

## **FARM LAWS AND THE AGRARIAN CRISIS IN INDIA**

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### **1. Introduction**

In the aftermath of the repeal of the three farm laws and the end of the historic farmers struggle on the borders of the nation's capital, Delhi bear an interesting phenomenon that needs to be studied and analysed. This paper studies some of the significant academic interventions and analysis of the laws and how they would affect specifically the small and middle farmers. Through the course of this paper, the attempt is not to create a binary between the amendments made to the existing laws and the pre-amendment state protections. One of the motivations of the paper is also to understand the need for state-driven bulwarks to protect the interests and lives of the farmers. In the process, it has been necessary to understand the need to not only retain the prior provisions that reign in the heavy hand of the corporations but the ways in which their potential can be maximised in favour of the farmers. This paper involves close reading and analysis of research by political scientists and sociologists.

### **Obscure Definitions of Freedom and the Farmer**

At the basis of forcibly implementing the three farm laws by the Union government of India in 2020, was the obscure promise of freedom and empowerment of the Indian farmer. The reform in the three laws was driven by the idea that it would revolutionise prior systems of protection in the field of agriculture by doing away with restrictions in agricultural trade and this in turn would help in creating the conditions for much needed enhancement in the agricultural sector and for the farmers. In doing so, it is argued that they would free the farmer, who would then have the absolute freedom to enter the conditions of *laissez faire* or free market economy and thereby empower themselves. This would entail that farmers would have direct and unhindered access to global corporations seeking to make profits from agricultural trade. This would further entail a massive reduction in the government's interference in the field of agriculture by way of lifting prior sanctions meant for the protection of farmers. Before we attempt to explore how the implementation of the three farm laws (now repealed) would have affected the small and middle farmers, this paper seeks to

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unpack the meaning of freedom and empowerment that the government of India had promised the farmers, by way of "revolutionising" the pre-existing farm laws. Gopal Guru has argued that:

The templates of the bills that the government and its neoliberal economists have been busy brandishing to the public have, however, to be judged not on the basis of hypothetical premises but on the basis of the concrete conditions that have a definite bearing on the realisation of freedom and empowerment of farmers. Because, in the actual sense, for the exercise of freedom, one requires favourable material conditions that have a definite bearing on the realisation of freedom and empowerment of farmers. Because, in the actual sense, for the exercise of freedom, one requires favourable material conditions at one's disposal. These conditions are an efficient transport system, cold storage facilities and sophisticated harvesting technology. These conditions are available only to those farmers who are relatively in a better position to use these to their advantage. However, the number of such farmers is so limited. (Guru 2021)

Gopal Guru's brief philosophical intervention in the government's evasive promise of freedom has deeper implications and warrants further questions about the farmers' existing material conditions and if they can support the pursuit of freedom, as defined by the neoliberal rhetorics and practices of the market economy. Guru significantly picks out the multiple elements and factors that would shape the interaction between the farmer and the corporations, and these involve control and/or ownership over a well-organized system of transport, cold storage infrastructure and modernized systems of harvesting. He goes on to argue that most farmers do not have access to the above. Small landholdings are one of the biggest obstacles to farmers achieving economic empowerment. In addition to that, unpredictable climate conditions and fake seeds sold by seed companies are major hindrances for farmers. These conditions as enlisted by Gopal Guru make it difficult for the farmer to profitably and sustainably subscribe to any model of farmer, leave alone the new model proposed by the three farm laws. This overall deficit makes it impossible for the small and middle farmers in India to realise the market-based freedom, promised by the government and the neoliberal economists. It is therefore clear that the philosophical basis of the three farm laws is alienated from the social and material realities of the small and middle farmers, who constitute the majority of the farmers in India. This alienation of the farmer points to the incorrect or limited definition of the complex and differentiated category of the farmer in India brings out conceptual problem within the farm laws. Effectively, the givens of the farm laws take the big farmer as a representative of the category of farmer; one who has stable to substantial grasp over infrastructures of transportation, storage and

technology, and the means to protect themselves from environmental whims and seed failures. In doing so, the laws remain unconcerned about the well-being and interests of small and middle farmers. Therefore, its claims of freedom and empowerment of the farmer appear to make sense only hypothetically, while at the same time remaining completely ambiguous in terms of their understanding and grasp over material conditions.

The farm laws' disconnect and detachment from reality has further implications for the ways in which the farm laws were implemented. One may argue that the entire process of conceptualisation, framing, deliberation, proposition, and implementation and finally, the repeal are marked by an overall quality of alienation, specifically of the people who were to be most affected by the three farm laws. Gopal Guru has pointed to the heavy handedness that has shaped the governments' interactions (or lack thereof) with the farmers. There has been a clearly stated minimisation of the cognitive abilities of the farmers in grasping the real consequences of the farm laws. The government's statements to the resentful farmers are underscored by logic of deep patronage that attempted to rob the farmers off their material stakes in the conditions that would be produced in the aftermath of the implementation of the farm laws. At various stages, the government has resorted to the logic of political binaries by claiming that the farmers are being misled by the Opposition parties. The Samyukta Kisan Morcha, the united front of different farmers' union during the farmers' movement has cited a number of approximately 700 farmers who lost their lives during the agitation. It is important to note that the government, which has throughout claimed to be looking out for the interests and the well-being of the farmers, which they themselves apparently appear to consciously or unconsciously be unaware of, has refused to recognise any such data and has thereafter denied the possibility of offering any compensation to the families of the "martyrs". One must also take in to account the resilience of the farmers in the face of the massive disinformation campaign by media that is openly aligned to the ruling party at the Centre. How small media systemically organised to centre the voices of the farmers and used social media platforms such as Facebook, Twitter and WhatsApp to mobilise a campaign that resonated globally is occasion for another discussion.

### **The Protections of the MSP**

The three farm laws that are at the centre of discussion in this paper are the (a) Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020; (b) the Farmers' (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, 2020; and the (b) Essential Commodities (Amendment) Act, 2020. Sukhpal Singh and Shruti Bhogal write extensively about the significance of the minimum support price (MSP)

and the public procurement system for the livelihood and welfare of farmers as well as for a country, where the poor majority is burdened by persistent hunger and food insecurity. While historicising the MSP and the factors that have contributed to its weakening over the years and the various political regimes, Singh and Bhogal also argue that the complete reversal of the MSP, as suggested by the three farm laws are not a solution to the problems faced by the farmers. In fact, the three farm laws pave the way for a laissez-faire method that will push the small and middle farmers in to further insecurities of an unregulated market, a market whose forces are almost entirely driven by the interests and stakes of the private and multinational corporations. Singh and Bhogal write:

Over time, the policies have failed to focus on the perpetuating issues plaguing the agricultural sector: unremunerative MSP and absence of effective public procurement. Despite this, the new policy environment is set to create an exploitative free market that will be fatal for the peasantry. Also, the provisions of these laws would diminish the Agricultural Produce Market Committee (APMC) mandi business by setting up parallel private markets that will attract buyers due to the provision of tax-free purchase, thereby reducing state revenue that is currently generated from businesses in public mandis. Experts believe that this would inadvertently abbreviate the role of state governments in mass welfare, rural developmental activities and agricultural viability. Above all, this would impinge the constitutional rights of states and weaken the federal structure of the country. (Singh and Bhogal 2021)

The farmers' movement has persistently argued that instead of bringing in laws that would further weaken, and eventually make redundant the system of the APMC, the government should focus on strengthening the MSP and offering remunerative MSP. The low price on crops has had disastrous effects on small and middle farmers and constitutes the basis of the massive numbers of farmers' suicides that the country has historically suffered from. The farmers' movement, as well all movements, representing the interests of farmers across the country have repeatedly stressed on the need to implement the recommendations of the MS Swaminathan Commission (GOI 2006) that recommends the MSP formula for any given crop at cost plus 50%. The Swaminathan Commission had argued that this formula would help to double the income of the farmer. The current political dispensation, instead of implementing the MSP as per the recommendations of the commission has proposed an MSP, which can be described as pitifully unremunerative and completely deficient in terms of the actual cost incurred in the production of the given crops. The Swaminathan Commission took in to account several factors in defining cost, including "value of hired human labour, value of owned machine labour, hired machinery

charges, value of seed (both farm produce and purchased", "value of pesticides", "value of manure (owned and purchased)", "value of fertilisers", "irrigation charges", "depreciation on implements and farm buildings", "land revenue", "interest on working capital", and "miscellaneous expense (artisans etc.)". (Singh and Bhogal 2021) The definition of cost was further complicated by the Ramesh Chand Commission (GOI 2015), which included redefining the head of the farm household as a skilled worker instead of a manual worker (this redefinition would require an increase in the measure of compensation of the farmer's labour), to take in to consider the actual rent of land without the limits of a ceiling rate and inclusion of post-harvesting costs of "cleaning, grading, drying, packaging, marketing and transportation". (Singh and Bhogal 2021) It can be seen from Singh and Bhogal's study how consecutive governments have failed to implement an MSP as per the recommendations of the two commissions and how although the MSP was meant to be a purely socio-economic category, it has in reality emerged as a site of political manipulation and conflict with different political dispensations using the MSP as a bait to mobilise votes for themselves. The various international and national factors recognised by Singh and Bhogal include the WTO, price competitions at the international levels, the politics of election and rising inflation within the country. Of the various factors that the study enquires in to, this paper will point to how politics has played an important role in the shaping of the MSP. Singh and Bhogal refer to statistics to demonstrate how that there were increases in the MSP prior to the each of the Lok Sabha elections from 2009 to the most recent one in 2019. The increase in the MSP however has not meant that any of the ruling dispensations at the centre have implemented the recommendations of the Swaminathan Commission or that of the Ramesh Chand Commission. In fact the very initiative to constitute these commissions and their reports and deliberations has been reduced to shallow political rhetoric. Various governments have also often argued against increasing MSP because that would effectively lead to increasing food prices that the poor would not be able to afford. However, Singh and Bhogal and others have argued that notwithstanding this argument, increasing the MSP is as much the government's responsibility as it is to strengthen the PDS or the public distribution system to address the widespread and deeply entrenched problem of poverty and hunger. The poor of the country are entitled to subsidised food from the government and the farmers cannot be made sacrificed to the "cause of the poor". They are as much subjects of governmental support as the poor.

### **How essential is the Essential Commodities Act?**

Manish Kumar's article (2021), published almost at the same time that the farm laws were repealed on December 1, 2021 critiques the amendments that had been brought to

the Essential Commodities Act, and writes extensively about the problems that could have arisen from it. He argues that existing conditions in food stocking, that of hoarding and resultant inflation in food prices, would further be exacerbated by the amendment. Kumar writes:

Food price inflation is a politically sensitive matter and has caused problems for governments in the past as well. There have been many recent instances, especially during the Covid-19 pandemic, when the food price inflation recorded a sharp increase. One may claim that the international price rise is among the factors of high food inflation, particularly for the products in which import is a significant share of the domestic availability (Shankhdhar 2021). However, one cannot deny that hoarding is also one of the contributing factors to price rise (Stiff et al 1975). It should be noted that hoarding is associated with the tendency among profit-seekers to control the larger supply segment of the value system that forces the consumers to pay an inflated price. (Kumar 2021)

Kumar unwraps several factors that go in to the issue of food price inflation, which in a country like India is of major concern for the poor and those who are facing the issue of hunger. In recent times, this was especially true during the Covid-19 pandemic when the Public Distribution System (PDS) faced major criticisms in their failure to provide the poor food during a time of crisis. In addition to several bureaucratic difficulties, in the form of strict requirement of documentation (in the form of ration cards and Aadhar cards) as documents of self-identification, there were complaints about the quality and quantity of food being provided at the ration shops. People lining up for miles outside ration shops, during a time of disease and increased poverty, complained of corruption in the PDS. A parallel system of "charity" emerged alongside the PDS and inadequately shared the brunt of making food available to the people. People complained that the amount of food distributed per head/per family was inadequate, and that they were not receiving support in terms of oil, spices and cooking fuel. Kumar correctly points out that food price inflation is an important element in how politics in India is shaped at any given moment. However, several factors contribute to the inflation, and contradictorily, while one factor is given as the central reason, another important contributing factor is obscured; a factor that involves the role of profiteering private players. While governments successfully argue that price inflation of imported food items is caused by international price rise, they often fail to mention the domestic problem of hoarding food stock by private players that is an effective method to artificially create a crisis of scarcity and in effect increase the price of food items. The Essential Commodities Act (1955) was an important provision to prevent the hoarding of food, thereby preventing the conditions of inflation. The amendments made to the Act in

2020 removed many of the provisions that would prevent hoarding, and as has been argued about all the three farm laws, paves the way for the government to minimise its role in protecting the production and pricing of food items.

A major amendment to the Essential Commodities Act (1955) would entail that the prices of many food items such as pulses, potatoes, cereals, onions, edible oilseeds and oils that were earlier listed as essential food items would no longer be regulated unless the nation was undergoing a crisis situation such as famine, war, environmental disasters or unusual price rise. While the government was withdrawing its role in the regulation of prices, it was still holding on to the right to define these extraordinary circumstances whereby the prices of essential food items would be regulated. At all other times, private companies would be able to control the inflation and the dips in food price. It is important to remember that across the massive length and breadth of India, the people of different parts of the country, at any given time are undergoing conditions of crisis, whether that be a natural calamity in the form of storms and floods, or famines and droughts. Given these circumstances, how would the government specifically control the price of food items for given regions and their people? Manish Kumar also points out that several Indian laws that depend on the pre-amendment provisions of the said Act would be comprised, for instance, The Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities (PBMMSEC) Act, 1980, the Representation of the People Act, 1951, the Railways Act, 1989 (Section 88) and the Code of Criminal Procedure (CrPC). The PBMMSEC is an Act "to provide for detention in certain cases for the purpose of prevention of black marketing and maintenance of supplies of commodities essential to the community and for matters connected therewith." (Indiacode.nic.in) Section 90 of the Railways Act, 1989 extensively deals with essential commodities and whose definition draws on the Essential Commodities Act. The following passage is one of multiple references and concerns related to essential commodities:

...in the case of an essential commodity being any grade or variety of food grains, edible oilseeds or edible oils in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 (10 of 1955), is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (3B) of that section...(indiankanoon.org)

These passages from the respective sections of the given Acts show the significance of the essential commodities act and its crucial intersection with other acts. There is very little discussion on how the laws would be reconstituted in the case of the amendments to

the Essential Commodities Act. Manish Kumar shows that the Representation of the People Act provides for public servants to be held accountable if they were found to be indulging in the crimes of hoarding and reserving stock. What Kumar significantly points to is the definitions of hoarding and normal stock. It is important to understand that the amendment to the Essential Commodities Act has removed the difference between hoarding and normal stock. According to the ECA, the government would refrain from imposing any limits on attempts to "hoard" under normal circumstances. This gives private companies complete freedom to hoard all essential commodities and effectively manufacture a price inflation. The difference between definitions of normal stock and hoarded stock would only apply "extraordinary circumstances", which has earlier been defined. But the question still remains: how would the other laws be affected with the changing definition of the Essential Commodities Act? For instance, with the obfuscated line between hoarding and normal stock, hoarding itself would no longer be a crime. With the normalisation of hoarding, would it any more be possible to hold government officials and public servants accountable for participating in any activities that would lead to hoarding and eventual price inflation?

Kumar points to the social and political conflicts over the control of stock limits, something that has often been implemented and revoked multiple numbers of times over the decades. Imposition and removal of stock limit enabled the government to play a decisive and significant role in controlling the price and supply of essential commodities. The Essential commodities Act effectively relieves the government from this role except during extraordinary circumstances. Manish Kumar also points to one of the most problematic aspects of the Act, i.e. permitting the food inflation rate of essential commodities to be set high. Permitting the food prices to be inflated would be indirect contradictions to the needs and well-being of a population that is largely poor and suffering from food insecurity and hunger. Kumar also argues that food inflation contributes in a major way to overall inflation in the country. So while the government placed a limit of 4 % on overall inflation, the high permissible limit of food inflation appears to present an unresolvable contradiction.

One can argue that the Essential Commodities Act brings within the purview of legality something that constitutes both notionally and in practice a form of social injustice by creating the conditions of scarcity (through hoarding) and allowing the prices to rise on items that are essential for the survival of people. By removing the stock limits, big corporations moving in to the food industry would have complete impunity to withhold stocks from freely moving through supply chains, and the resultant inflation in prices would negatively impact most Indian households who have to be mindful of expenses over food. In conclusion, Kumar suggests that the government would not only need to repeal the



amendments to all the three farm laws but would have to actively engage with the demands and criticisms presented by the farmers, especially in terms of placing strict controls over profit-seeking retail companies and corporations. Moreover, the government would also need to ensure increase in the income of small and middle farmers so that would be able to have more access to markets, they would have stable assurances on the price of their products and improved systems of procurement for the public.

### **Experiments with the APMC**

Another important scholarly work by Manish Kumar that throws significant light on the consequences of limiting government intervention and controls in farming is the case of Bihar, which decided to do away with the Agricultural Produce Market Committee (APMC) in 2006. Kumar writes:

Bihar had repealed the Agricultural Produce Market Committee (APMC) Act in 2006, and this step of the Bihar government was appreciated by a section in academia... The Bihar government claimed that by repealing the APMC Act, it would allow farmers to sell their produce to whoever and wherever they wish to. Further, the government claimed this would eliminate the middlepersons from agricultural trade, bringing private firms in agri-business and consequently increase farmers' earnings in the state... In Bihar, following the removal of the APMC Act, no revolutionary changes were observed in the marketing and procurement which could suggest that the state was a "success model". Following the repeal of the act, the government was expecting a rise in the number of agricultural markets, but the number of markets remained almost stagnant throughout this period. (Kumar 2021)

This article is particularly enlightening for the policy and academic discussions on the farm laws because it presents clear historical examples on the consequences of the removal of the provision of APMCs for farmers. For about a decade and a half, the state of Bihar has clearly instantiated that the removal of APMCs could not bring about any positive changes for the farmers. Kumar points out that blaming the APMCs for the agrarian crisis in Bihar, or for that matter anywhere else in the country is short-sighted. Several factors contribute to the failures in farming and agriculture. Therefore, complete removal of the APMC without the state actually offering an alternative to this protectionist form of market system was in a way bound to aggravate the conditions of agrarian crisis in the state. It is important to remember that APMCs place much-needed limits on traders who are in a relative position of power, when it comes to farmers. During harvesting season, particularly small farmers find themselves in such socio-economically compromised position that they are forced to sell their produce for lower prices to the traders. APMCs, although only to a

certain extent and almost never to their full potential, are supposed to prevent the traders from exploiting the farmers. The Bihar experiment in fact showed that the removal of the APMCs did not lead to the formation of non-APMC markets. More importantly, the vacuum that was created was not filled by private companies. Also the price that the farmers received for their rice from rice mill owners (without the mediation) of APMCs was much lesser than the MSP. Additionally, without the intervention of the APMC, the rice mills could arbitrate as they wished on the quality as well as the price of the rice that they were purchasing from the farmers. This led to further loss of agency for the farmers. And as one can see, an increased dependency on the rice traders. Manish Kumar also specifies that the scale at which the rice mill owners function is more limited than big retail corporations. Yet, this did not stop the creation of deep imbalance of power between the farmers and rice mill owners, who themselves could procure rice only from a few surrounding blocks of districts. Kumar also points out that in the case of Bihar, the APMCs were removed not necessarily to prioritise profit-seeking retail and private companies. The state in fact deemed the Primary Agricultural Credit Society (PACS) as better and more efficient alternatives to the APMC. State and central agencies procure food grains from the PACS, who collect produce from the member farmers. This goes to show that the elimination of the APMC by the Bihar state government was not necessarily a pro-privatisation move. However, the PACS as an alternative is not feasible for small farmers who are mostly landless and without property do not find themselves eligible for credit. Moreover, public procurement in Bihar is much lesser in comparison to states such as Haryana and Punjab.

## **Conclusion**

This paper engaged with existing scholarship to indicate the dangers of the three farm laws, if they had not been repealed. However, it expanded its concerns to the shortcomings of the existing state protections and attempts to look at the ways in which it can be improved, keeping in mind the material realities of small and middle farmers in India. It also attempts to show that the free farm laws were specifically engineered to enable the profit driven retail and multinational corporations and the big farmers, who have the means to navigate the forces of the neoliberal market.

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