



Photo by Nandhu Kumar

FARM LAWS, FARMERS' PROTEST, INDIA Feb 2021

Executive Summary

Over half a billion people in India depend on farming directly or indirectly (that is nearly 50% of the total population). Farmers in India, as in most of the world, engage in small scale farming. Farmers usually have between 1 and 5 acres of land. The new Farm laws brought in by the BJP Government are perceived by farmers to be a threat to their survival and a policy paving the entry of corporate sector takeover of farming in India.

The Government says that it is deregulating farming sector to stop middlemen eating into the farmers' earnings and making it easy for farmers to sell directly to the large buyers. The farmers want the laws to be repealed and want the Government to engage in proper consultations

with them before any new policies or laws are introduced.

This report examines the issues, from the current state of affairs, the new laws, how they were passed and the implications of these laws and policies on farmers in India and elsewhere as well as on the environment in general.

Current system of policy, laws and farming in India

Currently farming in India is a state matter. States in India are like provinces. There are 29 states. India has a quasi-federal structure. Powers are distributed in three lists. The Central Government has exclusive powers to legislate and make policies in some sectors, while the states have powers to legislate in some areas in their list. Some areas are in a concurrent list in which both the central Government and state Governments can legislate. The central Government or national Parliament has precedence in the concurrent list.

Different states have different policies on farming. Many have a system that protects some 23 essential commodities, such as wheat, rice etc. Farmers are given a fixed price that is 1.5 times the cost of farming that they produce. This is called Minimum Support Price (MSP). The state also invests in small markets, called mandis, that are local to the farmers. Farmers sell their produce to traders in these markets who have to buy at the state declared price. The traders then sell onwards.

There is an array of issues with the current agricultural sector in India. For instance, many farmers are choosing to overproduce crops that may not necessarily be required in order to obtain a higher Minimum Support Price from the Government. However, it is important to remember that the primary reason for this, in SHRG's opinion, is solely for the farmers to be able to obtain a reasonable income or a reasonable standard of living for them and their families. Furthermore, under the current system, India's small farmers are not being given

any money (subsidy) from the Government to put aside land for rotation or other environmental protection and restoration purposes. There are other methods of subsidy in other parts of the world that guarantee both a fair living income and environmental protection. Farmers in India want reforms but the ones that the government has introduced are both detrimental to their livelihoods and were done without consultation with farmers.

One state, Bihar, has already had a version of the reforms that the Government wants to institute. Farmers in Bihar have become quite poor, usually selling their crop at a loss and often having to work as farm workers in other states to make ends meet. Farmers in the states that have MSP and mandis fear that their future under the new laws will be like the farmers in Bihar.

The passing of the Three Farm Laws

The new laws, termed the three Farm Laws, were brought in without consultation with farmers. They

- remove the minimum support price (MSP)
- introduce private enterprise competition against the state supported market (mandi) system and
- deny farmers the right to go to court in case of any disputes with big agrobusiness contractors. These disputes will be handled by local government officers.

The farmers have rejected the new laws stating that they are detrimental to their livelihoods, removing protections. They fear they will be pushed into insolvencies and forced to sell their lands to large corporations.

There has been widespread concern from the farmers and the international community regarding the unconstitutional enactment of the Three Farm Laws. For instance, not only was the legislation pushed through the two legislating houses without a select committee oversight but there was also no public debate or public scrutiny of the Bills. The BJP Government enjoys a large majority in both houses. The Bill was 'passed' by a voice vote in the Upper House (Rajya Sabha) despite calls for a formal vote by some members. The Constitution requires the vote to be formally recorded and house rules require that if a member asks, then the vote has to be formally recorded. There are some members of Upper House who insist that the laws were not enacted constitutionally and according to procedure.

Furthermore, there seems to be no appropriate judicial body to adjudicate on the matter. The farmers do not trust the Supreme court of India. These issues are elaborated in the report in sections on how the laws were enacted, whether the laws benefit farmers and what is wrong with the laws.

International Treaties, Conventions, Declarations and Regulations

The United Nations enacted a UN Declaration on Rights of Peasants (UNDROP) in 2018 after seventeen years of lobbying by various parties. The UNDROP protects small farming as a way of life and insists on States:

1. That any policies and laws enacted for farming sector that would affect farmers be done with consultation with farmers and their leaders.
2. To ensure that there is an independent evaluation of fair price for farm products taking into account inputs, including labour of the farmer.
3. To ensure that there are local markets so that farmers do not have to go to great distances to deliver their products, which would incur extra costs.
4. That any disputes between farmers and contractors are resolved in independent courts.

Ironically all these protections had been in place for decades in the three main states whose economies are agriculture based, namely Punjab, Haryana and Uttar Pradesh. The Indian Government signed up to the UNDROP in 2018. Now it wants to dismantle the laws and policies that were consistent with UNDROP.

The WTO (World Trade Organisation) and the ILO (International Labour Organisation) have also made statements and policy positions in support of small farmers around the world. The WTO has specifically made reference to Indian small farms and cautioned that any attempts to remove the protections could lead to widespread protests.

In SHRG's opinion the Indian Government has acted in contravention of various instruments of international law. For instance, not only did the Government fail to consult or negotiate with the farmers prior to enacting the Three Farms laws but they have also failed to enact domestic legislation that will ensure that the farmers can earn a reasonable standard of living for them and their families, as is so required by the ***UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 2018 73/165 (UNDROP)***. Furthermore, under the Three Farm Laws the Government has legislated that if a contractual dispute arises between a farmer and a large national trader of produce the farmer is now prohibited from seeking redress in an ordinary domestic court but must instead refer the matter to arbitration by a local Government appointed official. This removes independent adjudication and places decision making of a dispute in the hands of the executive which could be influenced by many factors other than the facts.

These are explained in the section 'What do International Treaties say and why are the new laws breaching international law' in the main report.

International Response- Countries and Public Figures

The farmers of Punjab were the first to raise alarm about impact of the new laws. They started protesting. The protests have spread to many states. Farmers collectively from several states have camped outside Delhi to put pressure on the central government to repeal the laws.

They have held peaceful protests. The response of the Government has often been heavy handed, provoking response from the international community.

The news is slowly reaching the international media. Government leaders around the world are starting to comment on the ill-treatment of the farmers. The comments made by world leaders are somewhat short of expectation by civil society but have helped put pressure on the Indian Government to alleviate some of their human rights violations against the protestors. The news started to snowball when A-list celebrities and public figures started to speak out on Twitter. While the Indian government shutdown the internet, public figures like Greta Thunberg and Rhianna, with their hundreds-of-millions of followers, gauge attention of the internet and international media outlets. Moreover, the statements by the UN Secretary General and the UN High Commissioner on Human Rights have also added pressure on the Indian government to observe human rights while dealing with an otherwise peaceful protest. These are detailed in chapters, Timeline of Actions, Police brutality during protests and international community's response.

Wider International Implications to the New Farm Laws

Not only are these new reforms detrimental to the Indian farmers, but there are also wider implications beyond India's borders that the world needs to be aware of. There is the fear that India is being used as a laboratory for big corporate sectors to enter the agri-business and displace small scale farming. There is the worry that other countries will soon follow in India's footsteps. Some government leaders find that the potential money to be earned from large scale farming is too tempting to ignore, even if it means leaving their own farmers jobless and in poverty. This document explores some of the wider impacts the reforms could bring to the rest of the world, through the environmental damage, the sociological implications and knock-on effect to small farms elsewhere in the globe such as Europe, that are already facing extinction. The chapters raise warning that India would appear to be the beginning of a new neoliberal agenda entering farming.

Environment

There are already a number of case studies worldwide that show the negative impact 'Big Money Farming' has on the environment. When agricultural operations are sustainably managed, they can preserve and restore critical habitats, help protect watersheds, and improve soil health and water quality. But unsustainable practices have serious impacts on people and the environment. The worry the new reforms in India raises, is the unsustainable practices that will come from industrialised farming. The Indian landscape is right for small scale farming it is currently practicing. However, large scale farming undertaken by big companies completely destroys the land and henceforth makes it unfertile after a few years. Though they may be able to produce more in a shorter period of time, the lasting impacts are detrimental. These are explained in the last three chapters of the report.

Risk to Small Farms Internationally

Large scale farming in India will create more competitions for the small farmers around the world and the big companies will be able to offer cheaper prices and larger volumes that small

farms cannot compete with. This will lead to increased poverty not only in India, but around the world.

Made in India vs Make in India

Made in India involves domestic factors of production i.e., land, labour, capital, entrepreneurship and technology and using domestic resources with Indian management and creativity to compete in the world. On the other hand, the BJP government's trademark policy 'Make in India', especially in the farming sector is an invitation to the foreign factors of production in form of capital, technology and investment to employ Indian labour and use the land and natural resources in India. It is a policy designed to encourage Foreign Direct Investment in the Agri-business and Multinational Corporates to replace small farmers in India.

The report looks at all these factors in detail. It concentrates on the laws and policies and only makes some reference to the government's handling of the crises from a human rights perspective.

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The full report is available at: www.sgsss.org/kissan