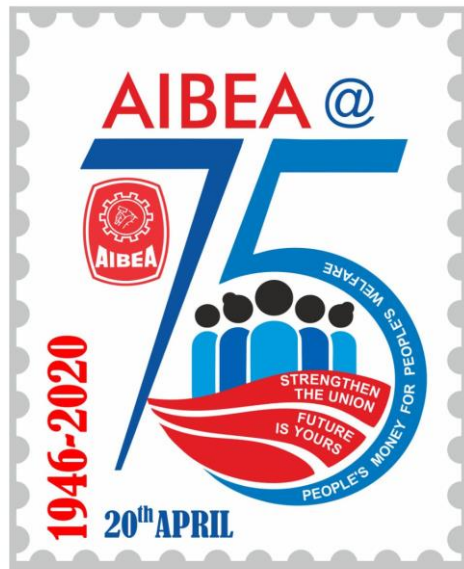


# Farm Laws, Agrarian Crisis

## Why Farmers are agitated ?



**ALL INDIA BANK EMPLOYEES' ASSOCIATION**



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# **Farm Laws, Agrarian Crisis**

## **Why Farmers are agitated ?**

India's economy is agrarian. Even after nearly 75 years of Independence, about 58% of our country's population is dependent on agriculture as their primary source of livelihood. About 70% of the rural households depends on agriculture for their income. The agricultural census 2015-16 states that about 86% of small and marginal farmers own less than 5 acres of land.

After the independence of the country in 1947, there were no Agriculture Produce Market Committees (APMCs). At that time, even though the farmers could sell their products directly to the consumers, majority of them did not do so. Because of the low level of farm holdings even then and they were dependent on monsoon for their produce, they were borrowing from the usurious moneylenders at exorbitant rates of interest for purchase of seeds, fertilizers etc. This resulted in the farmers being forced to sell their produce to the moneylenders and zamindars, at very cheap rate. The moneylenders and zamindars made huge profit by selling them at higher rates. This was because the farmers were in perpetual debt, their landholdings were quite small and that they did not have any bargaining powers against the powerful usurious moneylenders and zamindars.

Even before independence of the country, the British Government constituted a Commission to improve the agriculture sector and for the well-being of the agriculturists. One of the recommendations of the 1928 Royal Commission on Agriculture for regulation of marketing practices and establishment of regulated markets, was to improve the situation to regulate the trade practices and to establish market yards in the countryside. In pursuance, Government of India prepared a Model Bill in 1938 and circulated it to all States; however, not much headway was made until India's independence.

During the 1960s and 1970s, most of the states enacted and enforced *Agricultural Produce Markets Regulation (APMR) Acts*. All primary wholesale assembling markets were brought under the ambit of these Acts. Well laid out market yards and sub-yards were constructed and, for each market area, an Agricultural Produce Market Committee (APMC) was constituted to frame the rules and enforce them. Thus, the organized agricultural marketing came into existence through regulated markets.

The Government of India has prepared a Model APMC Act in 2003 but not all the States adopted the Model Act as many States have their own APMC Acts. APMCs set up Mandis or Markets across India where farm produce are sold. As on date, more than 7000 APMCs are in the country. The farmers sell their produce to the Arhatiyas or middlemen not directly to the government or big traders or retailers. Government gives license to these middlemen. These APMC markets are regulated by the State Governments and a tax is levied on each transaction by the State Governments, which is one of the revenues to the respective State Governments.

However, the middlemen who formed cartels and exploited the farmers due to the flaws in the system of APMCs, used to buy the farm produce at Minimum Support Price (MSP), hoard them and then sell at a higher price. Unfortunately, the Minimum Support Price became the Maximum Selling Price for the farmers. The Minimum Support Price, MSP, is constant across the country and they are fixed by the Government. But the MSP does not cover the cost of production and other expenses incurred by the farmers for their produce. Due to the faulty system of APMCs, its implementation, unremunerative fixation of MSP and forming of cartels by the middlemen, even though the objective of APMC Act was laudable, in practice, it did not produce the desired results.

## **Recommendations of the National Commission on Farmers**

In this background, to look into the problems of the farmers, the National Commission on Farmers was constituted on 18<sup>th</sup> November, 2004, which was chaired by Dr. M.S. Swaminathan, renowned agriculture scientist. Between November, 2004 and October, 2006, the National Commission on Farmers submitted five reports to the Government of India. The entire report of the National Commission on Farmers is famously known as Swaminathan Committee Report.

**To alleviate the problems of the farmers, Swaminathan Committee recommended the Minimum Support Price should be 50% more than the cost of production. The cost of production, as suggested by the Swaminathan Committee is the comprehensive cost incurred by the farmer. The comprehensive cost includes the cash transactions and payments made by the farmer on seeds, labour, pesticides and**

**fertilizers and the unpaid value of the family labour in addition to the rent on the owned land as well as the interest on the owned capital.**

However, the government takes into account only the expenses incurred by the farmer on seeds, labour, pesticides and fertilizers on the one part and the unpaid value of family labour ignoring the rent on the owned land and the interest on the owned capital.

Unfortunately, in this country, in every other sector, the price for the produce is being decided by the producer except in the case of a farmer. For a farmer, the price is determined by others viz., the Government for MSP and middlemen, moneylenders, the actual buyers of the farm produce. This has resulted in the farmers not able to recover even the basic cost of cultivation from their farm lands as the MSP is not up to the actual cost of production and farmers continue to be debt ridden perpetually.

### **BJP's double standards on the recommendations of National Commission on Farmers:**

In the run up to the 2014 Parliamentary elections, BJP's electoral promise was that they will be implementing the recommendations of Dr. Swaminathan Committee.

**But, after coming to power at the Centre, in 2015, the Government of India, in an affidavit filed in the Honourable Supreme Court of India in response to the Public Interest Litigation stated that the recommendations of the Swaminathan Committee on the Minimum Support Price (MSP) for agricultural produce to be more than 50% of the cost of production cannot be accepted and said further that the mechanical linkage between MSP and the cost of production may be counter-productive in some cases and no comparison can be made about increase or decrease of price of one commodity as compared to other commodities as the same depends on demand-supply of the markets.**

**The Government added in that affidavit that the pricing policy, i.e., the fixing of MSP is not a 'cost-plus' exercise, though cost is an important determinant of MSP. The pricing policy seeks to achieve the objective of the fair and remunerative price and is not an income policy.**

So, the BJP Government rejected the critical and key recommendation of Dr. Swaminathan Committee as early as in 2015 itself even though they came to power promising to implement the recommendations of the said committee.

## **Agricultural reforms by the BJP government**

Quoting that the APMCs do not serve the cause of the farmers and the middlemen are exploiting the peasants, the Government of India Promulgated 3 ordinances in June, 2020, during the pandemic lockdown period, which sought to uplift the farmers and the farm economy. In September, 2020, the Government of India, replacing the ordinances issued in June, 2020, replaced them with 3 Bills viz., *The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020*, *The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020* and *The Essential Commodities (Amendment) Bill, 2020*.

These 3 bills have been passed by the Parliament without any discussions and taking the key stakeholders, the farmers, State Governments, opposition parties, into confidence. These acts envisage to bring much needed agricultural reforms. These laws further aim to bring the market to the farmer, removal of restrictions of private stock holding of farm produce and to create trading free of middlemen.

## **Federal structure of the Constitution shaken**

The Indian Constitution, the Seventh Schedule, contains three lists that distribute power between the Centre and the States. In the Union List, there are 97 subjects, on which the Parliament has the sole power to legislate. The State List has 66 items, on which the State alone can legislate and in the Concurrent List, there are 47 matters on which both the Centre and the States can legislate. As far as the Concurrent list is concerned, the law made by the Parliament will prevail over the law made by the States, in case of conflict.

As far as agriculture is concerned, in eight entries of the State List, it is mentioned. Entry 14 relates to agricultural education and research, pests, plant diseases. Entry 18 relates to rights in or over land, land tenures, rent, transfer of agricultural land, agricultural loans etc. Entry 28 relates to markets and fair, Entry 30 relates to agricultural indebtedness, Entry 45 relates to land revenue, land records etc. Entry 46 relates to agricultural

income, Entry 47 relates to succession of agricultural land and Entry 48 relates to estate duty in respect of agricultural land.

Therefore, enacting “The Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020, and The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020”, the Central Government infringed on the powers of the States and legislated laws that are specifically assigned in the State List, for which any legislation and law shall be made by the States only.

It is quite surprising that the Central Government did not consult any States before promulgating the Ordinances in June, 2020, or even before the Bills have been introduced in the Parliament. The key stakeholders are the farmers, whose livelihoods are affected and the States, whose revenue stood obliterated.

The Central Government argued that trade and commerce in food items under Entry 33 in the Concurrent List empowers it to legislate the laws. Since the laws will have the overriding effect over the State Acts, the APMC Acts passed by various States will be superseded by the farm laws passed by the Parliament.

Federalism, which is the very essence of the Constitutional Scheme of our country stood grossly shaken.

## **Analysis of the Farm Acts**

### **The Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Act, 2020**

The Act permits barrier-free intra-State and inter-State market and allows the buyer to purchase farm produce directly from the farmer outside the physical premises of the APMCs. The transaction fees and market fees that were levied in the APMCs, license to purchase farm produce from the farmers stand abolished. The Act also allows direct and online trading of agricultural produce. For resolution of disputes, the act envisages setting up of Conciliation Boards by the Sub-Divisional Magistrate for arriving at mutually acceptable solutions arising out of transactions between farmers and traders.

## Concerns:

1. Even now, owing to exclusion provisions in the APMC Acts, the farmers sell their produce outside the APMC markets. According to NSSO data, Mandis account for only 36% of the farm produce, depending upon the commodity.
2. The APMCs are not explicitly abolished by the Act but the farmers, agricultural scientists and experts apprehend that the entire network of markets and mandis will become redundant.
3. The fallout of such redundancy of the markets and mandis would do away with the Minimum Support Price, MSP.
4. With the MSP disbanded, the procurement by the Government for implementation of Public Distribution System would be affected thereby affecting the food security of the nation.
5. While the farmers are demanding total implementation of Dr. Swaminathan Committee's recommendations especially with regard to MSP, the definition of which is remunerative, this act does the opposite.
6. APMCs have their own faults and shortcomings. But, APMCs role in ensuring MSP cannot be overlooked.
7. Even though the APMC markets are not abolished by the Act, there will be two parallel and distinct markets with different sets of rules and it will lead to collapse of APMC.
8. The Act envisages to eliminate the middlemen, who are responsible for exploitation of the farmers. Giving due regard to the small holdings of the farmers, which according to the Agricultural Survey 2015-16, 86.2% of small and marginal farmers own less than 5 acres of land, the large private corporations would not deal with the farmers directly but would definitely involve contractors, negotiators, in other words, middlemen. These middlemen will operate outside the sphere of APMCs, markets and mandis (which at least had sets of rules for operations) without any rules and regulations.
9. In 2016, the Government of India launched the National Agricultural Market or eNAM, which is an online trading platform for the entire country, which networks the existing APMC markets to create a national market for agricultural commodities. As on 30<sup>th</sup> November, 2020, the number of stakeholders in eNAM is 1,71,02,747, which



includes Traders, Commission Agents and Farmers. This National Platform would become redundant if the private electronic trading portals are launched by corporates.

10. With the small holdings of the farmers, they will not have the negotiating power against the Private Corporates and Traders. They will also not be able to transport and sell their goods outside their village, let alone the Districts and States. With the slow but definitive abolition of APMCs and consequently, MSP, the distress of the farmers would be much more disastrous and fatal.
11. For decades now, the farmers have been forced to sell their produce much below the MSP to private traders even now. Farmers lack sufficient capital, understanding of the market forces, price mechanisms, electronic know-how to deal in the internet platforms.
12. Besides lack of storage facilities at the farmers' end would also be used as a coercive factor by the Private players and Corporates to force them to sell their products at lower prices.
13. Private players would purchase soon after the harvest when the prices are low and would store them in their warehouses to sell it at a time the prices of the commodities go up.

The above factors are happening even now with the APMC acts in force in various States and after the implementation of The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, the exploitation would ruin the farm community as there are no ground rules.

### **The Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020**

This Act seeks to permit Contract Farming that will enable the farmers to trade their agricultural produce outside the APMC with agro-business firms, large retailers, exporters. The Contract will be at a mutually agreed remunerative price framework in a fair and transparent manner. The minimum period of contract/agreement will be one crop season or one production cycle for a livestock upto a maximum period of 5 years.

In case of disputes, setting up of conciliation Boards is envisaged and in case of disputes regarding farming agreements, the authority will be the sub-Divisional Magistrate.

## **Concerns:**

1. The Act aims at protecting the farmers against exploitation and to increase the choice of the sale of their produce. But the Act does not take into account the fact that individual farmers, especially the small and marginal farmers, who account for about 85% of rural peasants, would not be equipped to negotiate with the private corporations to ensure fair price for themselves.
2. The power balance shifts in such cases to the private companies from the farmers. The farmers would definitely be weaker players in the whole process of negotiations. The farmer, even though owns the small piece of farming land, would be nothing but a tenant farmer to produce for the Corporates.
3. The price fixation mechanism is not envisaged in the Act. This will give a free hand to the Corporates, powerful industrialists and large retailers to exploit the farmers.
4. The Act ought to have mentioned atleast that the prices should be above the MSP. This would have helped the farmers. However, the absence of making MSP a legal aspect has given the farmers a raw deal. The absence of mention of MSP as a minimum price in case of a contract has only helped the Corporates.
5. The written agreement part is not a must as per the provisions of the Act and the Corporates would encash this absence of important provision in their favour and this would also lead to further exploitation of the farmers.
6. Majority of the farmers lack the resources to fight a legal battle against the large private Corporates should there be a dispute.

In short, this Act permits Contract Farming much to the distress of the farmers and the provisions of the Act directly plays into the hands of the Corporates.

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

The Act empowers the Central Government to regulate the supply of specified food items only in extraordinary situations like war, grave natural calamity, extraordinary price rise etc. The Act aims at removing stringent restrictions on stocks, movement and price control of agricultural foodstuffs

to attract private investment and effectively removed potato, onion, pulses, edible oils, oilseeds, cereals, from the essential commodities list.

The intervention of the Government to impose stock limits would be applicable only in case of a 100% increase in retail price of horticulture or 50% increase in retail price of non-perishable agricultural foodstuffs. Price rise shall be evaluated in relation to the price of the immediately preceding 12 months or average retail price of the last 5 years, whichever is lower.

### **Concerns:**

1. The Act has done away with the limit of stock holding of agricultural commodities and food items. Therefore, there will be hoarding of food items by exporters, large corporations, traders after the purchase soon after the harvest when the prices are low. These items will be sold at a much higher price later for huge profits.
2. The States will not be having any information about the availability of the stock of food items and thereby, it would definitely jeopardise the food security.
3. The hoarding will result in jacking up of prices, creation of artificial demand and affect not only the farmers, who sell immediately after the harvest, but also consumers, who will be paying much higher price for the food items and agricultural products and commodities.
4. The doing away with the cereals, oils, oil seeds, pulses from the essential commodities list would also adversely affect the subsidized rate in which such items are given in the PDS. This would affect the Public Distribution System throughout the country.

### **Making MSP legal – Government's volte-face and the reality**

The Centre has been claiming that if the Minimum Support Price (MSP) is made legal for all crops, it will burden the Government to the tune of Rs.17 lakh crores. As on date, MSP is determined by the Commission for Agriculture Cost and Price (CACP) every year. This CACP is not a statutory body and it was not set up by the Act of Parliament. It is also a fact that the Government is not bound to purchase all the crops declared under MSP.

MSP is declared for 23 crops viz., wheat, paddy, maize, barley, jowar, bajra, ragi, mustard, groundnut, rapeseed, soyabean, sunflower, sesame, niger seed, moong, arhar, urad, chana, masoor, cotton, sugarcane, raw jute,

copra. Because these 23 items cover over 80% of India's agricultural produce. But only a few crops including wheat and paddy are procured on MSP and the rest are being sold by the farmers to the private players.

If MSP is made legal, it is not necessary that the Government has to purchase all such crops covered under MSP, as it is not the case even now. However, the presence of such a MSP would determine the benchmark price for a crop and would stabilise the market price if the farmers get too low prices for crop in the open market against the declared MSP. Further, it will also make it mandatory for the private players to purchase the crops at MSP instead of pressurising the farmers to sell their produce at lower price. Hence, making MSP legal would save the farmers from being exploited.

Now, in Bihar, where APMC Act was repealed in 2006, the reality is that the farmers are at the mercy of private players and are in deep distress.

Therefore, the Government's argument that if MSP is made legal, it would be a huge burden on the Exchequer is baseless and such an alibi.

In addition to the above, should the Act give clear-cut intentions that in case the Government feels that the farmers are being exploited, there shall be intervention by the Government through "Market Intervention Mechanism" that can be devised along with legal sanctity for MSP, it would make a huge difference to keep the private traders in check, who indulge in cartelisation in the absence of any government control and would also obliterate the nefarious designs of the middlemen.

In 2019, India exported non-Basmati rice to the tune of US \$ 3.6 billion and the surplus paddy can be used to capture international rice market. India is importing over 2.5 million tonnes of pulses and 2/3<sup>rd</sup> of its oilseeds. If we make MSP legal for such crops, the imports can be brought down drastically. Making MSP legal will make the country self-reliant and that shall be the real *Atmanirbhar*, which shall also make more than 65-70 crore people dependent on agriculture to come out of debt-trap and out of the poverty.

## **Suggestions:**

1. After the farmers agitations, the Government of India has invited them for the talks with the condition that the Union Government will not repeal the laws. This discussion should have been done before the

laws were enacted and not after. This action of the Government is putting the cart before the horse. Hence, for fruitful discussions, the Government should repeal the laws before discussing with the farmers. Without such a move, even the panel to be formed by the Supreme Court, after its intervention, with all the stakeholders in such a committee would produce no tangible results.

2. The farmers in India are subject to floods or droughts and therefore, protection of the incomes of the farmers should be foremost in the mind of the Government.
3. The aim of agricultural reforms should be expand the MSP and making it a legal right rather than making it redundant.
4. Better road connectivity, transport facilities, storage facilities with proper infrastructure to suit the climate vagaries at a reasonable cost, electricity supply to small, marginal and medium farmers free of cost would drive agriculture to contribute more to the food security of the country besides improving upon the income of the farmers.
5. Corporatisation of agriculture in developed countries has become counter-productive and led to depression of the farmers.
6. Till the farmer is able to decide the price for his produce, the MSP should be 50% more than the cost of produce as defined by the Dr. Swaminathan Committee recommendations and it should become a legal right of the farmer to receive such a MSP.
7. Without such progressive measures and without repealing the three acts legislated by the Government, doubling the farmers' income in 2022-23 would only be on paper and an unfulfilled election promise by the BJP Government.



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