

# **INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION**

**[ISSN 2581-9453]**

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**Volume 3 | Issue 2**

**2020**

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# The Impact of the Farmers Produce Trade and Commerce (Promotion and Facilitation) Act on Indian Agrarian Population

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## ABSTRACT

*The farm bills were introduced in the Lok Sabha on 14th September, 2020 by the Union Minister of Agriculture and Farmers' Welfare, Narendra Singh Tomar. Within less than two weeks, on 27th September, 2020 the President gave assent to these three controversial farm laws which almost immediately led to widespread protests all across the country by the farmers. The laws were passed in order to address the longstanding demands of the farmers as well as the economists in order to take the next step forward in the agrarian sector. The three farm laws are The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020, and Essential Commodities (Amendment) Act, 2020*

*These laws have been introduced to accelerate agricultural growth through private sector investment by breaking the agriculture monopsony that exists in the agriculture sector, with a view to bring in efficiency by increasing competition and strengthen the economy. Yet, these laws have received a mix review from across all fields, nationally and internationally and are a continuous topic of debate. This article aims at an elaborate understanding the provisions of The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 and their impact on the agriculture sector and farmers and traders. The article also studies the apprehensions of the farmers and whether the Act would be beneficial or harmful to the interest of the farmers in the long run. The article before concluding also provides a few suggestions as alternatives to get out of the existing agrarian crisis.*

## I. INTRODUCTION

### (A) Background of Indian Agriculture System

Before the 1960s India faced a shortage of food grains and faced several droughts and to

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fulfil its rising demand for food grains it had to import inferior quality food grains, mainly from USA, this was a heavy burden on the country's treasury. With this backdrop there was an urgent need to fulfil the demand of food grains for India and make it economically independent. Thus, in the 1960's the concept of Green Revolution was introduced in Punjab and then to several surrounding states. Its effects were felt across the country and led to several sociological, environmental and economic changes. The period from 1960 to 1985 witnessed a twofold increase in yield per hectare.<sup>3</sup> With introduction of modern agriculture inputs like fertilizers, pesticides, High Yield Variety Seeds, Farming machinery, etc. led to major growth in production of food. The production of wheat increased from 50 million tons in 1950 to 95 million tons in the end of the 1960's.<sup>4</sup> Similar changes were noticed in production of several other food grains as well. Thus, in just over a decade India went from being a food deficit to being a food surplus nation.

But the Green Revolution's success was short-lived and soon its dark underside came to forefront. It led to long lasting social and economic impacts which eventually caused severe damage to the soil quality, the health of the people and prevalent agricultural practices. Then in 1990's the Indian economy was opened to foreign markets which led to globalization of the market. This brought in newer technologies, greater investment in several sectors of the economy. But this almost bypassed the agriculture sector and the largest source of employment for the country was left behind to fend off for itself.

For the past 4 decades there were negotiations, proposals, counter proposals, committees which deliberated upon the issue of farming reforms but no concrete step had been taken until now. The Narendra Modi led NDA Government promised doubling farmers income before coming to power in 2019. In pursuance of this and the long due farm reforms the parliament in the midst of the coronavirus pandemic passed the three controversial farm laws.

## **II. NEED OF AGRICULTURE REFORMS AND THE FARM LAWS**

India has remarkable potential in agriculture but due to outdated laws and lack of technological inputs there has been limited investment in the farming sector and thereby hindering its productivity. In a country where almost 60% of the population is dependent on agriculture,<sup>5</sup> it becomes vital to look after the demands and practices of this huge sector. The

<sup>3</sup> Gordan Conway, *The Doubly Green Revolution: Food for All in the 21st Century*, Cornell University Press, New York, 1998.

<sup>4</sup> B. Bowonder, "Impact analysis of the green revolution in India", *Journal of Technological Forecasting and Social Change*, Vol. 15, No. 4, December 1979, p. 297.

<sup>5</sup> *Agriculture in India: Information About Indian Agriculture & Its Importance*, INDIA BRAND EQUITY FOUNDATION (Feb. 28, 2021), <https://www.ibef.org/industry/agriculture-india.aspx#login-box>.

agriculture sector, according to the data released by Ministry of Statistics and Programme Implementation on 4th Jan 2021, contributed 17.76 % to the GDV.<sup>6</sup> India is the second largest producer of agriculture products worldwide. The contribution Agriculture sector to Indian economy is much higher than the world's average which stands at 6.4%.<sup>7</sup>

In addition to this, selling the Agri-produce is a cumbersome task and involves a lot of intermediaries who consume a large share of the revenue made from the final sale leaving very little behind for the farmers. Commission agents, State run Mandis and bureaucracy form part of a complex chain between the farmer and the consumer. The APMC mandis are heavily politicized which paves way for misconduct and maladministration. A Commission agent or a an Arhatiya is a licensed dealer who acts as an agent of the farmer in the mandi. He is the one who is responsible for the sale of the farmers produce. Commissions agents often have a strong political backing and get a decent cut in the sales of the farmers' produce. The farm laws were introduced to breakdown this complex mechanism and to eliminate these drones. These laws aim to provide a healthy market for both producers and traders where they can co-exist and mutually benefit economically.

Most farmers lack access to government procurement facilities and APMC markets. Small and marginal farmers face various issues in selling their produce in APMC markets such as inadequate marketable surplus, long-distance to the nearest APMC markets, and lack of transportation facilities.<sup>8</sup> Thus, to deal with these situations and provide equal opportunity to all the farmers across the country agrarian reforms are desperately needed in India.

With increase in prices of fertilizers, pesticides and other farm related equipment's the economic condition of farmers has only been further strained. This condition has been summed up in draft report by committee on Doubling Farmers' Income as follows "By and large, the per hectare real value of output increased for most crops during the period 2004-05 to 2013-14, but the rise in input cost was much higher than the increase in the value of the output. This resulted in lowered net income from the cultivation of most crops".<sup>9</sup>

With increase in prices of fertilizers, pesticides and other farm related equipment's the

<sup>6</sup> Ministry of Statistics and Programme Implementation, *Press note on Provisional Estimates of Annual National Income 2019-2020 and Quarterly estimates of Gross Domestic Product for the Fourth Quarter (Q4) of 2019-2020*, PRESS INFORMATION BUREAU (May 29, 2020), <https://pib.gov.in/PressReleasePage.aspx?PRID=1627671>

<sup>7</sup> *Sector-wise GDP of India*, STATISTIC TIMES, (Jan. 4, 2021), <http://statisticstimes.com/economy/country/india-gdp-sectorwise.php>.

<sup>8</sup> *The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020*, PRS LEGISLATIVE RESEARCH, (Oct., 2020), [https://www.prssindia.org/billtrack/farmers-produce-trade-and-commerce-promotion-and-facilitation-bill-2020#\\_edn10](https://www.prssindia.org/billtrack/farmers-produce-trade-and-commerce-promotion-and-facilitation-bill-2020#_edn10).

<sup>9</sup> T. V. Jayan, *Input prices have pulled down farm Income*, THE HINDU (Jan. 9, 2018), <https://www.thehindubusinessline.com/economy/agri-business/input-prices-have-pulled-down-farm-income/article9828657.ece>.

economic condition of farmers has only been further strained. This condition has been summed up in draft report by committee on Doubling Farmers' Income as follows. Thus, with no real growth in incomes of farmers, a steady decline in their profits leads to further indebtedness which plays the predominant role in farm suicides.<sup>10</sup> The Indian farmer has been further pushed deeper into the preexisting evil of suicides, the number in India is one of the highest in the world. In India 296438 farmers committed suicide from 1995 to 2015.<sup>11</sup> In 2019 alone, 10281 farmers committed suicide in India.<sup>12</sup> This alarming rate of suicides amongst the Indian farmers have compelled the government to take a bold step towards curbing such menace which has led to the enactment of these three laws. Moreover, privatization of agriculture can bring in efficiency, cost effectiveness, increased accountability and professionalism.<sup>13</sup> Keeping all this in mind the government took the initiative to introduce agricultural reforms through the farm laws.

In order to fully comprehend the impact of the Farmers' Produce Trade and Commerce (Protection and facilitation) Act we must first briefly understand the cumulative effect these three laws will have. They are as follows:

- The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act: The Statute aims to provide a freer market for trade of agricultural produce across states without much restrictions apart from the existing Mandi system in which the government procures the agricultural produce thus, providing the farmers with an alternative route which is supposed to be less regulated and hassle-free.
- Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act: The Act aims is to regulate contract farming and gives manner of creation and prerequisites of contract farming and the manner of its enforcement. Its non-inclusion of courts<sup>14</sup> as a forum for redressal of grievances of the farmers has been highly criticized.
- Essential Commodities (Amendment) Act: In this legislation the Government purports to deregulate certain commodities like edible oils, pulses, etc. These foodstuffs can now only

<sup>10</sup> Merriott Dominic, *Factors Associated with the Farmer Suicide crisis in India*, 6(4) JEGH 217 3 (2016), [https://www.researchgate.net/publication/301274754\\_Factors\\_associated\\_with\\_the\\_farmer\\_suicide\\_crisis\\_in\\_India](https://www.researchgate.net/publication/301274754_Factors_associated_with_the_farmer_suicide_crisis_in_India).

<sup>11</sup> P. Sainath, *Maharashtra crosses 60,000 farm suicides*, POEOPLE'S ARCHIVE OF RURAL INDIA (Jul. 21, 2014), [www.ruralindiaonline.org](http://www.ruralindiaonline.org).

<sup>12</sup> *Accidental Deaths & Suicides in India - 2019*, NATIONAL CRIME RECORDS BUREAU (Nov. 24, 2020), <https://ncrb.gov.in/en/accidental-deaths-suicides-india-2019>.

<sup>13</sup> Parveen Kumar, M.S. Nain, A Critical Analysis of Agricultural Extension Services, 55(3) IJSR 427, 429 (2014).

<sup>14</sup> Farmers' Empowerment and Protection Act, § 19, No. 20, Acts of Parliament, 2020 (India).

be regulated in extraordinary conditions like war, famine etc.<sup>15</sup> Thus, giving almost a free hand to the corporate sector with regard to the essential commodities listed under the amendment creating a fear of hoarding.

### **III. FEATURES AND OBJECTIVES OF THE FARMERS' PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION) ACT, 2020**

The objective of The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 is stated by the legislature as providing an ecosystem where the farmers and the traders enjoy the freedom of choice relating to the sale and purchase of farmers' produce. In addition to this, the statute aims at providing an alternative to the existing market systems which are notified by the State Governments and instead provide a more efficient, transparent and barrier free intrastate and interstate trade of agriculture produce. The act also aims at providing a supportive framework for electronic trading of farmers' produce.

In order to further promote trade of farmers' produce the act provides that no cess or market fees or any such similar tax which are applicable to the state run mandis under the Act.<sup>16</sup> This further make private mandis outside the state run mandis a more lucrative option as the farmer is excused from state-imposed taxes in the mandis established under the APMC Act.

The act provides a three-tier dispute redressal system in order to provide for effective yet speedy dispute redressal for the farmers.

The new act in its preambles envisages a freer market for the trade of farmers produce. From the provisions of the act, it does create an environment where the trade goes on without much hinderances as there is lesser need of documentation and licensing. With lesser procedural complications it is easier for the farmer as well as for the trader to enter the market.

Apart from this the Statute provides farmers with an alternative place to sell their produce. This is done by allowing farmers to sell their produce anywhere in the country outside the physical bounds of State mandis. Its effect would be that private players with huge capitals can get involved in this trade which until now has either been run by the Government or the local trader or the Arhatiya resulting in breaking the agricultural monopsony in the country. With this entry of corporates, the agricultural sector would get the much-needed investment. In order to make the business profitable the market chain must be complete. Currently there are several issues in this chain with respect to the transportation and storage facilities available to the farmers. The lack of cold storages has been noted by Prime Minister himself

<sup>15</sup> Essential Commodities Act, § 2(1A) (a), No. 10, Acts of Parliament, 1955 (India).

<sup>16</sup> Farmers' Produce Act, § 6, No. 21, Acts of Parliament, 2020 (India).

during the recent launch of the 'Kisan Rail'.<sup>17</sup> With the advent of the big corporate sector in this sphere of the economy it is expected that huge investments would be made in order to fill the gaps in the market chain. Signs of this can already be seen with the work of setting up of grain silos, initiated in the Panipat district of Haryana during the last quarter of 2020 by the Adani Group.<sup>18</sup>

The Government also aims to establish a national market for agriculture in line with its proposal of 'One Nation, One Market'. Earlier the farmers were bound by the state APMC Acts and every state has its own APMC Act and because of lack of uniformity all the benefits could not be availed by the farmers equally. In some states due to lack of infrastructure the farmers had to bear very high cost of travel to the nearest mandis to sell their produce but under the current law the definition of trade area is very wide for convenience.

In the current agriculture setup, the farmers have to depend on the commission agents for selling their produce which gives them an upper hand over the producer and poor farmers can be easily exploited. Due to the freedom to sell their produce anywhere the farmers do not have to rely on the commission agents anymore and can sell it freely to anyone without having to submit to the commission agent's will. With the option to farmers to eliminate the commission agents means better return to the farmers.

Also, with the commission agents gone, no market fee and expanded market means better trade options and opportunities to both farmers and traders. With the reduced input expenditure, it will also result in better returns to the poor farmers who lost a considerable amount of their earnings to the commission agents due to which their net income was very low.

The provisions of the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 aim to promote digital trade,<sup>19</sup> which is more convenient and widens trade options. Given the advancement of technology, India lags behind and conventional practices are used in many areas where digital base can prove efficient, effective and transparent and it is also in consonance with the idea of promoting digitalization in India. The Act also provides for speedy dispute resolution since it provides time limits within which the given authorities under the act have to act to solve the problems of the parties.

<sup>17</sup> Shoumojit Banerjee, '*Kisan Rail*' will transform economics of Indian agriculture: PM Modi, THE HINDU (Dec. 28, 2020, 10:49 PM), <https://www.thehindu.com/news/national/pm-modi-flags-off-100th-kisan-rail/article33437302.ece>.

<sup>18</sup> Geetanjali Gayatri, After CLU grant, Adani Group setting up silos for FCI in Panipat, THE TRIBUNE (Dec. 9, 2020), <https://www.tribuneindia.com/news/nation/after-clu-grant-adani-group-setting-up-silos-for-fci-in-panipat-182181>.

<sup>19</sup> Farmers' Produce Act, § 5, No. 21, Acts of Parliament, 2020 (India).

#### **IV. ISSUES RELATING TO THE FARMERS' PRODUCE TRADE AND COMMERCE (PROMOTION AND FACILITATION) ACT, 2020**

The hasty implementation of these farm laws has led to passing of a faulty legislation which is heavily biased towards the corporates and many disadvantageous situations can be foreseen for the poor and marginal farmers which the legislature seems to have overlooked. This has led to nationwide protests by the famers and farm organizations, who have also termed these laws as ‘anti-farmer’ laws since they provide a lot of potential to big corporates to exploit the farmers.

Firstly, this legislation has aimed to bring about is to give the farmer the freedom to sell his produce anywhere in the country without any interstate barriers. The Indian farmer who is already highly indebted is unlikely to add another expenditure in order to sell his produce in another state. Until the actual sale of the produce, it must be stored in proper cold storages so that it doesn't rot or lose its nutritional value. India lacks the infrastructure for proper food storage. Moreover, most farmers even cannot afford this facility because of which farmers will be forced to sell their crop to corporates at the time of harvest at low prices while they can make profit by shipping the produce to deficit areas and make profit.

Secondly, this law aims to set up private mandis as an alternative to the already existing mandis established under the APMC Act. The intention of the legislation is brought into question here due to the fact that more than half of the farm produce is already being sold outside state established mandis.<sup>20</sup> This is more prevalent amongst the smaller farmers of whom 53% directly sell their produce to private mandis.<sup>21</sup> In fact, hardly 7 percent of the total farm produce is procured by the Government.<sup>22</sup> Unlike the profit-making mantra of the capitalists APMC mandis were meant to take into account the interests of the farmers. The government has adopted the western agricultural models prevalent in the USA, France, Britain etc.

In the United States during the 1970s the Nixon Government appointed Earl Butz of the American Government came with the policy of “Get big or go out”. This policy change was

<sup>20</sup> Barun S. Mitra, *About half of farm produce sold outside APMCs anyway. But Modi govt wants one-size-fits-all*, THE PRINT (Dec. 3, 2020, 11:33 AM), <https://theprint.in/opinion/about-half-of-farm-produce-sold-outside-apmc-anyway-but-modi-govt-wants-one-size-fits-all/556413/>.

<sup>21</sup> Ministry of Statistics and Programme Implementation, *Some Aspects of Farming in India*, NATIONAL SAMPLE SURVEY, (Jan.-Dec., 2013), [http://mospi.nic.in/sites/default/files/publication\\_reports/NSS\\_Report\\_573\\_16feb16.pdf](http://mospi.nic.in/sites/default/files/publication_reports/NSS_Report_573_16feb16.pdf).

<sup>22</sup> Prabhudatta Mishra, *Does MSO matter? Govt procurement just 7% of agri GVA*, FINANCIAL EXPRESS (Oct. 5, 2020, 7:40 AM), <https://www.financialexpress.com/economy/does-msp-matter-govt-procurement-just-7-of-agri-gva/2097910/>.

brought about to curb the overproduction of agriculture produce and opened the floodgates for unregulated private investments in the agriculture sector. This led to farms being consolidated into larger holdings, and were made more capital intensive at the cost of small and medium sized farms.<sup>23</sup> During the 1980's and 90's, medium and small sized farms accounted for almost half of all the agricultural produce in the United States. This figure is now of lesser than one quarter.<sup>24</sup> The farm crisis in USA occurred due to farm foreclosures and corporate consolidation which were a result of privatization of agriculture<sup>25</sup>, happening of which is something that the Indian farmers fear as well. There was rise of unemployment and poverty. Since, India already suffers from these evils it can worsen over the years if these farm laws have a similar impact on our country. In a country where there is a population of more than 1.3 billion people of whom more than half are involved in the agriculture sector such monopolies cannot be allowed to take birth because it will lead tons of millions into poverty and eventually drive them out of this profession without any alternate source of income.

Moreover, with entry of big corporate players the traditional commission agents are also expected to be turned out of business as they cannot compete with the incentives given by the corporates to the farmers thereby fueling the already downward spiraling unemployment trend in the country. Moreover, it can be guaranteed that under the new laws the role of middleman can be avoided or eliminated.

Thirdly, another major defect which this law is the dispute settlement mechanism. Section 15 of the Act clearly ousts the jurisdiction of the civil court to try any matter relating to any dispute arising under Section 4 of the Act. Section 8 of the Statute vests the dispute settlement power with the Sub Divisional Magistrate who is a Government servant of a Government with which the farmers already have a huge trust deficit. Also, this makes the dispute settlement mechanism embroiled in bureaucratic procedures which is bound to adversely affect the farmers.

Fourthly, under S.9(1)(c) the right of the operator can be cancelled or suspended to operate on the online trading platform on even minor breach of procedure or norms. The penalty imposed is quite disproportionate. This also goes to show that the act gives unregulated

<sup>23</sup> Manu Kaushik, *Before India Breaks Its Promises, The Cautionary Tale of the American Kisan* THE OUTLOOK (Dec. 23, 2020), <https://www.outlookindia.com/website/story/opinion-before-india-breaks-its-promises-the-cautionary-tale-of-the-american-kisan/368180>.

<sup>24</sup> Chris McGreal, *How America's food giants swallowed the family farms*, THE GUARDIAN (Mar. 9, 2020, 4:30 PM), <https://www.theguardian.com/environment/2019/mar/09/american-food-giants-swallow-the-family-farms-iowa>.

<sup>25</sup> Id.

power to officials which can result in commission of malafide acts and corruption. The provisions under the act are arbitrary and very vague. Such penalty is also a violation of Article 19 (1)(g) and Article 14 of the Indian Constitution.<sup>26</sup>

Lastly, there is another fear among the farming community that with the unregulated entry of corporate sector, the crop would be bought above the guaranteed MSP given by the state mandis by the Corporate houses. The farmer would sell the produce to the private player as it offers greater returns and also because such private buyers are exempted from any tax or cess which is imposed by the state mandis established under the APMC Act.<sup>27</sup> The State mandis will eventually lose their relevance and become redundant and the massive infrastructure investments which have taken place in order to establish the mandi system falls flat on its face. This also adversely effects the state revenue collection. Punjab and Haryana together collected Rs 2,600 crore – Punjab Rs 1,750 crore and Haryana Rs 850 crore – out of Rs 8,600 crore collected across India as mandi fees alone, of trade in all farm commodities in FY20.<sup>28</sup> Once the mandi system collapses under its own weight it gives the corporates a free hand in dictating its terms.

In 2006 with the aim to privatize the agriculture sector, the Bihar government also took similar steps and repealed the State APMC act and sub-divisional officers were given charge of the markets.<sup>29</sup> This move proved to be fatal to the farming population as it resulted in unregulated markets, lack of infrastructure and high transaction charges which leads to supremacy of a few numbered capitalists just like in the USA who are driven by profit motive and the security of MSP available to the farmer is lost who is then left at the mercy of these big corporates.

#### **(A) Other Controversies Relating to the Law**

The Farmers Produce Trade and Commerce (Protection and facilitation) Act along with The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020 and The Essential Commodities (Amendment) Act, 2020 were passed on 17<sup>th</sup> September 2020 by the Lok Sabha and on 20<sup>th</sup> September, 2020 by the Rajya Sabha in the middle of a pandemic, which was of such a scale as had not been witnessed in the recent

<sup>26</sup> Rohan Chawla, *Hasty Harvest: Legal issues with the Farmers Produce Act, 2020*, BAR AND BENCH (Oct. 1, 2020, 8:01 AM), <https://www.barandbench.com/columns/hasty-harvest-legal-issues-with-the-farmers-produce-act-2020>.

<sup>27</sup> Farmers' Produce Act, § 6, No. 21, Acts of Parliament, 2020 (India).

<sup>28</sup> Dheerak Mishra, *Exclusive: Finance Ministry Had Endorsed Mandi Tax, Which BJP Is Criticising to Counter Protests*, THE WIRE (Dec. 28, 2020), <https://thewire.in/agriculture/exclusive-finance-ministry-mandi-tax-apmc-farmers-protests>.

<sup>29</sup> Vijay Intodia, *Investment in Agricultural Marketing and Market Infrastructure – A Case Study of Bihar*, NIAM Working Papers, (2015).

human history. Laws which effect a sector which employs more than 50% of the working population were passed in a hushed-up manner.

What has also been criticized that no major farmer organization was consulted before these laws were passed. There were no debates, no discussions either by any department of the Government or in the Parliament. When the matter was taken to the Apex Court recently, even the court questioned as to why the farm leaders and concerning authorities were not consulted before passing the bills. It is a tacit practice to discuss the upcoming laws with the members of organization to whom they concern and take suggestions and reviews to which the Government responded by stating that several farmer organizations and agriculture experts were consulted.

Furthermore, the manner in which the bill was passed in the Rajya Sabha has crumbled the foundations of Democratic India. The bills were passed through voice vote despite the opposition leaders clearly asking for a divisive vote. The Chairman of the house (which at that time was being officiated by the Deputy Chairman) steamrolled the bills through the Upper House without paying heed to the demands of elected leaders to refer the three laws for deliberation. The manner in which the laws were enacted left the decorum of the Parliament in tatters.

The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 has further been disputed because of its very subject matter. The subject of Agriculture has been given under the State List under Schedule 7 of the Indian Constitution<sup>30</sup>, so is the subject of Marketing.<sup>31</sup> The states have the exclusive jurisdiction to legislate on the matters listed on the State List. The Central Government can legislate on these matters only under special circumstances<sup>32</sup> or after passing a special resolution in the Upper house<sup>33</sup> but it did not do so. All this brings the constitutionality of the laws in question. The Central Government on the other hand has based its argument on a legal lacuna and brought the laws within the domain of concurrent list by stating the laws as dealing with trade, commerce and production<sup>34</sup> avoiding the fact that the three laws would actually have a deep impact on two state subjects, that is, Agriculture and Marketing. This can be stated by many as abuse of power by the Central Government and disrespecting the Federal structure of the Constitution.<sup>35</sup>

<sup>30</sup> INDIA CONST. entry 14 of list II, sched. VII.

<sup>31</sup> INDIA CONST. entry 28 of list II, sched. VII.

<sup>32</sup> INDIA CONST. art. 252.

<sup>33</sup> INDIA CONST. art. 249.

<sup>34</sup> INDIA CONST. entry 3 of list III, sched. VII.

<sup>35</sup> Mahalaxmi Pavani, *The farm legislation: Boon or bane?*, BAR AND BENCH (Oct. 19, 2020), <https://www.barandbench.com/columns/the-farm-legislation-boon-or-bane>; See also *The former civil servants*

## V. CONCLUSION

From the above listed facts and the study of pros and cons of The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020 it can be concluded that this act along with the Essential Commodities Act, 2020 The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020 are leaning towards the corporate sector than towards the farmer. These laws together have a tendency to do more harm than benefit the agriculture economy of the country. With unregulated entry of the private sector in the agriculture business the Mandi system is expected to collapse and the farmers will be left at the mercy of the capitalists. The overstepping by the Central Government can set an unwanted precedent whereby the Central Government encroaches upon the constitutional rights of the states thus adversely affecting the federal system of the country.

It is true that agriculture reforms are needed in the country but bulldozing them on the farmers is not the solution. Such act of the government hints the preference of a capitalist society over a welfare society.

In addition to this, provisions like Section 13 of the Act function as a scapegoat.<sup>36</sup> It states that no action or proceedings can be initiated against the government or officials of the government in respect of anything which has been done in good faith or intended to be done in good faith. This provision is very arbitrary as no government has ever acted with a malafide intention. But no action can be initiated for the negligence or any compensation for actions which turned out harmful for the subjects of such law. The fears and apprehensions of the farmers seem to be well founded, given the past record of the Government and its inspiration being the USA model where there is establishment of an oligopoly<sup>37</sup> in this sector.

Therefore, given the current state of affairs the Government should be mindful of the needs and demands of its farmers who have been protesting for more than four months at the border of the national capital, which has now claimed more than 100 lives. There is an urgent need of breaking the deadlock between the farmers and the government. Further delay in meeting the farmers demands would only raise tensions between the two sides and increase the

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*underlined the ‘unconstitutionality’ of the law and claimed that their passing in Parliament also suggests ‘breakdown of democratic processes’, NEWS CLICK (Dec. 12, 2020), <https://www.newsclick.in/farm-laws-unconstitutional-assault-federalism-78-ex-civil-servants-support-farmers-protests>; See also New farm laws an assault on federalism, food security: Devanuru Mahadeva, THE HINDU (Dec. 22, 2020), <https://www.thehindu.com/news/national/karnataka/new-farm-laws-an-assault-on-federalism-food-security-devanuru-mahadeva/article33388939.ece>.*

<sup>36</sup> Farmers’ Produce Act, § 13, No. 21, Acts of Parliament, 2020 (India).

<sup>37</sup> Oligopoly, Cambridge Dictionary-A situation in which a small number of organizations or companies has control of an area of business, so that others have no share.

probability of an untoward incident. After an elaborate reading of the farm laws the demands of farmers seem sincere since there is need for extra amount of caution in safeguarding the apprehensions of the small farmers.<sup>38</sup> It is genuine for the farmers to fear exploitation at the hands of Private agencies due to lack of regulatory mechanism in the given scenario. The farmer protests are first of its kind in many respects. The whole world is watching as to what has been touted as ‘The World's Largest protest’<sup>39</sup>. If the farmers are successful their impact would be felt on worldwide trade<sup>40</sup>. Thus, the problems of the farmers must be addressed at the earliest.

Better and more aggregable agricultural reforms are needed because a considerable time and experimentation are required for the evolution of any comprehensive strategy for private extension in the agriculture sector. There is a crucial need for more experience, evaluation and analysis from the field to help guide that process.<sup>41</sup>

## **VI. RECOMMENDATIONS TO COMBAT THE EXISTING AGRARIAN CRISIS**

For long there has been a demand for reviving the agriculture economy. Even Green Revolution in the long run has shown its dark underbelly. The solution to the existing farm crisis should not have been choking down of the three farm laws, instead a wiser and steadier approach should have been adopted. The following steps should be taken in order to bring about reforms in the agrarian society:

1. Since the onset of Green Revolution, the Indian farmer, especially in the northern states of Punjab and Haryana has been stuck in the cycle of crop rotation, mainly growing wheat and paddy. Thus, farmers in search of secure income switched over to these crops. In the long run this has adversely impacted the environment as well as the people. With excessive usage of water and fertilizers it has not only drastically lowered the underground water levels in Punjab and Haryana but also made people prone to life threatening diseases. In order to curb these ill practices, there is a need to diversify the crop pattern in India, in fact 65% of Undivided Punjab used to grow crops other than wheat and rice prior to the Green

<sup>38</sup> Parveen Kumar, M.S. Nain, *A Critical Analysis of Agricultural Extension Services*, 55(3) IJSR, 427, 434 (2014), [https://www.researchgate.net/publication/265136583\\_A\\_critical\\_analysis\\_of\\_the\\_privatization\\_of\\_Agricultural\\_Extension\\_Services](https://www.researchgate.net/publication/265136583_A_critical_analysis_of_the_privatization_of_Agricultural_Extension_Services).

<sup>39</sup> Iris Kim, *250 million farmers in India are taking a stand against the government as part of the biggest protest in history. Here's why the US and the world should pay attention*, BUSSINESS INSIDER (Jan 2, 2021, 6:33 PM), <https://www.businessinsider.com/indian-farmer-strike-largest-protest-history-us-world-pay-attention-2020-12?IR=T>.

<sup>40</sup> Devinder Sharma, *Farmers' agitation will impact global trade*, THE TRIBUNE (Jan. 16, 2021, 6:45 AM), <https://www.tribuneindia.com/news/comment/farmers-agitation-will-impact-global-trade-199058>.

<sup>41</sup> Robert Chapman, Robert Tripp, *Changing Incentives for Agricultural Extension- A review of Privatized Extension in Practice*, Network Paper No. 13, AgREN, 2 (2003), <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/5192.pdf>.

Revolution.<sup>42</sup> This diversification to more value-based crops can increase the farmers income and also save the environment. But in order to bring about diversification several others steps must be first taken. These steps are mentioned below: -

i. The problem with diversification is that it does not ensure a secure income to the farmer. What is required is the political will to diversify the crop pattern. If it is there then the Government, for the welfare of people, should instead increase its ambit security of MSP that it provides because otherwise for the farmers who have lesser area under plantation, are poorer, live in remote areas and have fewer alternative ways of making a livelihood, these laws, could lead to abandonment of guaranteed national prices without any alternative way of protecting them, could have a negative impact.<sup>43</sup>

ii. The Government should not only increase the number of crops which are being procured on MSP but also make it a legal right. In ground reality very little portion of crops is actually procured at the MSP rate. Making it a legal right only makes the farmer more secure and also allows him to diversify to crops which would be covered under the extended ambit of the MSP.

iii. Another requirement is establishment of infrastructure. The National Commission on Agriculture had suggested that a farmer should be able to reach his nearest mandi within an hour by cart. Thus, there should be a mandi serving every 80 kilometers at least. The National Commission on Farmers headed by M.S. Swaminathan, put out its Second Report in the year of 2005 where it recommended that India needs to establish five times more regulated mandis than the current number of 7,418 so that we can ensure ideal price realization to the farmers<sup>44</sup>. In addition to mandis in order to diversify into vegetables and fruits there is a need to set up cold storages and adequate transport facilities. This is necessary to be made accessible as well as affordable because only then will the small farmers be actually willing to switch over to these patterns.

2. India has the highest undernourished population in the world<sup>45</sup> despite the fact that the go-downs and warehouses of Food Corporation of India (FCI) are buying beyond their capability. This has also made FCI debt-ridden. In June, 2020 the wheat and rice stocks of the

<sup>42</sup> Vishav Bharti, *No Room for Complacency*, THE TRIBUNE (Jan. 18, 2021, 6:59 AM), <https://www.tribuneindia.com/news/features/no-room-for-complacency-200018>.

<sup>43</sup> Paul Makdissi, Quentin Wodon, *The Impact on Farmers of the Privatization of Integrated Agricultural Monopsonies*, Departement d'Economique de l'École de gestion à l'Université de Sherbrooke Working Paper, (2004), [http://gredi.recherche.usherbrooke.ca/wpapers/04\\_08\\_pm.pdf](http://gredi.recherche.usherbrooke.ca/wpapers/04_08_pm.pdf).

<sup>44</sup> Manu, *supra* note 24.

<sup>45</sup> Hunger in India, INDIA FOOR BANKING NETWORK (Jan. 12, 2021), <https://www.indiafoodbanking.org/hunger>.

FCI increased from a requisite number of 41.12 million tons all the way till 97.27 million tons. At the same time India has 189.2 million people, who are undernourished. Intuitive reasoning suggests that there are glitches in the Public Distribution System (PDS) which is responsible for giving food to the poor at subsidized rates. Necessary steps must be taken in order to fill the loopholes of the PDS system.

3. Another alternative to alienate the farmer from his poverty is the system of Cooperative Farming where the farmer remains owner of his own land but farming is done collectively by a group of farmers on the total land. This allows access to more knowledge, machinery and resources, bringing down the overall cost of inputs used. A perfect example of this is the Amul success story which was a result of an agitation by marginal farmers of Kaira (Gujarat), each of whom could deliver at the most 1-2 liters of milk per day. This led to the formation of the Kaira District Co-operative Milk Producers' Union Limited in 1946. Subsequently, cooperatives were formed in each village of the district. Dairy cooperatives rampantly spread to other districts of the state.

Perhaps a strategic implementation of reforms while keeping in mind the existing situation and fears of the farmers is the solution to this crisis.<sup>46</sup>

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<sup>46</sup> Robert Chapman, Robert Tripp, Changing Incentives for Agricultural Extension- A review of Privatized Extension in Practice, Network Paper No. 13, AgREN, 2 (2003), <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/5192.pdf>.