for FPCs it is important to consider a) what are the objectives on which the FPOs are established? b) who are the target groups?

Note

1. Producer organization (PO) is a legal entity formed by the primary producers (farmers, fishermen, rural artisans). Farmer Producer Organizations (FPOs) are a type of PO where the members are farmers. Farmer Producer Company (FPCs) are form of FPOs established under Section 8 of Indian Companies Act 1956 (NABARD 2015).

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