

## Free Market Vs. Regulated Market

*Treesa Joseph & Navya Sunny, Bharata Mata School of Legal Studies, Kerela*

### ABSTRACT

*While we are going through the Indian history, we can see that farmers plays a vital role in Indian economy as well as the day to day life of each individual. So that we can say that farmers are the backbone of our country. But still the plights of farmers are still continuing even in the civilized nation. Even though Government implement so many policies and plans for the welfare of the farmers, the complete solution to their crisis is still in limbo.*

*The recent remedial measures taken by the government are the three controversial agricultural bills that have led to nationwide protest by farmers, state government and opposition parties were came into force on September 27, 2020.*

*The government hopes that the free market system will provides farmers more choices as well as encourage the private parties to invest in agricultural marketing processing and infrastructure. But feeders of our country have taken to streets, protesting against these progressive bills. Thus our research carried out with an aim of complete analysing of these bills which become one of the main problem facing our Nation in 2020.*

**Keywords:** *Farm Bills, Controversies, Protest, Corporate agriculture, Essential Commodities, Voice Vote*

## Introduction:

'Matha Pitha Guru Daivam ' is the most important and beautiful ideology of Indian culture. While considering the role and relevance of farmers in every individual's life, farmer is the most deserved person to be included in this ideology. The pseudo belief of the lion share party of the society is that agriculture is an inferior job. Mostly in the present scenario, no one is encouraging farming and everyone is preferring white collar jobs than agriculture. This is the reason which has taken the farmers to the street.

In 2020, farmers will take to the streets protesting against three bills on the agriculture market. The three farm bills are:

1. The Farmers Produce Trade and Commerce (Promotion and Facilitation) Bill.
2. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm services Bill.
3. The Essential Commodities Amendment Act.

Government says that India's agricultural sector has been liberalized and sort of privatised by the new farmers bills 2020 by eliminating the dangerous middlemen, avoiding the tax rates collected by the state governments, facilitating better realisations for farmers, attracting investment and enhancing technology in the sector. Because of these bills India have to witness a lot of agitations and mass rallies by farmers.

Opposition parties and farmer groups across the political spectrum have expressed concern that the laws could corporatise agriculture, thereafter the current mandi network and state revenues and dilute the system of government procurement at guaranteed prices. Thus it does not give any statutory backing to Minimum Support Price. And, one of the main concerns raised by the protesters is that agriculture falls in the state list, arguing that the centre should not be making legislation on this subject at all.

Even though the central government says that these three bills have a lot of advantages, when it came into force it actually threatened every Indian citizen. The main intention of this research paper is to examine the impact of these three bills among Indian farmers.

### **III. Objective:**

1. To make a complete analysis on farm bills 2020
2. To study about the reasons for the introduction of farm bills 2020
3. To study about the reasons for the protests against farm bills 2020
4. To understand the scope for course corrections in these bills

### **IV. Review of Literature:**

#### **A. History of Reasons**

Before the arrival of the British, India was one of the major country which had an outstanding role in agriculture. When Britishers came to India they started to loot our resources and they left a collapsed nation, that made the farmer's situation more pathetic. Thus it utterly ruined our nation. In 1950's and in 1960's Indian farmers are brutally exploited by zamindars because of their the then condition. They did not have the knowledge to identify the real place to sell their products. If they found it, they didn't get the deserving amount. So, Indian government decided to protect Indian economy through the development of Indian farmers. Because, agriculture is the backbone of Indian economy. We get the lion share from our farmers.

During the 1960's and 1970's, most of the states enacted and enforced Agricultural Produce Markets Regulation (APMR) Act. All primary wholesale assembling markets were brought under the ambit of these acts. APMC's based on two principles which are,

1. To ensure that farmers are not exploited by intermediaries (zamindars or other money lenders) who compel farmers to sell their produce at the farm gate for an extremely low price.
2. All food produce should first be brought to a market yard and then sold through auction.

Each state operates APMC markets (mandies) in different places within their borders, geographically dividing the state and there is a licensed middleman between the state and farmers. This APMC market system provides fees and charges for trade intermediaries and also the taxes to the state governments. And if APMC markets didn't accept their products, then the government will buy it with a Minimum Support Price (MSP) (it is only provided to 22 selected agricultural products)

According to the APMC system, farmers can sell their products within 400 kg in any market or to a direct consumer. But if it is above 400 kg produce then they should sell it in the APMC markets. But, over the year, APMC markets reached at a worst condition because of the lack of proper implementation of APMC act. One of the main reasons is the licensed middlemen. This license is provided by the state governments, which means the license is gained by the people who have good relations with the government, basically politicians. They formed a network and formed a mafia. Then the history of exploitation again repeated there.

## **B. APMC model Act 2003 includes:**

1. Facilitating contract farming model.
2. Special market for perishables.
3. Allowing farmers and private persons to setup their own market.
4. Relaxation of licensing norms.
5. Single market fee
6. APMC revenue to be used for improving market infrastructure.

However, not all states have passed the bill. Some states have passed but neither framed rules nor notified it. Thus interstate barriers continued.

In 2015, the year's Union Budget proposed to create a United National Agricultural Market with the help of state governments and NITI Ayog.

In 2020, Government of India have passed three farm bills :

1. The Farmers Produce Trade and Commerce Act 2020 is an act of Indian Government which says, farmers can sell their products anywhere in India (within the APMC or beyond the APMC limit) even if it is above 400 kg. It supports the concept of One Nation One Bill.
  - Interstate and intrastate without any regulations.
  - In this system, state governments didn't get tax.

Government says that through this act farmers can achieve certain goals that is :

- Farmers will get good nexus through interstate and intrastate trade.
  - Comparatively it provides more opportunities for farmers because of better vast market facilities
  - Ends the tyranny of the middlemen which leads a great relief to farmers from the commission rates.
  - Engenders competition among buyers
  - They are relieved from the burden of tax of state governments.
  - Farm produce can move freely from surplus to adjacent regions.
  - Creates national market
  - Consumers get better and cheaper products because of the exclusion of the tax and commission.
2. The Farmers Agreement on Price Assurance and Farm Service Act legalize the contract farming through an agreement between a farmer and a buyer. It provides for a three - level dispute settlement mechanism: the conciliation board, sub divisional magistrate And appellate authority.

Though this act government:

- Farmers get assured that their products will definitely sell out in the market and thus it increases confidence among them.
- Transfers market risk from farmer to sponsor.
- Gives farmers access to high quality seeds, fertilizers, pesticides.
- Encourage the private investment in Farming and connect our farms to global markets.
- Effective dispute resolution mechanism with redressal timelines
- To reduce cost of marketing and boost farmer's income.
- Farmers can engage in direct marketing by eliminating intermediaries for full price realization.

3. The Essential Commodities (amendment) Bill 2020, excludes some commodities (cereals, potato, onion, edible oil seeds and oils) from the essential commodities act 1955, thus allows the central government to regulate the supply of certain food items only under extraordinary circumstances (such as war, famine, extraordinary price rise etc.)

Government says that:

- It helps to attract private investment in cold storage, warehouses
- It helps to reduce wastages by the improvement of storage facilities
- The amendment to the Essential Commodities Act which is one of the three bills under protest removes the scare or fear of the farmer's that traders who buy from farmers would be punished for holding stocks that are deemed excess and inflicting losses for the farmers.

## **B. Reasons for the protests**

### **C.**

The covid pandemic created drastic changes in the world in addition with these, the pandemic has now divided the 2020 era itself into After corona and Before corona. When the country faces economic as well as health issues the government introduces these three farm bills without proper discussion, which drags the farmers into the streets.

Through the bill the government says that there is no complete open market system without the extra fee. But gradually it courses to the end of APMC. And it makes the farmers in more trouble.

While agriculture is in the state list under the constitution, Entry 33 of the concurrent list provides the Centre and the states, powers to control production, supply and distribution of products of any industry, including agriculture. Usually, when a state wants to amend a central

law made under one of the items in the concurrent list, it needs the clearance of the centre, When a state law contradicts a central law on the same subject, the law passed by the parliament prevails. This arrangement is the most envisaged arrangement which parliament laws apply to the whole of India. States amending the central laws indiscriminately could lead to inconsistencies in different regions on the application of the same law. This could especially for serious problems on matters of trade and Commerce. But, the centre didn't make a proper discussion with parliament as well as the state legislature.

When a law comes into force which is related to subjects in the concurrent list the central government should make sure that they have done a proper discussion with state governments. But, on a moral basis central government acts against the federal system of our country. In the Indian Parliament all decisions ought to be taken by voting as mandated by article 100 of the Indian Constitution. However, the Constitution is silent on the process of recording these votes. Thus the Union as well as the State legislature have drafted their own rules to record vote. These three farm bills were came into force through a mere voice vote which created ambiguity among the Members of Parliament which leads to amid protests. Voice votes is considered simplest and quickest of voting methods used by deliberate assembly. But at the same time voice vote have inherent disadvantages. The volume of the voices are typically only estimated and not actually measured with sound level meters, giving a chair enough plausible deniability to falsify the result if they disagree with it; even if such a vote can be objectively quantified in terms of decibels, the method gives an unfair advantage to those who have louder voices.

As per Rule 252 of the Rajya Sabha Rules, if the speaker's decision with respect to a voice-vote is challenged, it is mandatory for the speaker to carry out the process of division. But during the passage of farm bills on September 20, despite the protest from the opposition, the presiding officer of the Rajya Sabha, instead of ordering for division, proceeded to decide on the basis of voice-vote. This leads to the suspension of some MPs who were protesting against the

enforcement of these three bills with in the parliament premises. Many of the opposition parties go ahead with the non-confidence motion against this enactment.

Farmers fear that the ordinances will disrupt the mandi system of marketing and also hamper the selling of products at MSP.

Protesters say that Farmers Produce Trade and Commerce (promotion and facilitation) bill will affect the whole country through the following ways :

- Deregulates the farming sector by the government. Thus, the government doesn't have any responsibility over farmers.
- State governments lose the authority to levy the tax from the farmers who sell outside APMC which affects the economic position of the state.
- Middlemen lose livelihood which leads to unemployment.
- This bill does not give any statutory backing to MSP. There is not even a mention of either ' MSP ' or ' procurement ' in the Bill.
- Government declares MSPs for crops, but there has been no law mandating their implementation.
- The majority of the present Indian farmers are not able to be are the high transportation charges other than their native place.
- In this bill, the farmers can sell their products not only via the direct market, but also through the online marketing. While considering the situation of Indian farmers they are not able to access these facilities because of their educational and technological backwardness.

According to The Farmers Agreement on Rice Assurance and Farm Service Bill 2020, farmers can come into a legal agreement for future marketing of their products. Explicitly, it is a reformative plan, but deep inside it is not that much perfect. Reason for this imperfections are :

- The farmer fears that the mandis operated under the APMC law will be abolished due to the parallel market system which promotes contract farming . Thus they will be forced to sell their products outside the APMC (outside the control of government) without MSP.
- Farmers will be cheated because of the entry of people without license or registration.
- In particular clause of this Act says that the end party who enters into the contract with the farmer can make a quality check before purchasing it. So that, if the farmers are not able to meet the qualities it may cause to the wastage of products.
- Most of the Indian farmers will not be well educated and unaware about the contractual terms and conditions they signed. So if he asks the amount he really deserves, buyers can simply foolish them saying the loophole in the contract. Because of his unawareness he can't respond to it longer. Ignorantia juris non excusat (Ignorance of law is not an excuse)

Drugs (medicines), fertilizer, whether inorganic, organic or mixed; foodstuffs, including edible oilseeds and oils; yarn made wholly from cotton; petroleum and petroleum products; raw jute HI jute textiles; seeds of food-crops and seeds of fruits and vegetables; seeds of cattle fodder and jute seeds. Government excludes some commodities from the essential commodities list by Essential Commodities Amendment Act 2020. Which will result the following problem ;

- (i) The amendment excludes potato, onion, oilseeds, oil, cereals etc. Which should be added into the essential commodities list of a normal man. Thus it results in increased rural poverty and adversely affects the public distribution system.
- (ii) Through this Act a person can easily hoard these excluded commodities and they create an artificial demand and artificial hike in the market. This will make the common man's life more miserable.

(iii) Creates black market.

## D. Suggestions

1. The proper regulation and implementation of the Agricultural Produce Market Committee (APMC) system is much better than the complete demolition of this regulated system by making a parallel opening market system.
2. Assurity of minimum support price by law. Their motto is ONE NATION ONE MARKET : but we need ONE MARKET, ONE MINIMUM PRICE. Then only can we make the condition of farmers more better.
3. If the formation of the mafia of middlemen is the problem then the government should take the measures to prevent them.
4. Makes the bill more reliable. So that they can take decisions carefully and it helps to reduce the chances of getting cheated and deduct the chance of bias.
5. The excluded items from the Essential Commodities Act should be added to it . Because those items are the inevitable food stuffs in everyone's life, so avoiding it from the essential commodities list makes a common man into trouble.
6. Make amendments to these bills by making proper discussions with state governments under the proper guidance of the central government. Thus we can make these bills more efficient.
7. By analysing the sources, it says that the government has proposed that the Agriculture Produce Market Committee (APMC) Mandis and free markets will have the same tax ratio. But as per the existing laws, the free market would not have taxes, the farmers had argued that the rate of taxes should be the same on both APMC and Free Market.
8. An apprehension of farmers was since there would be no registration of traders in the free market and make purchases based on a pan-card they would be able to exploit the farmers. The centre has proposed an amendment to the tune that all traders would have to be registered and verified on a government portal in order to make any purchase.

## V. Conclusion

Farmers are the founders of human civilization. On 20 September 2020, prime minister Narendra Modi referred to the bills as a watershed moment in the history of Indian agriculture that will empower tens of millions. Farmers and others have called the bills 'corporate friendly and anti-farmer'. The bills have faced strong protests from the majority of farmers and opposition parties. Because, these bills mainly focus on creating a free market system instead of the prevailing regulated system of market. But, this kind of open market system is not very successful in developed countries like the USA and Europe. So, it is very difficult for a developing country like India to make it successful. 80% of Indian farmers are marginal and small. Thus, they can't access the entire benefits of the bill. Overseas, Canadian Prime Minister Justin Trudeau stated he would side with the protesters. However, according to Times Of India, Canada was one of the most strident critics of India's MSP (Minimum Support Price) and other agriculture policies at WTO (World Trade Organization). Canada also often questions India's domestic agriculture measures that are meant to provide food and livelihood security to the country's large agrarian population.

Article 131 of the Indian Constitution provides exclusive jurisdiction to the Supreme Court to adjudicate matters between the state governments and the Centre government. Amarinder Singh the Chief Minister of Punjab has already said that the state would move the Supreme Court.

It is also possible for farmers' unions attached to political parties to challenge the law in the courts. The unions, however, can move even the High Court under Article 226 of the Constitution. Explicitly, these bills are very reformative. But our government should consider whether the farmers can access it or not. So, it needs a root level discussion to make it a great success.

*'As long as there are a few farmers out there, we will keep fighting for them.'*

- Willie Nelson

## BIBLIOGRAPHY

1. [https://m.timesofindia.com/india/what-is-farm-bill-2020-pros-cons-of-three-farm-bills-centre-introduced/amp\\_articles/78180231.cms](https://m.timesofindia.com/india/what-is-farm-bill-2020-pros-cons-of-three-farm-bills-centre-introduced/amp_articles/78180231.cms)
2. <https://www.prsindia.org/billtrack/farmers-produce-trade-and-commerce-promotion-and-facilitation-bill-2020>
3. <https://malayalam.asiavillenews.com/article/agricultural-bill-why-farmers-against-the-bill-59475>
4. <https://www.business-standard.com/about/what-is-farm-bills>
5. <https://ruralindiaonline.org/library/resource/the-farmers-produce-trade-and-commerce-promotion-and-facilitation-act-2020/>
6. [https://en.m.wikipedia.org/wiki/Agricultural\\_produce\\_market\\_committee](https://en.m.wikipedia.org/wiki/Agricultural_produce_market_committee)
7. <https://www.jagranjosh.com/general-knowledge/farm-bills-indian-farm-reforms-2020-1606901455-1>
8. <https://indianexpress.com/article/explained/farmers-big-concern-and-what-govt-could-negotiate-7073291/>
9. <https://www.thehindu.com/data/data-farmers-new-agriculture-laws-and-government-procurement/article33201332.ece>
10. <https://blog.finology.in/recent-updates/farm-bill-2020-pros-and-cons>
11. The Gazette of India  
CG-DL-E-27092020-222039

### MINISTRY OF LAW AND JUSTICE

(Legislative Department)

- THE FARMERS PRODUCE TRADE AND COMMERCE ( PROMOTION AND FACILITATION) ACT, 2020
  - THE FARMERS ( EMPOWERMENT AND PROTECTION) AGREEMENT ON PRICE ASSURANCE AND FARM SERVICES BILL, 2020
  - THE ESSENTIAL COMMODITIES (AMENDMENT) ACT, 2020.
12. <https://scroll.in/article/973678/centres-farm-bills-attempt-to-bypass-state-laws-on-agriculture-how-can-the-states-respond>
  13. <https://www.newindianexpress.com/nation/2020/sep/29/farm-laws-can-states-negate-central-acts-using-article-254-2-of-the-constitution-2203308.html>
  14. <https://www.indiatoday.in/india/story/farm-bills-row-suspended-rajya-sabha-mps-spend-night-outside-parliament-in-protest-as-farmer-unrest-grows-1724043-2020-09-21>
  15. <https://www.timesnownews.com/india/article/farmers-protest-here-are-the-8-amendments-to-the-farm-bills-government-might-be-ready-to-make/692382>