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# Do New Farm Laws Invigorate Agriculture in India?

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SAURABH KUMAR<sup>1</sup> AND ASHUTOSH SINGH<sup>2</sup>

## ABSTRACT

*Motherland India is an agrarian society where close to 58% its population get their daily bread and butter from agriculture related activities. Indian agriculture machinery was in dire need of reform owing to abysmal condition of farmers and obsolete trading practices, therefore The Central government in order to revitalizing farming, fulfilling its promise of double farmers' income by 2022, and enhancing profit in farming came up with three bills which as per the government was a 'historic' step, these bills were hastily enacted in the parliament to form three separate acts namely The Farmers' Produce Trade And Commerce (Promotion And Facilitation) Act, 2020(FPTC Act), The Farmers' Empowerment and Protection Agreement on Price Assurance and Farm Services Act 2020 and The Essential Commodities (Amendment) Act, 2020 but these acts faced uproar from some farmers unions and states which accused the government of violating federal structure of the constitution, ignoring the say of various stakeholders in agriculture and highlighting some of the lacunae of the acts, but a meticulous study of farm acts indicate that these are good acts capable of invigorating Indian agriculture, with improper implementation.*

**Keywords:** Farm Bills, MSP, APMC, Farmers Protest.

## I. INTRODUCTION

Agriculture in India traces its root way back to Indus valley civilization as evidence of the cultivation of rice and cotton have been excavated at Kalibangan. Early Vedic literature, including Rigveda, furnishes written records of agriculture in India. Before the emergence of English colonial rule, agriculture in India used to play a key role in the economies of respective ruling estates. Colonial policy and tyrannical laws had deteriorated farming and agriculture as excessive and exploitative restrictions had been imposed on farmers. Consequently, agriculture in India was diminished to a great extent.

Post-independence, it was one of the biggest challenges with the government to ensure food

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<sup>1</sup> Author is a student at Chanakya National Law University, Patna, India.

<sup>2</sup> Author is a student at Chanakya National Law University, Patna, India.

security to such mammoth population as own agriculture and food cultivation was not enough to bring bread in every plate, hence until the mid-1960s, India had to be relied on developed countries to import food to meet domestic requirements. The severe drought in 1965-66 compelled the Indian government to embark upon reformation as to agriculture policy which resulted in the Punjab-led green revolution. Hence, within a very short period, India became self-sufficient in respect to both quantity and quality of food, alongside export of excess food grains also began, which boosted the economy. Still, in India, the majority of the workforce belongs to the agriculture sector only. Though agricultural production has grown, its share in GDP has reduced to below 20 % as other sectors are improving at a faster rate. Bringing reform by the enactment of suitable laws at the time of need is quite necessary for the agriculture sector, like any other field of work.

Enactment of law is considered to be a sacred exercise of power in a country that is being governed by rule of law, but at times, laws are also perceived as evil by the people on whom the law is going to be enforced, hence, this leads to protest. On 27<sup>th</sup> September 2020, with the president's signature, three farm bills had been manifested into enacted laws, which have been unsettled matter of conflict between the central government of India and farmers' unions. Initially, sporadic demonstrations of dissent had been made until 25<sup>th</sup> November when farmers' unions called for "Dilli Chalo" movement to rock the capital. National highways were blocked by the protester which compelled the central government to went up to have talks with the farmers' unions, however, all 11-rounds of unyielded talks went inconclusive, despite the government's proposal to amend the contended provisions or to halt the laws for 12-18 months, as farmers were adamant on withdrawal of all three laws. Amidst, on 12<sup>th</sup> January, the Supreme court itself stayed the implementation of all three farm laws and formed a four-member committee to make a recommendation on the legislations. Nevertheless, after months of peaceful protest, the agitation went violent on the republic day, which brought disgrace to the farmers' protest, however, farmers had decided to continue their agitation and thousands of farmers are still at the borders of Delhi demanding abrogation of three contentious farm laws. In this write-up, the authors attempt to analyze the three contentious farm laws and their prospective impact on Indian agriculture. In the end, the most favorable suggestions and conclusions would be provided.

## **II. A SCRUPULOUS ANALYSIS OF NEW FARM LAWS**

In light of promise made by the Union government to double farmers' income by 2022<sup>3</sup>, the

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<sup>3</sup>CNBC TV 18, available at <https://www.cnbctv18.com/agriculture/union-budget-2020-govt-committed-to->

ruling government promulgated three bills out of which two were newly proposed laws i.e., The Farmers' Produce Trade And Commerce (Promotion And Facilitation) Bill, 2020 ("FPTC Bill") and The Farmers' Empowerment and Protection Agreement on Price Assurance and Farm Services Bill 2020, the third bill is an amendment to the pre-existing Essential Commodities Act 1955. Union Government has addressed them as a "historic" step towards agriculture reform<sup>4</sup> and a move to ameliorate farmers' conditions.

### **(A) The Farmers' Produce Trade And Commerce (Promotion And Facilitation) Act, 2020 (FPTC Act) or The Market Place Law**

The new act is based on the government's new policy of 'One Nation, One Market'. Section 3<sup>5</sup> of the FPTC Act calls for creating a system where farmers and traders will have the freedom of choice to buy or sell agricultural produce anywhere in the country i.e., outside the state, outside the country, and even online, unlike earlier when it was obligatory to sell/buy Agri-product to APMC (Agricultural Produce Market Committees). This act does not put an end to the APMC ecosystem rather it provides a farmer an additional alternative to sell his/her farm product which will ultimately foster *interstate and inter-state trade and will end any sort of restriction that the farmer only have to sell their farm product in the APMC markets, thereby, legalizing the sale outside of APMC, empowering farmers to sell their agricultural products directly from their homes and/or farms<sup>6</sup> which will eventually grant farmers a chance to ask for the proper price for their agricultural product and by proper implementation of the legislation, this can also change their status from price takers to price dictators.*

*Previously the supply chain of agriculture product contained four to five transaction i.e., between farmer and middleman, between middleman and wholesaler, between wholesaler and retailer, etc. all of which come up with a cost and margin which leads to the huge price difference between the one producing and the one consuming it, FPTC will help in removing extra intermediaries and eliminating unnecessary transaction thereby providing higher price for the same farm product to the farmer and will contribute to maximum price realization resulting in a positive rise in his/her income.<sup>7</sup>*

*Section 5(1) of the FPTC act suggest an electronic trade platform for a seamless transaction*

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[double-farmers-income-by-2022-says-fm-5182621.htm](https://www.indianexpress.com/article/india/key-agricultural-reforms-cleared-farmers-freed-from-mandis-coronavirus-lockdown-6441493/) (last visited on Mar. 22, 2021).

<sup>4</sup>Indian Express, available at: <https://indianexpress.com/article/india/key-agricultural-reforms-cleared-farmers-freed-from-mandis-coronavirus-lockdown-6441493/> (last visited on Mar. 22, 2021).

<sup>5</sup> The Farmers' Produce Trade And Commerce (Promotion And Facilitation) Act, 2020 (Act 21 of 2020), s. 3.

<sup>6</sup> NITI Aayog, available at: <https://niti.gov.in/sites/default/files/2020-11/NewFarmActs2020.pdf> (last visited on Mar. 27, 2021).

<sup>7</sup> LAWPRIMIS, available at: <https://www.lawprimis.com/farm-bills-2020-a-critical-analysis/> (last visited on Mar. 29, 2021).

by allowing a person to run an electronic trading platform facilitating direct trade of agricultural produce in a trade area<sup>8</sup>. Section 6 of the same Act gives farmers/traders relief from any sort of cess or tax imposed under any State APMC Act for the sale/purchase of the products made outside the APMC markets, providing farmers with utmost value/price of their produce, traders will also be making the most of it as they will also get produce comparatively cheaper.<sup>9</sup>

### **1. Impact on APMC**

Agriculture Produce Market Regulation Act (APMC acts) was enacted in all the states of India except Kerala and Manipur.<sup>10</sup> The act makes the sale/purchase of agricultural produces mandatory to be carried out the *mandis* the sellers and buyers are required to pay the market fee and commissions for the agents (arthiyas), as specified under the APMC Act which varies between states and commodities. Although in initial years APMC got rid of trade malpractices, created good infrastructure and transparent condition for the market, in recent years due to low bargaining power of farmer compared to middleman and states imposing unreasonable amount of tax in form of cess and other charges which are a threat to APMC *mandis*. Under FPTC Act APMC *mandis*/ market will continue to exist, and trade will continue there as before the act just provide the farmer with an additional optional to sell produce outside APMC markets<sup>11</sup> therefore the new law will have an efficacious impact as it will pressurize these markets due to outside competition and make them more efficient, farmer-friendly, and competitive.

Section 8 of the act states that in case of any dispute arising between the farmer and a trader the parties may come to a mutually acceptable solution through Conciliation Board set up by the Sub-Divisional Magistrate which will eliminate any sort of hassle and will promptly handle apple of discord arising between the parties by adopting bureaucrat guided dispute resolution mechanism instead of involving civil courts.

Therefore, this act appears to provide farmers with lots of opportunities to have a fair realization of their product, it will help the farmers in getting rid of middle-man and prevent exploitation of their interest on few local mandies which are highly influenced with local politics.

### **(B) The Farmers' Empowerment and Protection Agreement on Price Assurance and Farm Services Act 2020 or The Contract Farming Law**

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<sup>8</sup>LEXFORTI, available at: <https://lexforti.com/legal-news/farmer-bills/> (last visited on Mar. 26, 2021).

<sup>9</sup>LEXFORTI, available at: <https://lexforti.com/legal-news/farmer-bills/> (last visited on Mar. 26, 2021).

<sup>10</sup>ARTHAPEDIA, available at: [http://www.arthapedia.in/index.php%3Ftitle%3DAgricultural\\_Produce\\_Market\\_Committee\\_\(APMC\)](http://www.arthapedia.in/index.php%3Ftitle%3DAgricultural_Produce_Market_Committee_(APMC)) (last visited on Mar. 24, 2021).

<sup>11</sup>PIB, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1656929> (last visited on Mar. 28, 2021).

This legislation seeks to regulate contract farming which is already in practice in about 20 states of India with successful programs like ITC's E-choupal ecosystem<sup>12</sup> which in itself is a pioneer in contract farming and is said to have made agriculture more profitable. As per Section 3(1) of the aforementioned act, a farmer can enter into a written agreement (contract) with any company, trader, etc. for selling his/her agricultural produce with the minimum time period being one crop season or one production cycle of livestock and the maximum time being five years.<sup>13</sup> The government claims that not only this act will shift the balance of contract farming in favor of farmers owing to provisions such as prohibiting sponsor from acquiring ownership rights<sup>14</sup> but also it will provide them a guaranteed price even before the crop are sown<sup>15</sup>, which will also save them from the cumbersome process of the loan. Further, this act will also shift market volatility to the sponsor from the producer.<sup>16</sup> The act to facilitate trade also gets rid of redundant provision of deposits, licenses, and other such provisions which form a barrier to trade.

The written agreement should mention the price in accordance with acceptable quality, grade, and standards. Furthermore, it must also specify the process used for the determination of price. The act also provides provision for the central government to issue model farming agreements<sup>17</sup>. As for the disputes regarding farming agreement it shall be sorted either through conciliation process in front of the conciliation board or by Sub-Divisional Magistrate which saves farmers from lengthy and hassle process legal redressal of grievances.

This act can be proved to either be boon or bane for farmers, depending upon its implementation and presence of grievances redressal mechanism. It will attract huge investment and what would come along with them are new technologies, good infrastructure, market competition, and many more which may revolutionize the whole agriculture sector. This law can also be proved otherwise, if proper preventions do not be implanted to restrict the exploitation of natural resources, like fertility of the land, use of water. Provision must also be interpreted in the interest of farmers in case of disputes, so protect them from being left at the mercy of corporates.

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<sup>12</sup> ITC, available at: <https://www.itcportal.com/sustainability/echoupal-ecosystem.aspx> (last visited on Mar. 27, 2021).

<sup>13</sup> The Farmers' Empowerment and Protection Agreement on Price Assurance and Farm Services Act 2020 (Act 20 of 2020) s. 3(3).

<sup>14</sup> The Farmers' Empowerment and Protection Agreement on Price Assurance and Farm Services Act 2020 (Act 20 of 2020) s. 8.

<sup>15</sup> LAWPRIMIS, available at: <https://www.lawprimis.com/farm-bills-2020-a-critical-analysis/> (last visited on Mar. 29, 2021).

<sup>16</sup> PIB, available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1656929> (last visited on Mar. 28, 2021).

<sup>17</sup> The Farmers' Empowerment and Protection Agreement on Price Assurance and Farm Services Act 2020 (Act 20 of 2020) s. 3(4).

### **(C) The Essential Commodities (Amendment) Act, 2020**

The Essential Commodities Act 1955 was brought by the government to control the supply, price, and distribution of 'essential commodities' so that companies and big traders do not manipulate the prices of these essential commodities. It has been modified to add **Section 3(1A)** which gives the Union government power to regulate the supply of agricultural commodities specified in the provision which includes edible oil, oil-seeds, potato, onion, cereals, and pulses only in case of extraordinary situation such as war, grave natural calamities, famine, and extraordinary price rise<sup>18</sup>, previously the government at the center had the power to regulate whenever it was of the opinion that it is necessary to do so which indirectly means that the government has removed them from the list of essential commodities. The act also lays down under **Section 3(1B)** the criteria for regulating stock limit which is either a 100% rise in the price of horticulture produce or a 50% increase in the retail price of non-perishable foodstuff over the price prevalent in the previous 12 months or average price of last five years, whichever is lower.<sup>19</sup> As per the government, this will remove the rigid restriction imposed on stocks, movement, and price control of agricultural foodstuffs which will attract private investment. Besides everything, the government also has to ensure that the private player would be able to negatively influence the price of such goods.

Each of the agricultural legislation is very pivotal in seemingly shaping not only the future of Indian agriculture but of India too. Rest everything will depend on its implementation and preventive measures, in case of any undesirable situation.

### **III. THE BONE OF CONTENTION**

A birds-eye view of the acts indicates that almost everything is good on paper, but a wide range of protest led by the farmers of the country shows that the act has its shortcomings, concerns, and lacunae for which the act has been criticized by some critics<sup>20</sup>.

#### **(A) The direct attack on cooperative federalism**

There is a distinction between good laws and their proper implementation which at the very outset was lacking in the acts, as the legislation which was about to be promulgated in the whole nation involving 28 states was neither discussed nor consulted with the states which

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<sup>18</sup> LATEST LAWS, available at: <https://www.latestlaws.com/articles/a-critical-analysis-of-the-farm-bills-2020/> (last visited on Mar. 29, 2021).

<sup>19</sup> NITI Aayog, available at: <https://niti.gov.in/sites/default/files/2020-11/NewFarmActs2020.pdf> (last visited on Mar. 27, 2021).

<sup>20</sup> THE HINDU, available at: <https://www.thehindu.com/opinion/op-ed/will-the-farm-bills-benefit-farmers/article32690170.ece> (last visited on Mar. 30, 2021).

were presumed as a direct attack on cooperative federalism structure of the Indian democracy. The fact that these acts were based on agriculture which is in Entry 14 and market which is Entry 28, both in List II of the Constitution being state subjects questioned the constitutional validity of the act, as these had an overriding effect on the prevalent state acts, but the central government contended that the acts were constitutional by relying on Entry 33 ie. trade and commerce which is in Concurrent List.

### **(B) Ignoring Stakeholders**

Another concern raised by the protester is regarding the fact that the farm acts were hastily passed in parliament by the government, deliberately ignoring the interest of stakeholders viz. farmers, traders, and states<sup>21</sup> as their opinion was not even taken before enacting the bills.

### **(C) The farmers' produce trade and commerce (promotion and facilitation) act, 2020**

According to the regulation of APMC, farmers could only sell their Agri-produce to the local mandi, which exists in their local area, does not matter how much more realisation they might receive from other purchasers. It restricted farmers' ability to sell their produce outside their Local mandi or APMCs. When, in the 1960s, these regulations as to APMC were made, the primary objective was to save the interest of the farmers as they were not getting sufficient price of their harvest. But, over the years, the agricultural market has evolved with the national economy and these APMC regulations have proved to be a barrier to farmers in getting better realization.

A myth has been spread that the new law is intended to end local mandi or APMC and MSP over Agri-produce, however, the truth is that local mandi will continue to exist and MSP will also be continued to be fixed over agricultural products, as it were. New laws have just carved out an option for farmers to have the best price of their products by abrogating the provision restricting the sale only to APMC and also lifted the mandatory mandi tax.

### **(D) The farmers (empowerment and protection) agreed to the price assurance and farm services act, 2020**

This act allows farmers to have a direct contract with traders to engage in contract farming through written or oral contracts. It will create a national framework as to agreement between producer and buyer of agricultural products, and also ensure the protection of interest of farmers from corporate giants.

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<sup>21</sup>TRIBUNEINDIA, available at: <https://www.tribuneindia.com/news/features/farming-laws-and-agitation-reach-out-to-stakeholders-147767> (last visited on Mar. 29, 2021)



It aims to liberalize and deregulate the agricultural market and paving way for corporate and private investors to invest in agriculture in India. The inclusion of private players will bring new technologies and modernize the mode of farming. Simultaneously, it will also increase competition in the agriculture sector which may bring good returns to the farmers.

### **(E) The Essential Commodities (Amendment) Act, 2020**

The major concern relating to this Act is regarding the fear that it will lead to black-marketing and hoarding<sup>22</sup>, as this act relaxes the restriction on stock limit which as per protesters will give traders and companies full autonomy to artificially play with the prices which will not only have an adverse effect on farmers<sup>23</sup> but also on the consumers, as they will have to pay much more for the same commodity owing to price rise caused by hoarding of agricultural produces. As per some agriculture economists, the act is in no way beneficial for farmers or consumers as it legally allows private companies and traders to store stock without limitation except in the situation of extraordinary circumstances viz. war, grave natural calamity, extraordinary price rise, etc. The fact that there is a may provision even in case of extraordinary circumstance thereby giving Central government discretion and not making it mandatory to exercise regulation raises doubt on the intention of the legislation.

Addressing criticism as per government the act does not substantively change the interfering power of the government which can be observed from the act of enforcing the stock limit on onions after the promulgation of the Essential Commodities Act 2020.<sup>24</sup>

## **IV. CONCLUSION**

Reformation is an on-going process, which never ends. The reformation of agriculture in India was a long-awaited change that was needed to liberalize and deregulate the agricultural market. The new farm laws are constituted of some revolutionary provisions which may bring transformative change to agriculture, in the life of agrarian and national economy as well. Especially, the three contentious laws, which have been the cause of one of the biggest protests since independence, would become up as the key factors in the transformation, if its few shortcomings will be dealt with and be implemented in a conducive way.

As the new laws allowed the farmers to reach out most profitable buyers and have a direct contract as to the production of food, which may be corporate firms, there is a high possibility

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<sup>22</sup> LEXFORTI, available at: <https://lexforti.com/legal-news/farmer-bills/> (last visited on Mar. 26, 2021).

<sup>23</sup> LIVEMINT, available at: <https://www.livemint.com/politics/policy/india-to-liberalise-law-on-stocking-of-farm-produce-11589547366404.html> (last visited on Mar. 25, 2021).

<sup>24</sup> NITI Aayog, available at: <https://niti.gov.in/sites/default/files/2020-11/NewFarmActs2020.pdf> (last visited on Mar. 27, 2021).

of an increase in contractual disputes for which a strengthened grievance redressal mechanism must be in existence. The amendment in the essential goods act, which strips out few food products out of bureaucratic restrictions, must be implemented in taking cognizance of the price fluctuation of such products.

Notwithstanding the misinformation spread about the new farm laws, MSP will be continued to exist as it was and even APMC itself remains in existence, however, the inclusion of corporate organization would bring competitiveness in the functioning of APMC. When the Indian government plans to double the income of the farmers by 2022, it was necessary to bring such revolutionary laws.

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