



SIKH HUMAN RIGHTS GROUP
NGO with special consultative status at UN ECOSOC
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14th December 2020

To

The Director of the ILOs Forestry, Agriculture, Construction and Tourism (FACT) Unit

Dear Ms Alette van Leur,

Ref: Indian Small Farmers right to decent work principles and practices in policies, strategies and programmes for agricultural and rural development in danger

Contravention of **Article 4** of the *Rural Workers' Organisations Convention 1975 (No. 141)*

Contravention of **Articles, 10, 11, 12, 15** and **16** of the *United Nations Declaration on rights of Peasants 73/165 (UNDROP)*. Request for urgent expression of concern and action.

We write to you in reference to the ILO's position that Rural workers category, as defined by **Article 2** of the *Rural Workers' Organisations Convention 1975*, includes small farmers.

The issue at stake is the enactment of laws introducing free market forces in India's small farming sector. Which is a protected sector under the ILOs most recent policy guidance notes and in almost every jurisdiction around the world.

These laws, called the Three Farmer Bills, will erode the fragile protection afforded to India's small farmers. The laws were brought in without consultation with farmers. This contravenes the UN Declaration on the Rights of Peasants (UNDROP) adopted in 2018. The current Government enjoys a large majority in Parliament. However, it refused to go through the normal stages of legislation, such as setting up a parliamentary working group, or permitting a proper debate in Parliament.

Currently small farmers in India only have a few protections. Even these are being removed.

The Government sets an assured price, called minimum support price (MSP) for some 22 crops after considering costs, such as fertilisers, diesel for tractors, electricity etc...

In some states there are subregional markets with warehouses, so farmers don't have to travel long distances to sell and deliver their produce.

The Three Farmer Bills have removed MSP without replacing it with any financial support to ensure small farming as an occupation carries on. The Government says that the small farmers can sell their crops in the open market at any price. However, this will push prices down as large trading houses take over from the small traders. Therefore, the farmers fear that they will go bankrupt and have to sell their land to the large trading houses.

Secondly the laws will remove the subregional markets. Which will make it extremely difficult for farmers to move their produce without fear of it rotting.

Therefore, both of these issues contravene the protections and facilities that the UN Declaration on the Rights of Peasants seeks to protect in order to ensure that small farming as a way of life continues.

The third violation of international norms is that the Three Farmer Bills have introduced the denial of access to legal recourse in the event of a dispute between a small farmer and a large mega trader arising. The Government has legislated that farmers cannot go to court but must instead refer the matter to a designated Governmental Official. Which removes any independence in the process of dispute resolution. Moreover corruption is widespread in India. 89% of Indians think corruption is rife.



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Therefore, by removing access to an independent judicial system, the small farmers fear that they will be at the mercy of corrupt Government officers.

The farmers feel that they will be driven out of farming as an occupation and thrown to the unregulated employment sector. Only 10% of Indians currently work in the regulated employment sector.

The farmers are protesting to protect their rights and livelihoods. The first protests started in Punjab, India. However, they quickly spread to several other states as farmers elsewhere started to realise the implications of the Three Farmer Bills. The protestors have now moved to Delhi, the capital city where the Government sits.

The Government of India is trying to deny them the basic human right of peaceful assembly and protest as well.

The ILOs 2020 policy guidance notes on Decent and Productive Work in Agriculture specifically states that in the ILOs opinion *'the agricultural workforce includes waged agricultural workers, self-employed farmers and self-employed workers... Although waged agricultural workers are seen as a group distinct from small farmers, there is often overlap with self-employed small farmers, who often depend on seasonal or casual wage work on other farms or plantations to supplement their low incomes. ILO actions for working women and men in agriculture are many and diverse'*.

Therefore, SHRG respectfully submits that we believe the ILO may have a mandate to protect small farmers in accordance with the above definition. The Three Farmer Bills clearly have far reaching implications for all of the aforementioned groups therefore by association the ILOs remit or jurisdiction should be extended to protect all of India's agricultural workforce and/or those who are directly affected by the new legislation. Particularly, in light of the ILOs commitment to ensuring the implementation of the UN Sustainable Development Goals in rural areas around the world.

The concerns and protests of the farmers are legitimate particularly as the Government has contravened a few international norms that are also supported by ILO. Therefore, we request you to remind the Government of India of the following:

- Everyone has the right to freedom of peaceful assembly and association. Rural workers' organisations shall be independent and voluntary in character and shall remain free from all interference, coercion or repression; **Article 20 UDHR** and **Article 3(2) Rural Workers' Organisations Convention 1975 (No. 141)** (*the farmers are engaged in a peaceful protest*)
- For the following reasons they are acting in contravention of *the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 73/165* (UNDROP):
 - (i) Prior to the week commencing 01 December 2020 no formal channels of communication and/or negotiation had been established by the Central Government with any of India's State Governments or farmers associations before enacting the Three Farmers bills; **Article 10 UNDROP and India's constitution**

India is a democracy with a federal structure. Legislative powers are distributed through the Seventh Schedule to the Constitution which contains a Union List, a State list and a Concurrent list.



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Agriculture with all its associated, ancillary and subsidiary enterprises – including education and research, livestock, fisheries, irrigation etc... is classified as a State rather than a Union subject. 'Markets and fairs' are also a State subject (Entry 28 of the State list). Even trade and commerce within a State is also a State Subject (Entry 27). However, this is subject to Entry 33 of the concurrent list which has been put to use by PM Modi to enact the Three Farmer Bills by contending that the aforementioned legislation 'is expedient in the public interest' and therefore a Union matter.

- (ii) Further or alternatively, by removing any reference to MSP in the Three Farmer Bills and by simply telling the protestors to trust the Government's word the Government is not providing an 'appropriate system of evaluation and certification of the quality of their products at the local, national and international levels'; **Article 11(3) UNDROP** (*The Three Farmer Bills have removed MSP without replacing it with any financial support to ensure that small farming as an occupation or way of life carries on*)
- (iii) By legislating that a contractual dispute between a small farmer and a large national trader cannot be taken to an 'ordinary' domestic court but must instead be arbitrated by a local Government official. PM Modi and his government has taken away the farmers right to have access to an effective remedy via a competent domestic court; **Articles 6 and 7 UDHR and Article 12 UNDROP** (*The farmers fear that they will be at the mercy of corrupt Government officers and thus forced to sell their land to large national traders*)
- (iv) Small farmers in India have a right to 'determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty... [and a right to] participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods...'; **Article 15(4) UNDROP** (*India's small farmers have not been consulted and the Three Farmer Bills have removed MSP without replacing it with any financial support to ensure that small farming as an occupation carries on. Which will have far reaching implications for India's overall food security*)
- (v) By removing MSP and Mandis the Central Government is not taking 'appropriate measures to strengthen and support local, national and regional markets in ways that facilitate and ensure that peasants and other people working in rural areas have full and equitable access and participation in these markets to sell their products at prices that allow them and their families to attain an adequate standard of living'; **Article 16(3) UNDROP** (*The Government's contention is that the small farmers can sell their crops in the open market at any price. However, this will push prices down as large trading houses take over from the small traders. Therefore, the farmers fear that they will go bankrupt as a result of this price volatility and be forced to sell their land to the large trading houses*)
- It shall be an objective of national policy concerning rural development to facilitate the establishment and growth... of strong and independent organisations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination... in economic and social development and in the benefits resulting therefrom; **Article 4 Rural Workers' Organisations Convention 1975 (No. 141)** (*India's small farmers have not been consulted and the Three Farmer Bills have far reaching implications for their economic and social development as well as India's overall food security*)



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- The SME Unit of the ILO recently found that some interventions can maximise small farmers chances of economic and social success. However, in order for it to benefit small farmers the intervention must ensure that: contract farming does not overload support to small holders in the early stages of the scheme; it must ensure constant information flows between buyers and suppliers in order to encourage the transparent setting of price ceiling and floors; and crucially the policy maker must be open to adapting and changing the scheme over time in order to arrive at a commercially viable model; **ILO Issue Brief No.1 2017 (Matt Ripley - Senior Advisor The Lab)** *(India's small farmers are concerned that they will immediately be overloaded by contract farming and will have no recourse or financial support from the Government to overcome the commercial challenges of this model. For instance, the Government has removed any reference to MSP and/or transparent price setting in the Three Farmer Bills and will allow large national traders to directly negotiate a price with the farmers for their produce without the need for a formal contract to be in place)*

We will willing put you in contact with some of the farmer leaders, an expression of concern to the Government of India and a reminder to it on its obligations will give the farmers a tremendous deal of hope and trust in the United Nations and its good intentions.

Kind regards,

Mr Carlos Arbuthnott

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