



NEW FARM ACT 2020: A SOCIO-LEGAL STUDY

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ABSTRACT:

Agriculture is the main source of livelihood in India. Yet not much attention had been paid to the development of the same. It is for the first time in the year 2020, the parliament of India has enacted the new farm act 2020 which will help them in achieving the dual goal simultaneously i.e. raising the income of farmers and strengthening the competitiveness of the agriculture sector. It seems possible because this new act provides the farmer to sell its produce outside APMC and MSP with corporates firms, private players, etc. Without paying any tax or fee to the government. This paper analyzes the farm act 2020 in detail. This paper also analyses the impact of this law on various individuals and society as a whole. As a lot more protest is taking place, it seems more clarity and understanding are required so this paper analyzes agriculture-related important concepts as well.

Keywords: Agriculture, The farm act 2020, APMC, MSP.

INTRODUCTION:

It will be the watershed moment for all the farmers in India as the government has fulfilled its promise given to farmers with the introduction of the new farm law 2020. This time the nation is trying to make the way easier and effortless for farmers in selling their products by making them independent in taking their own decision in selling and pricing. Now under this new law, the farmers will be able to sell their product to any extent

of areas and the private traders. This will empower the farmers as this is protected by pre-contract between the farmer and the buyer whether all the details will be mentioned including pricing. And if the other person or the farmer breaches the contract they can file the complaint under the Farmers agreement on price assurance and service act 2020. A reform in this farming sector was much needed but now it is facing various opposition about concerning its validity as agriculture is a state subject and trade and commerce is a concurrent subject under the Indian constitution, farmers also fear from getting exploited as they are far-reaching from these new technicalities and modern scenario. In this paper, the researcher has tried to analyze the impact of the new farm law on farmers, women farmers, the state, and society as a whole. In the end, we will be able to analyze whether justice has been or will be served to this farming sector or not and what are the real issues related to it.

OBJECTIVE:

1. To analyze the Farm Act 2020
2. To understand the need for enactment
3. To evaluate the issues under the FA 2020
4. To understand the impact of this new act 2020 on Farmers, Women farmers, State, Indian economy.
5. To evaluate the reason for farmers protest
6. To understand various other concepts related to the farm act.
7. To understand its jurisprudence aspect

RESEARCH METHODOLOGY:

1. Usage of the scientific method for analysis
2. Usage of secondary data

REVIEW OF LITERATURE:

1. **BRIEF HISTORY:**



Agriculture holds great importance in the Indian economy. It adds value to the gross domestic product. Forestry, hunting, and fishing as well as the cultivation of crops and livestock production, all come under the agriculture sector¹. But if we track the history we will find that farmers have been exploited in many ways. As there was firstly the zamindari system and then the Agriculture produce market system. In the former system farmers to buy essential seed and fertilizers needed money for that, they used to take loans from zamindars or money lenders. Zamindars use to charge huge rates of interest which farmers could not afford and many a time they were unable to pay, because of which zamindars use to take produce at a very low price. The second type of system i.e. APMC, a market or mandi use to be established by the government where through auctioning or price discovery method the products were bought by the middleman also known as arhatiyas, a man between farmer and retailer. For facilitating this market government use to charge tax by farmers. Also, the produce left which was not bought by arhatiyas were purchased by the government at the minimum support price. And with time it was also said that middlemen use to buy produce at MSP and sell at a very high rate on their own. So in there was farmers were exploited since independence. To stop this, the new farm law came in 2020 which tried to fix this problem by allowing farmers to decide their price, sell their product to their choice customers, and also no intervention by the government

because of this there is no need to pay tax by them. In this way somehow they can save a little amount in the process².

2. THE FARM ACT 2020: An Analysis:

In the year 2017 Union had passed model farming acts. But later in 2019, the standing committee on agriculture found that several laws in the model act had not been implemented. It also found that agriculture market regulations like APMC were implemented dishonestly which was harming the farmers as well as the agriculture sector. Accordingly in the year 2020, The Centre enacted three laws to re-regulate the market and change the present damaged market scenario.

The three acts include:

2.1. The Farmers (empowerment and protection) agreement on price assurance and farm service act 2020 :

This act empowers the farmers. It allows them to engage and sell their product to any firm, wholesaler, retailer, or larger business at an agreed price.

It gives price assurance to the farmer and quality assurance to the buyer as every such detail is mentioned primarily in the agreement itself. Also, the best value will be offered to the farmer as price reference may be linked to the prevailing price in the APMC yard or any e-transaction platform.³ If the agreement is for seed production then the two-third amount of the agreed amount will be paid at the time of delivery and the rest

¹ India: GDP Share of Agriculture, The Global Economy.com, Business and economic data for 200 countries, https://www.theglobaleconomy.com/India/Share_of_agriculture.

² S. A. Rishikesh, A critical analysis of the farm bill 2020, latestlaw.com, 16 October 2020 at pg. 1,

<https://www.latestlaws.com/articles/a-critical-analysis-of-the-farm-bills-2020/>

³ Section 5 of The farmer (Empowerment and protection) agreement on price assurance and farm service act,2020



will be paid after certification but it should be paid within thirty days of delivery⁴.

For other produces payment will be made at the time of accepting delivery with the receipt⁵. The state government may prescribe the mode of payment⁶.

It gives quality assurance to the sponsor as it is predefined in the agreement about the quality and during delivery, the sponsor can check the same before accepting. If he does not do so then it will be deemed that he has inspected and will have no right to claim or retract the acceptance⁷.

Insurance or credit support- to ensure risk mitigation and flow of credit to farmer or sponsor or both, the farming agreement may be linked with insurance or credit instrument under any scheme of central or state government or with any financial institution⁸. Registration authority will be established for the registration of the farming agreement. The power, function, procedure, composition, etc of registration authority will be decided by the state government.

Dispute settlement mechanism: a dispute arising from any farming agreement will be primarily referred to the conciliation board. It is a board formed by parties to the agreement it is discussed at the time of forming of an agreement it will provide for conciliation process and representation of parties to the agreement.

And if the dispute gets settled during the course of conciliation proceeding, a memorandum of the settlement will be drawn with the signature of parties in it and such settlement shall be binding on the parties¹⁰. If the dispute is not get solved by the board within thirty days then parties may approach the sub-divisional magistrate for a resolution. The parties shall also have the right to appeal with the appellate authority (presided over by collector or additional collector). Within thirty days of receipt of an appeal, the magistrate and the appellate authority would be required to dispose of the dispute. They also have the power to impose penalties for contravening the agreement. But no action against the farmer's agricultural land for recovery of any dues can be taken.

2.2. The farmers produce trade and commerce (promotion and facilitation) act 2020

In this act freedom of choice to farmers has been recognized. Now farmers can sell their products inside the state, outside the state, online, outside APMC approved mandis, or market places.

Payment mechanism: every trader who transacts with farmer has to make the payment on the same day or within the maximum of three working days subject to condition mentioned in the receipt of delivery about the due payment amount shall be given to farmer on same day¹¹.

⁴ Section 6(3)(a) of The farm agreement on price assurance and farm service act 2020

⁵ Section 6(3) (b), Ibid.,

⁶ Section 6(4), Ibid.

⁷ Section 6 of The farmers produce trade and commerce act 2020

⁸ Section 9 of The farmers produce trade and commerce act 2020

⁹ Section 12 The farmers produce trade and commerce act 2020

¹⁰ Section 13 The farmers produce trade and commerce act 2020

¹¹ Section 4(3) The farmers produce trade and commerce act 2020



It restricts the state government from levying any market fee, cess, or levy on farmers, traders, and electronic trading platforms for the trade of farmers' produce conducted on an outside trade area.

2.3 Essential commodities (amendment) act, 2020

Thinking of the strong supply chain for the farmer, investor, and consumers. This act removes the stockholding limit of foodstuffs such as cereals, pulses, potato, onion, edible oilseeds, and oils, except under extraordinary circumstances. And has been removed from the list of essential commodities. The stock limit can be imposed on agricultural produce when the price rise.

3. KEY CONCERNS ARISING FROM THE ACT:

3.1 WHAT IS MSP

MSP stands for Minimum support price. The products that are not bought by the middlemen in the APMC market are then bought by the government at a minimum support price. All over the country, the MSP price remains constant. It ensures that produce brought by the middlemen were not below a certain price¹². It is a price fixed for every Kharif and Rabi cropping season by the government after taking into account the recommendation of commission for agriculture and price (which is an attached office of the ministry of agriculture and farmer welfare, the government of India)¹³. It

is a minimum price for any crop that the government considers as remunerative for farmers and hence deserving of support. It's also the price that government agencies pay whenever they procure a particular crop. The government now fixes MSPs for twenty-three crops¹⁴. As of now these Twenty-three commodities comprise of 7 cereals, 5 pulses, 7 oilseeds, and 4 commercial crops¹⁵.

3.2 EXISTENCE OF MSP

There has been a lot of question and fear of farmers regarding the existence or end of MSP as under the new farm law there is no statutory backing to MSP. Concerning statutory backing-Agriculture Minister Narendra Singh Tomar said the new law has nothing to do with MSP. Also, MSP was not part of any law before nor is it a part of law today. It is only a government policy that is part of administrative decision making¹⁶. And about the existence of MSP- Centre says MSP will continue even after liberalization. Even during the fight against the covid-19 pandemic, the procurement of MSP was done as usual. MSP is announced before sowing to put the farmer at ease. It will still be continued further there is no reason to mistrust the government. The report which was given by the Swaminathan committee was implemented by the government it means they have the intention of keeping MSP. If not then why would they implement it? Hence MSP is not done away it is still there¹⁷. MSP for the year 2020-2021 has been

¹² Supra note 2

¹³ The organization, Commission for Agriculture Costs and price, Ministry of Agriculture and Farmers Welfare, Government of India (November 25, 2020), <https://cacp.dacnet.nic.in/content.aspx?pid=32>

¹⁴ Harish Damodaran, Explained: What is Minimum support price(MSP), and how is it fixed, The Indian Express, September 25, 2020

¹⁵ Supra note 13

¹⁶ Supra note 14

¹⁷ Iram Siddique, MSP to continue, lies being spread about new laws: PM to farmers, The Indian Express, December 19, 2020.



declared. It can be accessed at the farmer government website.

3.2 WHAT IS APMC

APMC means the Agricultural produce and livestock market committee established under the provisions of the APLM Act¹⁸. This is the market also known as mandi which is established by the state government in every state where the produces of farmers are directly brought and bought by middleman through price discovery or auctioning method. To establish this mandi government charges tax from the farmers. Licenses are also being issued to the trader to operate within the market¹⁹.

3.4 EXISTENCE OF APMC SYSTEM:

The government has not done away with APMCs rather it has given the farmer the ability to sell its produces outside mandis which was earlier restricted. If we look into the preamble of the act 2020²⁰ we can see that it was written is giving freedom of choice relating to sale and purchase outside the physical market so that barrier-free intra and interstate trade can take place it does not do away the APMC it is just giving an additional opportunity to farmers. And for the trade outside the market, there will be no license required or fees will be charged. For the trade which will be held under the mandis or

APMC market, the procedure will be the same as earlier there is no change in that.

3.5 LOSS OF LIVLIHOOD TO ARHTIYAS:

Arhtiyas are commission agents, a link between farmers and buyers of the farming produce. They arrange for the auction and delivery of harvested crop to the buyer's²¹. when the produce is brought directly to the mandi market by farmers, this arhtiya arrange for auction, grain cleaned, weighing, filling into the bag and stitching it loading it to the buyer's transport. For all these services the arhtiya get a 2.5 percent commission per quintal wheat, paddy, basmati, and maize by the purchaser and two percent commission per quintal they get for cotton and 1.5 for chili. And it is claimed by them that out of 2.5 percent commission nearly 1 to 1.25 percent is their expenditure on providing machine, weighing, cleaning, etc. not only this they also earn from providing farm essentials such as seeds, fertilizers, pesticides, etc to them from own shop or any other place²². So after the new farm law came they will tend to lose all these commissions and will lose their livelihood as farmers have got more options and free to trade to any extent without paying taxes and any fees.

4. IMPACT OF THE NEW FARM LAW 2020:

¹⁸ National Agriculture Market, Small farmers' agribusiness consortium, Department of agriculture, cooperation and farmers' Ministry of agriculture and farmers' welfare, the government of India, <https://enam.gov.in/web/stakeholders-involved/Apmcs>.

¹⁹ Pronami Chetia, What is APMC and MSP? Why Farmers are protesting for it?, KJ Krishi JAGRAN, (December 10, 2020), <https://krishijagan.com/agriculture-world/what-is-apmc-and-msp-why-farmers-are-protesting-for-it/>.

²⁰ The farmers produce trade and commerce (Promotion and facilitation) act 2020.

²¹ P.Sainath / People's archive of rural India, Punjab's agrarian crisis can't be solved without freeing farmers from commission agents, The WIRE, July 05, 2018, <https://thewire.in/agriculture/punjabs-arhtiyas-sins-of-commission>

²² Anju Agnihotri Chaba, behind arhtiyas joining farmers' stir: fear of losing hundreds of crores in annual income, The Indian Express, October 30, 2020.



4.1 Impact on farmers

Positive impact:

1. Greater opportunities: By allowing farmers to sell their produces outside the APMC market will give them more opportunities to interact in the market directly, now they can be independent in marketing in selling their produces.
2. Contract farming: now farmers can engage with national or corporate markets backed by written or verbal contract agreements. This will boost their trust and confidence in the market.
3. Price assurance: as through prior agreement between the buyer and the farmer, the price, the quality will be predefined so there will be no chance of fraud or cheating between them. A farmer will get the predefined price only even if later in the real market price of that particular product gets low they will get the exact amount that is mentioned in the contract agreement.
4. Freedom of stock: As some of the items have been deregulated and restrictions have been removed for keeping specified stock of certain commodities such as cereals, pulses, etc. now farmers by this get more opportunities and freedom to stock as much as they want. This will attract more foreign direct investment.
5. Increase in monthly income: as now when the farmers will sell the produces outside mandis they will not have to pay taxes or any kind of fees so now they can save a lot of money in the process. And on the other hand, there is a good chance to get more price of their product by the corporate players.’
6. More Exposure and growth: it is a good opportunity for farmers as through this they will learn new techniques and technologies, when they will engage with electronic transactions they will learn e-commerce procedures and will also save a lot of time.

Negative Impact :

1. Risk of exploitation: As big corporate will enter the market there is a risk they will try to dominate or exploit the farmers as they tend to hold less power, money, knowledge, and confidence. Farmers might have less negotiating power as compared to big firms.
2. Face problem while contracting itself: farmers might face problems at the primary step itself as they are illiterate and many farmers do not know how to read and write hence they might face problems while contracting only.
3. No transport facility: As there is no policy relating to the transportation of farmers' produces. Many marginal farmers do not have access to the market and some of them cannot afford to avail transportation services as well. So for some, this might be a threat as well.

4.2 Impact on women worker

Negative Impact:

Gender biasedness has also been seen in the agricultural sector. They are not seen as agricultural laborers or farmers. So the work done by women in this sector remain unnoticed²³. About 47% of agriculture labor forced has been filled by women. Even though 73.2% of women are in the agriculture sector but 12% own the land in which they farm. More than eight seven

²³ ANUREET, Invisibilised women of agriculture and how the farm bill adds to their woes, Shethepeople THE WOMEN'S CHANNEL, November 24, 2020, <https://www.shethepeople.tv/top->

stories/opinion/india-agriculture-female-farmers-farm-bill/#:~:text=The%20new%20contract%20farming%20rules,of%20credit%20for%20these%20women.



percent of women do not own land, so they are on the bad pedestrian they can't enjoy the fruit of land ownership. Also as they remain unnoticed as farmers they do not get institutional credit for farming as well. So this hinders the growth of women in the agriculture sector.

Before the new law also the situation was not good for women after the new law it might get worst even. As they face many processes such as mobility, access to mandis, and generational network to secure buyer and information regarding current price²⁴.they are on unequal footing as it is difficult for them to go from one place to another to sell their products and negotiate for better prices.

Positive impact:

1. It will be a great chance for small farmers and women farmers to grab the APMC and MSP market which will still be there as most of the big farmers will try to opt for new options now available to them after the new farm act came.
2. Foreign direct investment: as now the restriction to hold stock of certain essential commodities has been removed now farmers are free to keep stock and trade. This will attract more foreign direct investment.

4.3 Impact on state

Negative impact

1. Lose monopoly: This new farm act will not have a very good impact as now farmers will have barrier-free trade and states will lose their monopoly control on agriculture and farmers. earlier they had control over certain geographical areas which will now be not there.

2. Lose commission: states are restricted to impose any fees, charge, or tax for trade taking place outside mandi by farmers. So they will not be able to make a commission and make money out of it.

Positive impact

1. Opportunity to grow: this is a good time for every state to give its farmers a chance to grow and enhance their knowledge, income and help them get rid of debt. The growth and development of citizens will lead to the growth and development of states and nations as a whole.so if farmers will grow in this competitive market, a state in which the farmer trade will also grow.
2. Contribute more to GDP: Agriculture sector of each state can now contribute more to the gross domestic product if they get success in the barrier-free trade market.

4.4 Impact on Indian economy

The agriculture sector plays a vital role in contributing to India's economy at almost contribute fifteen percent to the gross domestic product. And it has been said that if there is any economic crisis come then the revival of this crisis does not come by urban capital but it will be revived by the rural capital. The country cannot exist if the rural sector vanishes. With the introduction of this new farm bill, the monopoly of the APMC market will be done away and they will additionally allow the private corporate sector to trade with our agricultural farmers and it will allow the farmer to sell produces for higher prices. Through private investment, there will be an introduction of new technologies as well. Now farmers are free and there is no government intervention now they cannot restrict exports of a commodity even if its price increase so this

²⁴ Refer news, supra note 23.



way farmers will get more money which will help them to get rid of debt. This will increase the income of farmers gradually and will surely do wonder to Indian economy as well²⁵.

5 WHAT IS THE REASON OF PROTEST:

1. Farmers are protesting as they are on the wrong assumption that now minimum support price and mandi will not be there and they will lose their livelihood. But the case is not so. They have misunderstood it. The government has made clear that the mandi market and APMC will still be there. It is just an additional facility given to farmers to trade with corporate sectors and intra and interstate trade.
2. Secondly, they are in fear that they will gain be exploited by big Agri businessmen and by big contractors through the provisions of the contract farming agreement. As they do not have much knowledge and still illiterate they are chances that big players will mislead them²⁶.
3. They are in fear that they will lose their tie with arhatiyas as they were there as an informal bank without collateral in time of need²⁷.
4. Farmers do not have bargaining power so they are protesting as they will not get a better price for their product as a big businessman will have hand over small farmers²⁸.
5. They do not have transport facilities and money to invest in this and new technologies to improve their produces so these are the threat for farmer's trade in the competitive market²⁹.

²⁵ Vantipalli Sandeep Kumar, Can farm bills feed the Indian economy, Readers Blog, Times of India, October 04, 2020.

²⁶ New farm bill 2020: who is protesting and why, Times of India, September 20, 2020.

²⁷ *ibid*

6. THE CONSTITUTIONAL VALIDITY OF THE FARM ACT 2020:

There has been a lot of debate going on about the constitutional validity of the new farm act 2020. As it has been passed by the union under entry 33 of List III³⁰ i.e. under trade and commerce in, and the production, supply, and distribution of items referred under³¹. Whereas states are saying that Agriculture is state subject and comes under list II entry 14³² i.e. agriculture including agricultural education and research, protection against pests, and prevention of plant diseases. To clear this confusion we need to answer certain questions.

1. Does the three Farm act which has been passed come under the trade?
2. What is trade
3. If agriculture is an occupation, does it comes under trade?
 1. To analyze the first question we need to look into all the three-act objectives.
 - a. The first, the promotion and facilitation act, provide for barrier-free trade inter and intra both. It also let them trade their produce outside the physical premises of the market.
 - b. The second act empowerment and protection act, provide farmer to engage with agribusiness firm, wholesalers, exporters at a mutually agreed price.
 - c. The third act i.e., amendment under the essential commodities act which removed the restriction relating to keeping stock of certain commodities. Only in exceptional cases such

²⁸ *ibid*

²⁹ *ibid*

³⁰ Indian Constitution, Schedule 7.

³¹ Indian Constitution, Entry 33 List III, *ibid*.

³² *Supra* note 31.



as war, famine, price rise, and natural calamity the center will interfere.

2. To understand the term trade, we shall refer to the *Atiabari tea co. case*³³. In this case, it has been held that under article 301 the term trade means buying and selling of goods. It also includes other activities that may be regarded as an integral part of a transaction. Such as transportation of goods, merchandise from one place to another. And the word 'commerce' also means the same but is a wider term than trade. Unlike trade, it is not for making a profit. Its essential is the transmission.

Also if we go with the definition of trade under the competition act 2002. The term trade includes any trade, business, profession, and occupation. The activities such as production, supply, distribution, storage, and even control of good and any provision related to services come within the purview of occupation³⁴.

3. So if go by the definition of trade as per the competition act and *Atiabari case*, agriculture trading and its buying and selling activity of agricultural product comes under occupation and hence under it is within the trade.

The legislature in India possesses plenary power of legislation subject to the condition that the legislation is confined to the topic mentioned in various lists. These entries although are meant to be mutually exclusive, yet overlap each other. In case of conflict, it becomes necessary to examine the pith and substance of impugned law.

³³ *Atiabari tea co. vs. the state of Assam*, AIR 1961 SC 232.

³⁴ The competition Act, 2002, Section 2, cl. X.

³⁵ *State of Rajasthan vs. G. Chawla*, AIR 1959 SC 544

Points in favor of the validity of the farm act:

Referring to *G. Chawla case*³⁵. In this case, the state had made a law restricting the use of sound amplifiers as it was affecting public health under list II entry 6, Public health and sanitation. But as per list I the subject amplifier was under the union list List I, entry 31 i.e., post, telegraph, telephone, wireless, broadcasting, and other like forms of communication. The court held that the law in its pith and substance fall substantially within the state list, even though the amplifier is an apparatus for communication, thus incidentally encroaching upon the union subject. The power to legislate in relation to public health include the power to regulate the use of amplifier as a producer of loud noise as it will violate the right to comfort and it is creating a nuisance to them which directly hampering the public health. Thus the end purpose of the legislation is directly linked to the state list³⁶.

In this way, if we take the farm act 2020, though agriculture is a state subject, it's buying, selling, supplying activities is encroaching upon the concurrent subject. The power to legislate upon the trade and commerce include the selling, buying, supplying, distribution activities of agriculture products as it is not written 'subject to 'in entry 33 list III. Then in its pith and substance fall substantially within the concurrent as the end and purpose of the legislation i.e. providing the farmer the freedom to sale and purchase as they want, it allowed them to trade outside the physical

³⁶ DR. ASHOK K. JAIN, LEADING CASES AND MATERIALS, CONSTITUTIONAL LAW OF INDIA (PART-I) 198-200 (fourth ed. 2016).



market even, the online trading facility has been given, they can engage with the corporate firm, producer, wholesaler, etc. all this has been done to make the agriculture farmers and market more efficient and free which furnishes the key to connect it with the concurrent list.

Points against - the validity of the farm act:

In the seventh schedule, the term 'agriculture' has come at 15 places.

Under union list entry 82, 86, 87, and 88 talks about taxes and duties on income and assent excluding agriculture.

Under state list entry 14, 18, 28, 30, 47, 48 all talk about a matter related to agriculture. Such as agriculture education; right in and over agricultural land, markers, and fairs, agriculture indebtedness, taxes on agriculture income, etc.

Under concurrent list, entry 6 talks about the transfer of property other than agriculture land; 7 says contract not relating to agriculture and, 41 evacuee property including agriculture land.

It seems that the union and concurrent list put matters relating to agriculture outside parliament jurisdiction, and give state legislature exclusive power. The farmers produce trade and commerce act encroach upon the entry 28 of state list i.e., market and fairs. And the farmer's agreement on price assurance and farm service act impinges on entry 14, 18, and 46 of the state list and entry

7 of List III. In interpretation, the list the Supreme Court had applied the doctrine of colorable legislation in the case of State of Bihar v Kameshwar Singh³⁷, which means what you cannot do directly you cannot do indirectly³⁸. Also in the case of ITC Ltd v APMC³⁹ the Supreme Court upheld the validity of several state laws on agricultural produce marketing and had struck down the central tobacco board act 1975. Interpreting the entries it said tobacco is an industry declared as being under the union in the public interest but the raw material or activities which do not involve the manufacture and production cannot come under industry. Hence favored the state under entry 28 market and fairs and rejected the union i.e entry 52 and entry 33 of List III. So in this way, the farm act may come under marketing and fairs under the state list as well.

7. JURISPRUDENTIAL ASPECT:

To get a better understanding of the topic, the researcher has tried to relate it to the jurisprudential aspect. Here we will try to analyze what is the true spirit of the law. Whether the farm act 2020 holds some jurisprudence or not. And which school of law attracts the farm law.

1. Historical school:

Law has been defined by many jurists and one of them is a respected and influential German jurist named Savigny. He is the pioneer of the concept of *volksgeist*. The meaning of the word *volksgeist* means the common will of the people⁴⁰. According to

³⁷ AIR 1952 SC 252

³⁸ FAIZAN Mustafa, An expert explains The arguments for and against the three central farm laws, The Indian Express, September 29, 2020.

³⁹ AIR 2002 SC 852

⁴⁰ Naresh Kumar, savigny's theory of *volksgeist*, historical school, Law notes 4 U, (April 21, 2019), <https://www.lawnotes4u.in/2019/04/savignys-theory-of-volksgeist-historical-school.html>



him, the law cannot be applied universally, it cannot be a straightjacket formula. It develops with the common consciousness of the people. the preamble of the constitution also speaks the same by saying 'we the people'. so in this way the farm act 2020 is not good law as the common will and consciousness of the farmers were not there. and most of the agriculturists are still protesting and are against the particular law. But in the plural society there are different views and interest differ from person to person, it gets very difficult to come in a single consciousness and common will does not exist. In today's world to maintain order and to balance society's interest the set of rules which the law prescribes is very much needed and this is something which cannot come from the wills of the people. in today's times, deliberate lawmaking becomes the spirit of people in the future. For example the Hindu succession act, the amendment which took place in the year 2005. It provided daughters an equal share in parents' property. This was not practiced before. This also something which will not come by the will of the people. and the amendment is now widely accepted and it also cherishes the value enshrined under the constitution⁴¹. Like in the same way the new farm act 2020, also cherishes the value enshrined under the constitution i.e., freedom to trade or carry any occupation under article 19(g). The intention behind this act is to give them the freedom to do barrier-free trade outside even Intra and interstate both. It is not even disturbing the present market. it restricted the state to not

⁴¹ Sanket Solanki and Aanmol Narang are second-year students at the (Dharmashastra National Law University, Jabalpur.), Indian constitution and savigny's volksgeist, The PCLS Blog, (July 06, 2020), <https://pclshnluchapter.weebly.com/the-pcls-blog/indian-constitution-and-savignys-volksgeist>.

charge the fee and tax for such outside trade. This would not have come from the will of the people.

But as it has been said that deliberate lawmaking becomes the spirit of people in the future. The recent survey by the News18 Network indicates that across 22 states and 2400 respondents support the implementation of the new law. The majority is hoping that the new farm law would benefit crop growers. 73% think that it's the right decision to give farmers the choice to sell their process outside the APMC Mandis and support the modernization of Indian agriculture. The highest support was recorded from the southern state at 74 percent⁴². Hence the spirit of the people is coming gradually with time and a better understanding of the new farm act.

2. Sociological School:

The sociological school of jurisprudence studies the relationship between societies. It explains the interdependence of law and society. In this progressive society need of the people are changing, with this change, law much also change according to the need and adapt itself to the change in society⁴³. The new farm law was the need to progress the agriculture society. To balance the competing interest of society and to solve the problem of the group as a whole. As in the report of Swaminathan report through the period of December 2004 – October 2006 there it was shown a rise in farmer's suicide

⁴² Sreemoy talukdar, Farm laws: NEWS18 Survey indicate majority at backs reforms but Modi must persist with persuasive engagement with the protestor, FIRSTPOST., December 22, 2020.

⁴³ DR. N.V. Paranjape, STUDIES IN JURISPRUDENCE AND LEGAL THEORY Pg.93 (ed. 2016).



and cause for such had been a focus⁴⁴. There are multiple approaches under sociological jurisprudence so with the help of tools such as legal, technical, or extra-legal approach the immediate problem should be solved keeping in mind which will promote better harmony and balances the interest of society⁴⁵.

3. THE APPROACH OF JUDICIAL PROCESS:

Another judge of the us Supreme Court, Justice Cardozo⁴⁶ told to interpret the law in light of social necessities and realities in life. He asked the judge to keep shed aside their subjective approach and apply the law objectively keeping in view the traditions, customs, morals, and needs of the society. His primary concern was how the judges should apply the law and how the law grows in society According to him judges cannot be secluded from the social realities and another development which affects them directly. So to attain justice law must keep the pace between the social development and shaping itself with the change in society. judges should analyze which of the forces will be followed in the given case before them i.e. forces such as logic, history, custom, utility, and the accepted standard right conduct, etc. which one will be followed largely depends on the cooperative importance and interest of society as well. Like in the given case while analyzing the farm act and related issues in the agricultural society, the judge should take into account the logic and utility force as to how much this law will benefit the society.

⁴⁴ Swaminathan Report: National Commission on Farmers, PRS Legislative Research, <https://www.prsindia.org/report-summaries/swaminathan-report-national-commission-farmers>

⁴⁵ Dhyani S.N, Fundamental of Jurisprudence- the Indian approach, Pg.306 (ed. 2004; reprint, 2011)

And whether the given law has been framed with an open mind or not. Is it logical or not. All this will help in shaping the law in the right way. The approach should be correct. Still, the case is pending before the Supreme Court India regarding the farmer's protest for repealing of the law⁴⁸.

8. CONCLUSION & RECOMMENDATION:

The farm Act 2020 has been very controversial as agriculture is the main source of livelihood for about almost 58% of India's population. The new farm act is appreciable because it is paving the way to freedom of choice of farmers, providing them barrier-free trade without paying any tax or fee. So of course, this will help them in getting rid of the debt and will be sound income-wise. But before that proper knowledge and guidance are required to be given to farmers about the existence of MSP for which they are protecting. They will still be able to sell their produces at MSP and APMC. With the progress in society, the market, and in this competitive world, it's time to make our farmers and agriculture market competitive and barrier-free. The only problem with this new approach under the new farm act is that still there are a lot of issues are being faced by farmers in the village as in road developments are not there, there is no link to market, climate control facilities are not there, no proper electric supply. So all these are ground-level problems which need to be looked into by the government for proper growth and

⁴⁶ He was an associate of the US Supreme court during 1932-38.

⁴⁷ Cardozo Benjamin Natham: The Nature of Judicial Process, pg. 142 (1931)



development of this agriculture sector. To get a better result from the enactment of the new law the ground-level problem needs to be solved first.

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