Farm Acts, 2020

The Indian agriculture acts of 2020, often referred to as the Farm Acts are three acts initiated by the Parliament of India in September 2020. After having been approved by the Lok Sabha and the Rajya Sabha, the President of India gave his assent to the bills on 27 September 2020. In this article, you can read all about the farm acts of 2020, which are in the news very often. This is a part of UPSC current affairs, economy, agriculture and polity.

Farm Acts, 2020 Background

- Agriculture comes under the state list of Schedule 7 of the Indian Constitution and to initiate reforms in the agricultural sector, in 2017, the central government had released model farming acts. However, several reforms suggested in the model acts had not been implemented by the states. The centre promulgated three ordinances in the first week of June 2020.
- In September 2020, the President gave assent to the three farm acts.
- There have been protests against the acts by farmers in Punjab, Haryana and other states. Some states have also opposed the new legislation. The Kerala legislative assembly passed a resolution against the farm reforms and sought their withdrawal.
- The Supreme Court stayed the implementation of the Farm Acts 2020 and constituted a four-member committee to make recommendations within two months.

Details:

- The three laws aim to change the way agricultural produce is marketed, sold and stored across the country. They are mostly focussed on the forward linkages to the agricultural sector.

The following are the three acts passed and their salient provisions.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020:

- The act aims at opening up agricultural sale and marketing outside the notified Agricultural Produce Market Committee (APMC) mandis for farmers, removes barriers to inter-State trade and provides a framework for electronic trading of agricultural produce. It expands the scope of trade areas of farmers' produce from select areas to "any place of production, collection, aggregation".
- It prohibits state governments from levying any market fee, cess, or levy on farmers, traders, and electronic trading platforms for the trade of farmers' produce conducted in an 'outside trade area'.
- The act seeks to break the monopoly of government-regulated mandis and allow farmers to sell directly to private buyers.

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020:

- It creates a national framework for contract farming. It provides a legal framework for farmers to enter into written contracts with companies and produce for them.
- The written farming agreement, entered into prior to the production or rearing of any farm produce, lists the terms and conditions for supply, quality, grade, standards and price of farm produce and services.

- It defines a dispute resolution mechanism. The Act provides for a three-level dispute settlement mechanism-- Conciliation Board, Sub-Divisional Magistrate and Appellate Authority.

Essential Commodities (Amendment) Act, 2020:

- It removes cereals, pulses, oilseeds, edible oils, onions and potatoes from the list of essential commodities. It will deregulate the production, storage, movement and distribution of these food commodities.
- It will also remove stockholding limits on such items except under "extraordinary circumstances". The central government is allowed regulation of supply during war, famine, extraordinary price rise and natural calamity of grave nature and annual retail price rise exceeding 100% in horticultural produce (basically onions and potatoes) and 50% for non-perishables (cereals, pulses and edible oils), while providing exemptions for exporters and processors at such times as well.
- It requires that imposition of any stock limit on agricultural produce be based on price rise.
- It will allow agribusinesses to stock food articles and remove the government's ability to impose restrictions arbitrarily.

Arguments in Favour of the Farm Acts

- The acts are being hailed as a watershed moment in the history of Indian agriculture that could initiate a complete transformation of agriculture.
- The new farm acts are expected to benefit all the stakeholders — farmers, industry and consumers.
    - The new farm acts would help the small and marginal farmers (86% of total farmers) who don't have the means to either bargain for their produce to get a better price or invest in technology to improve the productivity of farms.
- The new acts will help in establishing a much more integrated market, creating competition, and enhancing efficiency and effectiveness of the marketing domain of the agricultural sector.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020

Addressing the lacunae of APMC acts:

- The law related to the regulation of Indian agricultural markets like the Agricultural Produce Market Committees (APMC) act had led to centralization and was thought to be reducing competition and participation, with undue commissions, market fees, and monopoly of associations damaging the agricultural sector.
- The act seeks to break the monopoly of government-regulated mandis and allow farmers to sell directly to private buyers by circumventing the APMCs. The new laws provide full autonomy for farmers to sell their produce.

Higher price realization for farmers:

- The act is expected to increase the freedom of choice of sale of agri-produce for the farmers and this could help the farmers in getting a better price for their produce because of more choices of markets. This would allow small and marginal farmers to sell their produce at market and competitive prices.
- The act allows for private players to buy the farmers' produce even at their farm gates. This will allow the farmers to get better prices through competition and cost-cutting on transportation.
- The farmers will be able to get a greater share of the price being paid by the customers, which currently stands at a lowly 15%.

- This would help raise rural incomes and subsequently provide an impetus to the economy at large due to the increased demand from the rural areas.

One India, one agricultural market:

- It is expected to pave the way for the creation of a 'One India, One Agriculture Market' by promoting barrier-free inter-state and intra-state trade with provisions of electronic trading as well. This could help correct the regional disparities in demand and supply of the agricultural produce. This could help farmers of regions with surplus produce to get better prices and consumers of regions with shortages, lower prices.

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020:

Risk mitigation:

- Contract farming will help small and marginal farmers transfer the risk of market unpredictability from the farmer to the sponsor.
- It reduces the risk of price and marketing costs on small and marginal farmers.

Better price discovery:

- Contract farming will help farmers reduce the cost of marketing and improve their incomes.
- Farmers will engage in direct marketing thereby eliminating intermediaries resulting in the better realization of price.

Scope for increasing farm productivity:

- Contract farming will enable the farmer to access modern technology and better inputs. This would allow farmers to increase farm productivity and also reduce input costs.
    - Contract farming agreements between companies and farmers are already operational in crops of particular processing grades (the potatoes used by beverages and snacks giant PepsiCo for its Lay's and Uncle Chips wafers) or dedicated for exports (gherkins). The processors/exporters in these cases typically not only undertake assured buyback at pre-agreed prices, but also provide farmers with seeds/planting material and extension support to ensure that only produce of the desired standard is grown.

Impetus to private sector participation:

- The act seeks to encourage private sector participation in procurement and reduce the government burden of procuring.
- Contract farming can ensure uninterrupted sources for their production and also secure the purchaser from market price fluctuations.

Legal framework protecting farmer interests:

- The legal framework for contract farming will empower farmers to engage with the contract buyers on a level playing field without any fear of exploitation. The mutually agreed remunerative price framework is envisaged under the act. This provision is touted to protect and empower farmers.
- Sale, lease or mortgage of farmers' land is totally prohibited and farmers' land is also protected against any recovery.
- Farmers have been provided with adequate protection.
- An effective dispute resolution mechanism has been provided with clear timelines for redressal.

Essential Commodities (Amendment) Act, 2020:

Addressing the lacunae in ECA, 1955:

- The Economic Survey 2019-20, which has extensively analyzed the Essential Commodities Act, notes that the government intervention under the ECA 1955 often distorted agricultural trade while being totally ineffective in curbing inflation.
- Since large stocks held by traders can be outlawed under the ECA 1955 anytime, they tend to buy far less than their usual capacity and farmers often suffer huge losses during surplus harvests of perishables. The threat of restrictions also acts as a disincentive for private investment into cold storage, warehouses, processing and export as entrepreneurs get discouraged by the regulatory mechanisms in the Essential Commodities Act, 1955.
- Such laws also restrict opportunities to export even when global crop prices go up.

Attracting private investment:

- The deregulation through ECA amendment will help attract private sector/foreign direct investment into the agriculture sector.

Improve the forward linkage infrastructure:

- The incoming private sector investment would help build supply chain infrastructure for the agricultural sector. This could help facilitate the supply of Indian farm produce to national and global markets.

Arguments against the Farm Acts

Some of the farmer organizations and others have called the acts corporate-friendly and anti-farmer and have expressed the fear that the new acts may hurt the farmers' interests. The bills have faced strong protests mainly from Punjab farmers and from opposition parties.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020:

Against the spirit of federalism:

- Since agriculture and markets are State subjects – entry 14 and 28 respectively in List II – the acts are

being seen as a direct encroachment upon the functions of the States and against the spirit of cooperative federalism enshrined in the Constitution.
- The Centre, however, argued that trade and commerce in food items is part of the concurrent list, thus giving it constitutional propriety.

Fears with respect to MSP system:

- Farmers fear that the new proposed system will end the minimum support price regime. They fear that encouraging tax-free private trade outside the APMC mandis will make these notified markets unviable, which could lead to a reduction in government procurement itself.
- The creation of private mandis will drive agriculture business towards private mandis, ending government markets, intermediary systems and APMCs. In a scenario where more and more trading moves out of the APMCs, these regulated market yards will lose revenues.
- As a result, big corporate houses will overtake markets, thereby procuring farm produce at incidental rates. Critics view the dismantling of the monopoly of the APMCs as a sign of ending the assured procurement of food grains at minimum support prices (MSP). This could lead to the increasing clout of private buyers and could lead to low bargaining powers of the farmers.
- Lack of statutory support in the acts for the MSP is a major point of concern, especially for farmers from Punjab and Haryana, where 65% of wheat (2019) is procured at MSP by the Food Corporation of India and state agencies.
- Critics argue that ensuring a larger number of farmers get the MSP for their produce and straightening kinks in the APMCs, instead of making these State mechanisms redundant is the need of the hour.

Effect on state revenues:

- Mandis bring in revenue for state governments. The diversion of agricultural trade towards private mandis could lead to the loss of states' revenues.
- Some states are concerned about the loss of revenue from mandi taxes and fees, which currently range from 8.5% in Punjab to less than 1% in some States.

Effect of middlemen:

- Middlemen working with APMC and traders will be affected.

Past examples:

- The deregulation of the sugar industry in 1998, which paved the way for private establishments, did not result in a significant improvement in farmers' productivity or incomes.
- A state-led attempt in Bihar to deregulate the APMCs in 2006 has not resulted in an increase in farmers' income or improved infrastructure.
- Without strong institutional arrangements, laissez-faire (no economic interventionism) policy may harm lakhs of unorganised small farmers.

Cases of fraud:

- 150 farmers from four districts in Madhya Pradesh were allegedly defrauded of over Rs 5 crore by traders. Similar cases have been reported recently from Hoshangabad, Seoni, Gwalior, Guna, Balaghat, Barwani and Jabalpur districts.

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020:

Challenges to farmers:

- The inability of the small and marginal farmers to understand the terms of the contract may lead to the exploitation of such farmers.
- The lack of bargaining power of farmers with big companies is also a major concern.
- Critics are apprehensive about formal contractual obligations owing to the unorganised nature of the farm sector and lack of resources for a legal battle with private corporate entities.

Lack of price fixation mechanism:

- The Price Assurance Act, while offering protection to farmers against price exploitation, does not prescribe the mechanism for price fixation. There is apprehension that the free hand given to private corporate houses could lead to farmer exploitation.

Essential Commodities (Amendment) Act, 2020:

Increased threat of food insecurity:

- Critics anticipate that the easing of regulation of food items would lead to exporters, processors and traders hoarding farm produce during the harvest season, when prices are generally lower, and releasing it later when prices increase. This could undermine food security.

Increased volatility of food items:

- Critics anticipate irrational volatility in the prices of essentials and increased black marketing.

Lack of clear cut guidelines:

- The act proposes a price trigger mechanism for invoking ECA. However, it involves a wide range for a price trigger to invoke the ECA. Many things are left vague. Price triggers or price levels do not have a reference to a locality.

Farm Acts - Critical analysis

The constitutional validity of the acts:

* Article 246 of the Constitution places “agriculture” in entry 14 and “markets and fairs” in entry 28 of the State List. But entry 42 of the Union List empowers the Centre to regulate “inter-State trade and commerce”. While trade and commerce “within the State” is under entry 26 of the State List, it is subject to the provisions of entry 33 of the Concurrent List – under which the Centre can make laws that would prevail over those enacted by the states.
* Entry 33 of the Concurrent List covers trade and commerce in “foodstuffs, including edible oilseeds and oils, fodder, cotton and jute". The Centre, in other words, can pass any law that removes all impediments to both inter- and intra-state trade in farm produce, while also overriding the existing state APMC Acts. The FPTC Act does precisely that.
* However, some experts make a distinction between agricultural “marketing” and “trade”. Agriculture per se would deal with everything that a farmer does — right from field preparation and cultivation to also the sale of his/her own produce. The act of primary sale at a mandi by the farmer is as much “agriculture” as production in the field. “Trade” begins only after the produce has been “marketed” by the farmer.
* Going by this interpretation, the Centre is within its rights to frame laws that promote barrier-free trade of farm produce (inter- as well as intra-state) and do not allow stockholding or export restrictions. But these can be only after the farmer has sold. Regulation of the first sale of agricultural produce is a “marketing” responsibility of the states, not the Centre.
* The Judiciary will have to take a call on the constitutional validity of the farm acts, 2020.

Need to address misconceptions:

Misconceptions regarding MSP:

* An analysis of the recent laws makes it clear that as against the prevalent misconception that the prevailing system of Minimum Support Price (MSP) is being replaced, rather new options were being put forward for the farmers through these farm bills.
* The government has made it clear that procurement at MSP will continue and also that the mandis will not stop functioning. Under the new system, farmers will have the option to sell their produce at other places in addition to the mandis.
* It is worth noting that only 6% of farmers actually sell their crops at MSP rates, according to the 2015 Shanta Kumar Committee’s report using National Sample Survey data. None of the laws directly impinges upon the MSP regime.

Misconceptions regarding contract farming:

* There are fears that contract farming will lead to land loss of the small and marginal farmers to big corporates. However, adequate protection of land ownership is in place to protect farmer interests.
* The act explicitly prohibits any sponsor firm from acquiring the land of farmers – whether through purchase, lease or mortgage.
* The point to note is that contract cultivation is voluntary in nature and farmers cannot be forced into an agreement.

Inevitability of agricultural reforms:

* The Indian farmer constitutes 40 per cent of the country and an even higher percentage of its poor and as the available data points out, is under immense stress.
* Indian economic and social development depends upon the empowerment of the farmers and the rural segment of our population. Thus there is an urgent need for agricultural sector reforms to move beyond the antiquated agricultural policies.

- The Indian farm bills are in line with international precedence wherein a number of developing economies have been making changes to their agriculture policies since the 1990s to encourage private sector involvement which would provide a major fillip to the sector.
- The International Monetary Fund has also backed the recent farm acts as being an important step in the right direction.

Way forward:

- The farm acts are a step in the right direction and there is the need to ensure the effective implementation of the same.
- The following measures could help address some of the concerns regarding the farm laws.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020:

- The move to enlarge the market for agricultural produce is welcome but this should be supplemented by measures that will help preserve the existing ‘safety net’ mechanisms like MSP and public procurement.
- Though a farmer will have the freedom to choose where he/she wants to sell, he/she may not have the knowledge to negotiate the best terms with a private company. The state should work towards empowering the farmers in this direction.
- The government must create enabling infrastructure to enable the farmers to do barrier-free trading of agricultural commodities.

Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020:

- The method of determining prices, including guaranteed price and additional amount, should be provided in the agreement as annexures. The government must ensure suitable provisions to ensure that the prices are not below the MSP.
- In case of prices subjected to variations, the contract agreement must include a guaranteed price to be paid for such produce, and a clear reference linked to the prevailing prices or any other suitable benchmark prices for any additional amount over and above the guaranteed price, including bonus or premium.
- There should be time-bound redressal of grievances.