

AN ANALYTICAL STUDY ON THE AGRICULTURE REFORMS IN INDIA WITH SPECIAL MENTION TO THREE NEW LAWS

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Abstract

Recently the Parliament has passed three Farm Bills namely The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020., Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, Essential Commodities (Amendment) Act, 2020. These bills sought to bring much needed reforms in the **agricultural marketing system** such as removing restrictions of private stock holding of agricultural produce or creating trading areas free of middlemen and take the market to the farmer. However, farmers are apprehensive that the free market philosophy supported by these bills could undermine the **Minimum Support Price (MSP)** system and make farmers vulnerable to market forces. The present paper deals with the historical background behind introduction of all three Bills, its main features, key issues, comments or views on the bills, critical evaluation and impact on different stake holders.

KEY WORDS Agriculture Market Produce Committee (APMC), Minimum Support Price (MSP), Essential Commodities, e-NAM.

INTRODUCTION

The Government with the aim of transforming agriculture in the country and raising farmers' income has passed three important legislation from Parliament. These legislations sought to bring much needed reforms in the agricultural marketing system such as removing restrictions of private stock holding of agricultural produce or creating trading areas free of middlemen and take the market to the farmer. These three laws are:

1. The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020,
2. The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020,
3. Essential Commodities (Amendment) Act, 2020.

HYPOTHESIS

1. It is said that the Farm Bills are Corporate friendly and anti farmers as farmers are under the fear of removal of APMCs, loss of job of middlemen and most importantly end of MSP (Minimum Support price)
2. Being big private companies, exporters, wholesalers and processors, the sponsors will have an edge in disputes

OBJECTIVES

1. To analyze historical background of the Bills
2. To analyze the main features and key issues in brief
3. To provide critical appreciation of the Bills
4. To conclude with proper recommendations.

RESEARCH METHODOLOGY

The researcher has adopted doctrinal method for the purpose of collection of data. It includes books, articles, various law journals, newspapers and internet. The material was collected and arranged in systematic order.

HISTORICAL BACKGROUND OF THE BILL

The farm bill is an omnibus piece of legislation that addresses a number of policy areas related to food and agriculture-including production, processing, distribution, retail, and consumption-as well as related concerns such as rural development and alternative energy. The history of farm bill programs can be traced back to the Great Depression, when the nation experienced widespread hunger despite agricultural overproduction and falling commodity prices. In order to address both of these issues, President Roosevelt signed the Agricultural Adjustment Act of 1933 (AAA), which established programs to allow the federal government to purchase surplus crops from farmers and distribute them to underserved communities. The food assistance programs created by the AAA were further formalized in the Food Stamp Program in 1939. The new Program sought to bridge, as the program's first administrator described, the "chasm" between "farm surpluses on one cliff and under-nourished city folks...on the other. This program allowed qualifying individuals to access commodity surplus foods through the use of vouchers. These early years also maintained price supports for certain crops, and Congress created the Federal Crop Insurance Corporation (FCIC) 1938 to provide disaster coverage for major crops. Since the early legislation in the 1930s, the farm bill has grown in both size and scope. Because it is reauthorized about every five years, the farm bill functions as a key legislative tool for addressing current issues surrounding food, nutrition, and agricultural policy. And while programs dedicated to providing food assistance and price support for farmers have remained central to the mission of successive farm bills, it has also grown to include programs related to energy, agricultural-oriented research, conservation, and rural development. For instance, an increased federal focus on rural poverty during the 1960s and 1970s led to a rise in the number of rural development programs supported by farm bills of that era, and the eventual creation of a standalone Rural Development Title in the 1973 Farm Bill. Many of these programs, such as Community Facility Grants, Rural Cooperative Development Grants, and Rural Business Enterprise Grants, aim to provide funds for low-income communities to improve their infrastructure and grow their economies. While the Rural Development Title does not focus strictly on the agricultural industry, its programs have been central in providing safety nets for farming and ranching communities across the nation. In addition to the increased attention to rural development, the 1970s saw significant changes to food assistance programs authorized through the farm bill. In particular, increased regulation of the Food Stamp Program, now called the Supplemental Assistance Nutrition Program (SNAP), created work requirements, stricter eligibility requirements, and guidelines for retailers seeking to sell food to assistance participants. These changes to SNAP were accompanied by the establishment of the Food Distribution Program on Indian Reservations (FDPIR) in the 1977 Farm Bill, which provides direct food distribution services to Native Americans living on reservations, many of whom cannot easily access stores participating in SNAP. In the 1980s, amidst growing environmental concerns, the farm bill adopted new conservation provisions, which included both voluntary incentive programs and new requirements for maintenance of important farm bill subsidy programs. The required programs, known as conservation compliance, called on farmers to take steps to reduce soil erosion (the Sodbuster program) and avoid the destruction of wetlands (the Swampbuster program). Voluntary programs, such as the Conservation Reserve Program (CRP), Conservation Stewardship Program (CSP), and the Environmental Quality Incentives Program (EQIP), were developed to encourage farmers to rest marginal lands, adopt conservation practices on working lands, and invest in resource-conserving capital projects. Since the 1990s, increasing attention has been paid to supporting diverse participation in the agricultural sector. After 29 tribal colleges received land-grant university status in 1994, the 1996 Farm Bill instructed the Secretary of Agriculture to "establish programs to ensure that tribally controlled colleges and Native American communities equitably participate in Department of Agriculture employment, programs, services, and resources." This farm bill also extended preference for veteran farmers applying for farm credit through the USDA. More recently, the 2014 Farm Bill dedicated an entire subsection of the Miscellaneous Title to programs which support socially disadvantaged and historically underserved populations through a number of set-aside pools of funding and increased technical assistance and outreach.

MAIN FEATURES OF THE BILL

1. The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020:
This Bill replaces the Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Ordinance, 2020. Therefore please refer to our legislative brief on the Agriculture Ordinances, 2020.
- The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020 allows intra-state and inter-state trade of farmers' produce beyond the physical premises of APMC markets. State governments are prohibited from levying any market fee, cess or levy outside APMC areas.
- The Farmers Agreement Ordinance creates a framework for contract farming through an agreement between a farmer and a buyer prior to the production or rearing of any farm produce. It provides for a three-level dispute settlement mechanism: the conciliation board, Sub-Divisional Magistrate and Appellate Authority.

- The Essential Commodities (Amendment) Ordinance, 2020 allows the central government to regulate the supply of certain food items only under extraordinary circumstances (such as war and famine). Stock limits may be imposed on agricultural produce only if there is a steep price rise.¹

KEY ISSUES AND ANALYSIS

- The three Ordinances aim to increase the availability of buyers for farmers' produce, by allowing them to trade freely without any license or stock limit, so that an increase in competition among them results in better prices for farmers. While the Ordinances aim to liberalize trade and increase the number of buyers, de-regulation alone may not be sufficient to attract more buyers.
- The Standing Committee on Agriculture (2018-19) noted that availability of a transparent, easily accessible, and efficient marketing platform is a pre-requisite to ensure remunerative prices for farmers. Most farmers lack access to government procurement facilities and APMC markets. It noted that small rural markets can emerge as a viable alternative for agricultural marketing if they are provided with adequate infrastructure facilities.
- The Standing Committee also recommended that the Gramin Agricultural Markets scheme (which aims to improve infrastructure and civic facilities in 22,000 Gramin Haats across the country) should be made a fully funded central scheme and scaled to ensure presence of a Haat in each panchayat of the country.

HIGHLIGHTS OF THE ORDINANCE

Context

Agricultural markets in India are mainly regulated by state Agriculture Produce Marketing Committee (APMC) laws. APMCs were set up with the objective of ensuring fair trade between buyers and sellers for effective price discovery of farmers' produce. APMCs can:

- (i) regulate the trade of farmers' produce by providing licenses to buyers, commission agents, and private markets,
- (ii) levy market fees or any other charges on such trade, and
- (iii) Provide necessary infrastructure within their markets to facilitate the trade.

The Standing Committee on Agriculture (2018-19) observed that the APMC laws are not implemented in their true sense and need to be reformed urgently. Issues identified by the Committee include:

- (i) most APMCs have a limited number of traders operating, which leads to cartelization and reduces competition, and
- (ii) Undue deductions in the form of commission charges and market fees. Traders, commission agents, and other functionaries organize themselves into associations, which do not allow easy entry of new persons into market yards, stifling competition. The Acts are highly restrictive in promotion of multiple channels of marketing (such as more buyers, private markets, direct sale to businesses and retail consumers, and online transactions) and competition in the system.

During 2017-18, the central government released the model APMC and contract farming Acts to allow restriction-free trade of farmers' produce, promote competition through multiple marketing channels, and promote farming under pre-agreed contracts. The Standing Committee (2018-19) noted that states have not implemented several of the reforms suggested in the model Acts. It recommended that the central government constitute a Committee of Agriculture Ministers of all states to arrive at a consensus and design a legal framework for agricultural marketing. A High Powered Committee of seven Chief Ministers was set up in July 2019 to discuss, among other things: (i) adoption and time-bound implementation of model Acts by states, and (ii) changes to the Essential Commodities Act, 1955 (which provides for control of production, supply, and trade of essential commodities) for attracting private investment in agricultural marketing and infrastructure. The central government promulgated three Ordinances on June 5, 2020: (i) the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020, (ii) the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020, and (iii) the Essential Commodities (Amendment) Ordinance, 2020. The Ordinances collectively seek to (i) facilitate barrier-free trade of farmers' produce outside the markets notified under the various state APMC laws, (ii) define a framework for contract farming, and (iii) impose stock limits on agricultural produce only if there is a sharp increase in retail prices. The three Ordinances together aim to increase opportunities for farmers to enter long term sale contracts, increase availability of buyers, and permits buyers to purchase farm produce in bulk.

1. <https://www.prsindia.org/billtrack/farmers-empowerment-and-protection-agreement-price-assurance-and-farm-services-bill-2020>

2. **The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Ordinance, 2020**
 - **Farming agreement:** The Ordinance provides for a farming agreement between a farmer and a buyer prior to the production or rearing of any farm produce. The minimum period of an agreement will be one crop season, or one production cycle of livestock. The maximum period is five years, unless the production cycle is more than five years.
 - **Pricing of farming produce:** The price of farming produce should be mentioned in the agreement. For prices subjected to variation, a guaranteed price for the produce and a clear reference for any additional amount above the guaranteed price must be specified in the agreement. Further, the process of price determination must be mentioned in the agreement.
 - **Dispute Settlement:** A farming agreement must provide for a conciliation board as well as a conciliation process for settlement of disputes. The Board should have a fair and balanced representation of parties to the agreement. At first, all disputes must be referred to the board for resolution. If the dispute remains unresolved by the Board after thirty days, parties may approach the Sub-divisional Magistrate for resolution. Parties will have a right to appeal to an Appellate Authority (presided by collector or additional collector) against decisions of the Magistrate. Both the Magistrate and Appellate Authority will be required to dispose of a dispute within thirty days from the receipt of application. The Magistrate or the Appellate Authority may impose certain penalties on the party contravening the agreement. However, no action can be taken against the agricultural land of farmer for recovery of any dues.
3. **The Essential Commodities (Amendment) Ordinance, 2020**
 - **Regulation of food items:** The Essential Commodities Act, 1955 empowers the central government to designate certain commodities (such as food items, fertilizers, and petroleum products) as essential commodities. The central government may regulate or prohibit the production, supply, distribution, trade, and commerce of such essential commodities. The Ordinance provides that the central government may regulate the supply of certain food items including cereals, pulses, potatoes, onions, edible oilseeds, and oils, only under extraordinary circumstances. These include: (i) war, (ii) famine, (iii) extraordinary price rise and (iv) natural calamity of grave nature.
 - **Stock limit:** The Ordinance requires that imposition of any stock limit on agricultural produce must be based on price rise. A stock limit may be imposed only if there is: (i) a 100% increase in retail price of horticultural produce; and (ii) a 50% increase in the retail price of non-perishable agricultural food items. The increase will be calculated over the price prevailing immediately preceding twelve months, or the average retail price of the last five years, whichever is lower.

IEWS OR COMMENTS ON THE BILLS

1. President of the Maharashtra Rajya Bazaar Samiti Sahakari Sangh, Dilip Mohite Patil claimed that around 100-125 market committees in Vidarbha and Marathwada regions have reported almost no business and are on the verge of closure after the announcement of the central Ordinance.
2. Food Processing Industries Minister, Harsimrat Kaur Badal of Shiromani Akali Dal resigned from her post in protest against these Bills.
3. Former Chief Minister of Punjab, Prakash Singh Badal returned his Padma Vibhushan to protest 'the betrayal of farmers by the Government of India'.
4. Canadian Prime Minister Justin Trudeau stated, "Let me remind you, Canada will always be there to defend the rights of peaceful protesters. We believe in the process of dialogue. We've reached out through multiple means to the Indian authorities to highlight our concerns. This is a moment for all of us to pull together."
To this, the Indian Government reacted sharply stating that his remarks are "ill-informed" and "unwarranted".
The Ministry of External Affairs (MEA) official spokesperson stated, "We have seen some ill-informed comments by Canadian leaders relating to farmers in India. Such comments are unwarranted, especially when pertaining to the internal affairs of a democratic country. It is also best that diplomatic conversations are not misrepresented for political purposes."
5. As reported by PTI, social activist Anna Hazare has threatened to go on a hunger strike if his demands on issues concerning farmers are not met by the Central Government by the end of January 2020. He further stated that it would be his 'last protest'.
6. Congress Communication Chief Randeep Surjewala while addressing a press conference attacked Prime Minister Modi over three Farm Acts 2020 and stated that if he can't repeal the Farm Laws and has to depend on the Supreme Court to break the deadlock with farmers, he must resign from the post of Prime Minister.

CRITICAL APPRECIATION

Farmers have called the new Farm Laws 2020 as '**corporate-friendly**' and '**anti-farmer**'² due to following reasons:

1. States will lose revenue as they will not be able to collect mandi fees as farmers are allowed to sell their produce outside registered mandis.
2. What happens to 'commission agents' in states if entire farm trade farmers are moved out of mandi
3. It may eventually end the MSP-based procurement system. Electronic trading like in e-NAM uses physical 'mandi' structure. What will happen to e-NAM if 'mandis' are destroyed in absence of trading?
4. Farmers in contract farming arrangements will be the weaker players in terms of their ability to negotiate what they need
5. The sponsors may not like to deal with a multitude of small and marginal farmers
6. Being big private companies, exporters, wholesalers and processors, the sponsors will have an edge in disputes.
7. Price limits for "extraordinary circumstances" are so high that its likely to be never triggered.

IMPACT ON STAKEHOLDERS

- **Farmers:** The farmer is now the producer and the seller of his own produce and will be free to enter into agreement with private trade directly.
- **Consumers:** The consumers would now get the produce at much lower costs.
- **Middlemen:** Although the role of middlemen is not going to end completely, their hold on the trade will not be as strong.
- **State governments:** The state govt. of states such as Punjab and Haryana will be adversely affected as there will be a huge loss in annual revenue collection.

CONCLUSION

It can be concluded that the above mentioned legislation basically aims at creating additional trading opportunities outside the APMC market yards to help farmers to get remunerative prices due to additional competition. It proposes an electronic trading in transaction platform for ensuring a seamless trade electronically. **It is also worth mention that** None of the legislation affects the Minimum Support Price in any way, MSP is an administrative decision not provided or dealt with under any law. **Besides this**, Agricultural Produce & Market Committee (APMC) will still be available as a matter of choice to sell their products. The sale, lease or mortgage of farmers' land is totally prohibited and farmers' land is also protected against any recovery.

WAY FORWARD

- **Improvement in the Agricultural Infrastructure to Strengthen the Competition:** Government should provide huge funding for the expansion of the APMC market system and make efforts for removal of trade cartels. Also they should be provided good roads, logistics of scale and real time information.
- **Empowering State Farmers Commissions:** Rather than opting for heavy centralization, the emphasis should be on empowering farmers through State Farmers Commissions recommended by the **National Commission for Farmers**, to bring about a speedy government response to issues.

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