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The Indian Farm Laws of 2020

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The years of 2020 and 2021 will be remembered in India not only for the pandemic and the health crisis it ensued but also for somecontroversial pieces of legislations, an internal crisis of governance and massive protests.In September 2020, the government introduced three farm bills in the Parliament that aimed to reform the agricultural sector and empower farmers who have been the backbone of our economy. They intended to provide farmers with the means to expand their sales avenues and reduce their dependence on the State-established middlemen. However, the rise of the "Delhi Chalo" movement and the subsequent year-long capture of the Delhi borders have questioned the letter and spirit of these bills and forced their repeal. In light of these events, it becomes imperative for us to understand the good, the bad and the ugly of thesecontentious farm laws.

1. Farmer's Produce Trade and Commerce (Promotion and Facilitation) Act, 2020
Also known as the "APMC Bypass Bill", this allowed farmers to trade their agricultural produce beyond the Agricultural Produce Marketing Committee (APMC) markets. It also prohibited APMCs from charging cess, fees etc. on the agricultural products.

2. Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Act, 2020
This bill introduced "contract farming", allowing farmers to enter into agreements with buyers or sponsors before the sowing season. The sponsors could be individuals, companies or societies and the agreements would include mutually agreed terms of the price, quality, supply and farm services such as technology, machinery and other inputs. Such produce would be exempt from state control and hence Minimum Support Price would not apply.

3. Essential Commodities (Amendment) Act, 2020
The amendment aimed to restrict government control on certain commodities previously categorized as essential – cereals, onion, edible oils, pulses, oilseeds and potatoes. This seeks to reduce the regulatory influence in the decisions of production and distribution and incentivizes private sector and foreign direct investment to participate in the sector.

Are the farm bills good for the country and the agricultural sector?
Multiple intricacies of the provisions suggest a positive move by the government to help evolve the agricultural sector and create a market-based environment, starkly different from the current dependence on the state's resources.

End of the APMC monopoly
Agricultural Produce Market Committee or mandis are state regulated boards that have the sole right to procure produce from the farmer and sell via auction to wholesale and retail traders who require a license with the APMC. These marketing platforms have a geographic demarcation and farmers from a specific jurisdiction can approach the APMC for that region only. With the introduction of the reform bills, farmers could sell their produce within the state as well as outside the state, directly contract with other entities and could also set up electronic trading platforms. More often than not, APMC practices are dominated by big farmers and APMC traders also act as local money lenders to small farmers, with unreasonable credit terms. With APMCs no longer being the monopolizing player in procurement, the reform bills could have paved way for better credit terms and more formal sources of farm credit.

Redirection of national monetary resources
The food crisis of 1960s in India was genesis of not only the Green Revolution but also the Minimum Support Price (MSP) which is a tool used by the government to assure a minimum profit to farmers on 23 crops and also to ensure food security by way of purchases via the Food Corporation of India (FCI). The MSP is recommended by Commission for Agricultural Costs and Prices every year and decided by the government however there is no legal mandate. Since MSP will not be applicable in private contracts or direct sales, the procurement burden on FCI will be reduced. FCI has no income source of its own and relies on the government allocation to meet the food subsidy created in the high buying price and low issue price. With both these prices diverging further, increasing the food subsidy bill on one hand, and the lower budget allocation by the government to meet these expenses on the other hand, FCI was forced to borrow outside the fiscal budget. The recent payoff of more than INR 2 lakh crore of outstanding debt arrears of FCI brings to light the fiscal burden of the scheme. Moreover, the overspending by FCI is also driven by over procurement in terms of quantity as current production is at least three times that of the buffer norms, with no proper storage or demand. Why such surplus has not translated into a zero-hunger situation is a different problem all together.

Saving tax payer money on debt-off and redirecting it to other priority sectors such as healthcare and education can contribute to broader development agenda of the country.

Prevention of further ecological damage

The 1960s food crisis also emphasized food security in terms of staples such as paddy and wheat and the procurement and storage policies were shaped in accordance. Consequently, farmers in North India changed their cropping patterns specifically to these two crops. While that resulted well in food sufficiency, all extra production beyond that point has been at the cost of severe damage of water tables, soil quality, air quality and waste management. Paddy and wheat are high water consuming crops and many believe that cultivating them is equivalent to exporting water itself. The threat of desertification now exists for large states of Punjab and Haryana. They also require a large quantity of chemicals to prevent infections and pests, and the stubble left over from harvesting is disposed off by burning, leading to the North Indian winter smog. While there are several other crops that MSP promotes, their procurement by the government is low and issues such as incompatible climate further disincentivize farmers from diversifying.

Inherent benefits of privatization and open-market

The open-market policy is not a new initiative in India. A Model APMC Act that allowed new market channels was introduced but not actively implemented, except for some states; Maharashtra being one of them. The open market system has worked well in the state where farmer producer companies have grown and created their own farm-to-fork marketing networks. A visible advantage was felt during the pandemic when APMCs were shut due to lockdown and the farmers could directly sell their produce to the retailers and end consumers.

There is also evidence of sectoral transformation by the private players. Their entry will result in higher investment in food storage and processing facilities, direct marketing, provision of better farm technology and machinery, demand for cash crops and consequent crop diversification. Big players such as Adani, Mahindra, PepsiCo, ITC and Tata Group have been collaborating with farmer groups and have brought best practices and high yields to the field.

With these benefits on the platter, why were farmers protesting?

1. Dismantling MSP and Corporate abuse

A major source of dissatisfaction of the farmers was the lack of mention of MSP in the new rules. They saw the bills as pro-corporate that would reduce the power of APMCs and eventually make them redundant, thereby leaving farmers at the mercy of the big sponsors. With the many instances of corporate manipulation of their supply chain, this fear was not unfounded. There is a heavy dependence on MSP and government procurement of farm produce, especially in the north. With no guaranteed MSP, farmers would lose their safety net and be forced to accept a lower price for their produce, triggering massive debt traps for the community.

2. Violation of constitutional rights

The dispute settlement mechanism proposed by the reform bills stated that "*in case of any dispute arising out of a transaction between the farmer and a trader, a Conciliation Board appointed by the Sub- Divisional Magistrate will settle the dispute*". It also stated that no legal proceedings that be initiated against the Central or State Governments and "*no civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter, the cognisance of which can be taken and disposed of by any authority empowered by or under this Act or the rules made thereunder*."

These provisions challenge citizens' right to legal recourse and highlight how the laws went against the basic framework of the Constitution.

What does the repeal mean for the government?

A year of deadlock followed by the passing of the Repeal Bill has brought into question the government's understanding, sensitivity and support towards farmers. Both policy roll-backs by the current government regime (first being land acquisition reforms of 2015) deal with the rural economy and indicate a lack of understanding of basic rural issues at the Centre. The answers are also political, with an eye to the upcoming elections in the impacted states.

CONCLUSION

The laws, while well-intentioned, did not take off and that has some insights for us. Agricultural reforms would work best if kick-started from the local level as opposed to a set of big-bang changes at the top. Gradual changes for each issue – introduction of private sector, open-market, de-regulation of essential commodities, reliance on APMC credit, among others – could be considered one at a time. The episode also highlights the necessity of appropriate stakeholder consultation. Buy-in should have been sought from farmer unions and local governments ahead of the finalization of the provisions. This is also important to build trust between the regulator and the regulated, as the protests have been a major show of loss of confidence in the government. Lastly, the incident brings to light the power of collective bargaining and how a small group of motivated individuals can sway things in their favor against an army of officials.

SOURCES

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