

THE IMPLICATIONS OF 'FARM LAWS' ON ADIVASIS AND FOREST DWELLING COMMUNITIES

In September 2020, three laws were passed which came to be known as the **'farm laws'**. These laws are being vehemently opposed by various farmers unions from across the country as well as Adivasi organizations. A comprehensive reading of these three laws suggests that they facilitate countrywide **corporatization of agriculture**. These laws will also violate the rights and special guarantees of Scheduled Tribes (ST) and other traditional forest dwelling (OTFD) communities in Fifth Schedule and tribal areas under Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA) and the Forest Rights Act, 2006 (FRA). Ultimately, these laws will erode the **power and authority of Gram Sabhas**. The farm laws of 2020 mark a milestone in the rollback of the welfare state, where the façade of the **Welfare State** is finally abandoned, along with any aspiration towards **distributive justice**. **While the implementation of the three 2020 Farm laws has been put on hold by the Supreme Court on 12.1.2021**, it is vitally important to note that this does not mean the laws may not be implemented in the future, if and when the court lifts this order.

*Historically, British Raj's zamindari system, high taxation and revenue policies led to debt-traps and land alienation. It resulted in numerous Adivasi rebellions such as **Santhal Hul** and **Munda Ulgulan**, among others.*

THE CONTRACT FARMING LAW

The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020

WHAT IT SAYS: Speaks of providing farmers protection for their farm services & sale of produce on “mutually agreed prices” with agri-business firms, processors, wholesalers, exporters or large retailers, in a fair & transparent manner.

WHAT IT MEANS: Full control to private companies over practice & method of farming and sale & purchase of farm produce, including its pricing and marketing.

- Contract farming of cash crops such as jatropha (for bio fuel), sugarcane and cotton has been happening in **Chhattisgarh and Odisha** since the **early 2000s**. It has led to alienation of land of vulnerable tribal farmers.
- All 10 Fifth Schedule states have small and marginal ST farmers in the range of 71% to 91%. The power imbalance between small and marginal farmers and big agribusiness firms/retailers/exporters is huge. The law will result in **unequal bargaining** between these market forces and farmers with little resources and knowledge about the mechanics of **global food chain systems**.
- **New form of money-lending:** Globally, agribusiness firms that provide inputs & procure agricultural produce through contract farming also provide agricultural loans, often with the land itself as collateral. Farm laws encourage this practice, leading Adivasis into **debt-trap**, resulting in **corporate land grab**.

Privatizing Agricultural Markets/Mandis/Haats

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020

WHAT IT SAYS:

- Speaks of building alternative trading channels, like electronic trading platforms, to promote efficient, transparent and barrier-free trade & commerce.
- Brings farm produce in the domain of competitive markets where farmers & traders can engage in free trade.
- Gives any person/ corporation the right to trade in farm produce.
- Anyone with a PAN number can establish e-trading platform.
- **No market fee** can be extracted on these e-trading platforms under APMC law or any such state law.

WHAT IT MEANS:

- Turns agriculture from **a practice in subsistence** which satisfies hunger and ensures nutrition, into a **commercial and competitive trade**.
- Deregulation of agricultural market, opening it up to local and **global trade chain** in food commodities, at complete mercy of **the free market**; commoditization of agriculture.

Is "Access to Justice" under threat?

- *Contract farming & the Farmers Produce Trade and Commerce Act—both the laws restrict the right of farmers to approach the courts in case of dispute with companies/contractors.*
- *Instead, resolution of disputes takes*

DESTABILISATION OF LOCAL HAATS THROUGH UNFAIR TRADE

- Traditional rural Haats & village markets remain unprotected.

place through **conciliation board** formed by **Sub-Divisional Magistrate (SDM)**.

- **Violation of the powers of Gram Sabhas under PESA** to govern the resources within their jurisdiction; safeguard their customs & traditions, & to resolve disputes according to **customary mode of dispute resolution**.
- Disputes relating to matters such as, minor water bodies or alienation of tribal lands have additional statutory protections applicable & additional judicial remedies available. Farm laws bypass these structures.
- Some disputes may be 'atrocities' under SC/ST Atrocities Act. Adjudication of such disputes by the SDM instead of the criminal court is absurd.

- Aggressive promotion of private & Electronic platforms will lead to disintegration of Mandis & rural Haats.
- It will lead to **unfair trade practices**, such as cartelization and **monopoly** of few private entities, making market prices volatile.

ACT TO ENABLE FOOD INSECURITY

The Essential Commodities (Amendment) Act, 2020

WHAT IT SAYS: Amends the Essential Commodities Act, 1955, so that supply of foodstuff, including cereals, pulses, potato, onions, oilseeds and oils, or anything else the government notifies, may be regulated only under **extraordinary circumstances** such as war, **famine**, extraordinary price rise and natural calamity of **grave nature**.

- **Restriction** will be issued on stock-piling based only on price rise: **100%** in the retail price of horticulture produce & **50%** for non-perishable agricultural foodstuff.
- **Exemption from stock-piling regulation** for processors/ value

chain participants, if the stock limit does not exceed installed capacity of processing, or the demand for export by an exporter.

WHAT IT MEANS:

- The landless working-class and impoverished populace faced **31 famines** during **120 years** of the British Raj. These amendments paralyze the Essential Commodities Act, 1955 which was enacted after Independence to **prevent man-made famines** in post-independent India.
- **Allows hoarding** through exemption granted to value chain participants, and will lead to artificial price rises through creation of artificial shortages.

FOOD INSECURITY & DISMANTLING OF PDS SYSTEM:

- **Essential & staple food** deregulated and turned into **commercially viable commodities**.
- Deregulation of market activities such as sale, purchase, value addition, storage & export will undeniably lead to weakening and eventual collapse of the **PDS system**.
- The **National Food Security Act, 2013** already excludes **APL** families from PDS entitlement, even if they may be on the verge of malnutrition. Food security net is limited to the **BPL** families.
- Other conditions, such as mandatory **AADHAAR** linkage, results in further exclusion of even **BPL** families from food security net.
- The drive to turn PDS into **Direct Cash Transfer** is already happening in some areas, which will have negative impact on **nutritional security**.
- According to government data, 42 % of tribal children across India are underweight; while 77 % of tribal children and 65 % of tribal women (aged 15-49 years) are anaemic.

- The inflationary effect of amendments to Essential Commodities Act, together with other policies already in place, will amount to **violation** of the **right to food** of the impoverished, alienated, working-class **Adivasis** already facing severe nutritional crisis.
- The right to life with **dignity** of the Adivasi and forest dwellers is under threat by the enactment of these laws.

DO THESE LAWS VIOLATE THE CONSTITUTIONAL GUARANTEES UNDER PESA AND FRA?

The farm laws are **discriminatory** and **violate the fundamental rights** of **ST** and **OTFD** communities envisaged under **Article 14 & 15(4)** [right to equality, and protection against discrimination], **Article 19(1) (g)** [right to carry out occupation of their choice], and **Article 21** [right to life with dignity, and livelihood] of the adivasis and forest dwelling communities. They also violate special protection provided under **Article 244**, the **Fifth Schedule** of the Constitution of India, and special laws like **PESA** and **FRA**.

PESA violations

- Dilution of the powers of Gram Sabhas: It will be unable to prevent alienation of tribal lands or exercise control over money lending, in an environment where contract farming and money lending by big agri-businesses and corporations are permissible, and the communities are unprepared and vulnerable.
- Dismantling of control of Gram Sabha over poverty reduction schemes such as PDS: Even stockpiling of essential and staple foods is released from statutory prohibition and food prices fluctuate with market trends. This will lead to unprecedented food insecurity in Fifth schedule areas and other tribal regions.
- Reduction in power of Gram Sabha to manage local village markets/ Haats: Gram Sabha's control over local markets, and therefore over prices, will reduce with the entry of private entit-

-ies in agriculture and food processing market.

- Excluding role of Gram Sabhas in customary dispute resolution: since the farm laws mandate that disputes relating to agricultural contracts and processes will be resolved through a conciliation committee formed by SDM. As a result, over time the centrality of the Gram Sabha when it comes to governance in Scheduled Areas, the purpose of PESA, will be eroded, and eventually fade away.

FRA violations

- Threat to tenurial security: Introduction of contract farming, new forms of money-lending by large agri-business, and commercialization of agricultural production will eventually lead to unraveling the tenurial security FRA has introduced for forest dwelling communities.
- Restriction on the use of common land: As more and more lands are brought under contract farming and commercial crops under the new Farm Laws, the rights of communities over community forest land, such as nistar rights and grazing rights, will be eroded.
- PVTGs and their habitat rights are soft targets for market forces: Forest rights, especially habitat rights of Particularly Vulnerable Tribal Groups (PVTGs) will not be able to withstand onslaught from powerful agribusiness entities, and the **invisible hand** of the market.
- Erosion of the role of Gram Sabhas in conservation of CFRs: The power of the Gram Sabha of forest dwellers to protect, regenerate, manage and conserve their forests and CFRs, already subject to contestation by line departments such as the Forest Departments, will get eroded.

WHAT SHOULD WE DO?

- Demand the **repeal of the three 2020 farm Laws.**
- Demand the **Governor, in exercise of power under Para 5 of Fifth Schedule, to prohibit application of the three 2020 farm laws** to Scheduled Areas of their respective state.

- Demand **effective enforcement** of PESA:
 - (1) By strengthening the **control of Gram Sabhas** over local rural *Haats*/markets and pricing of agricultural produce.
 - (2) By guaranteed **government procurement & MSP** of farm produce & MFPS.
 - (3) By **strengthening of PDS system**.
 - (4) By strict implementation of *Niyamgiri judgment* relating to gram Sabha consent when undertaking development activities in forest lands.
- Demand **guaranteed tenurial security** through effective implementation of prohibition of land alienation laws and rights recognition under FRA.
- Gram Sabhas to **pass resolutions** and approach SLMC, DLC, District Collector and TA-ITDA with their grievances upon implementation of the farm laws, or criminal courts when SC/ST Atrocities Act is being violated.

Still I Rise

*You may write me down in history,
 With your bitter, twisted lies,
 You may tread me in the very dirt,
 But still, like dust, I'll rise.*

*Out of the huts of history's shame, I rise
 Up from a past that's rooted in pain, I rise
 I'm a black ocean, leaping and wide,
 Welling and swelling I bear in the tide.*

*Leaving behind nights of terror and fear, I rise
 Into a daybreak that's wondrously clear, I rise
 Bringing the gifts that my ancestors gave
 I am the dream and the hope of the slave.
 I rise, I rise, I rise.*

Courtesy: Maya Angelou

We shall Fight!
We shall Win!