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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

W H I T E B L A C K
L E G A L

THE FARMERS' PROTESTS AND
AGRICULTURAL REFORM LAWS:
CONSTITUTIONAL CHALLENGES AND THE
RIGHT TO PROTEST IN INDIA

AUTHORED BY - DR. C. USHA

ABSTRACT

In 2020, India witnessed a surge of farmers' protests against three recently passed agricultural reform laws: The Farmers' Trade and Commerce (Promotion and Facilitation) Act, The Farms Law (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act; and The Essential Commodities (Amendment) Amendment. The agricultural sector was liberalized by these laws, which aimed to increase market access for farmers and draw in private capital. Nevertheless, farmers, particularly in Punjab and Haryana, were concerned that the proposed laws would undermine the Minimum Support Price (MSP) system and lead to the corporatization of agriculture, making them vulnerable to abuse.

The sit-ins and marches that took place during the protests led to a major debate on the laws' constitutionality, economic viability, and social implications. The discussion revolved around the question of legislative competence and the violation of fundamental rights, including the right to life, equality, and trade freedom. The central government was criticized for overstepping its authority, as agriculture is included in the State List, but the government justified its actions under the Concurrent List's trade and commerce provisions. The importance of the right to protest in democratic societies was emphasized during this conflict. Articles 19(1)(a) and 19(2)(b) of the Indian Constitution ensure this right, but government's actions -- police action, internet shutdowns and roadblocks -- drew attention to civil liberties. These interventions by the Supreme Court underscored that the judiciary must balance state interests with citizens' rights.

The laws and protests have a broad impact on the rural economy, as they affect farmers' economic security, market accessibility, and more. The demonstrations have impacted electoral outcomes and reignited discussions on federalism. The authors argue that a comprehensive strategy must balance the advancement of agriculture, the rights of farmers, and democratic freedoms, while also following constitutional principles.

INTRODUCTION

In the wake of the Indian government's approval of three contentious agricultural reform laws in 2020, there has been a surge in farmers' protests. The demonstrations have not only emphasized the dissatisfaction of the agricultural community but also raised important questions about the rights of farmers, the economic consequences of such laws, and the wider implications for democracy and freedom of protest. These protests, both large and small, highlight the deep-seated concerns within the farming community of India over the future of agriculture. This paper will explore the constitutional problems associated with these agricultural reform laws and fundamental rights to protest, thereby exploring the complex intersection of law, policy, and civil liberties in present-day India.

These three agricultural laws are The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, The Farm Services Act. The aim of these laws was to transform the agricultural industry by creating more market opportunities, attracting private investment, and ostensibly increasing farmers' incomes. First, the law seeks to create an environment in which farmers and traders can freely sell and buy agricultural products outside these regulated markets. Contract farming is facilitated by the second law, which allows farmers to negotiate pre-determined prices with agribusinesses. Third law deregulates production, storage, movement and distribution of basic goods. Although the government's objective was to modernize agriculture and enhance efficiency, many farmers in Punjab and Haryana viewed these laws as a direct threat to the Minimum Support Price (MSP) system. The fear of agriculture being manipulated by large corporations without the protection of MSP was a consequence of the deregulation. Fears of losing their bargaining power in an unregulated market, where large agribusinesses could hold significant positions, were also present.

Protests by farmers began in Punjab and Haryana but quickly spread to other parts of India. A

significant standoff with the government was caused by large-scale protests, sit-ins and marches to Delhi. The protests were notable not only for their length and breadth but also for the diverse participation of women, old-age farmers, and various segments of society. The main demands of the protesting farmers were to have three agricultural laws repealed, a legal guarantee to maintain the MSP system and to withdraw from the Electricity (Amendment) Bill 2020 while also offering no fines for burning stubble.

The demonstrations have uncovered various constitutional issues, particularly those related to the efficacy of laws and the abuse of fundamental freedoms. Three lists, namely the Union List, the State List and the Concurrent List of Legislative Powers (in the Indian Constitution there are three lists). Agriculture is on the State List, which raises concerns about the central government's ability to enact laws in this area. While the central government has been accused of overstepping its authority, it uses a Concurrent List power to legislate trade and food trade.

The protests have also prompted concerns about the violation of fundamental rights guaranteed by the Indian Constitution. Farmers claim that the new laws violate Article 21 of the MSP system and expose them to market instability without adequate protection. They also assert that the laws contravene Article 14 due to establishing an unequal playing field that favors big corporations over small farmers. Furthermore, the government asserts that these laws promote trade and commerce freedom, but farmers are concerned that they may lead to monopolistic practices and lower their prices.

The Indian Constitution's Articles 19(1)(a) and 19(2)(b) guarantee the right to protest, which includes freedom of speech and assembly as well as peaceful gathering. Despite the farmers' protests, the government's use of force, internet shutdowns and roadblocks has raised concerns about violating their rights. The Supreme Court of India has a long-standing tradition in ruling on protest rights, emphasizing the importance of maintaining public order while minimizing inconvenience to the public. Ultimately, the farmers' protests against the agricultural reform laws represent a pivotal moment in India's democratic and constitutional history. The tensions between economic reforms and social justice, the state's developmental agenda, and the citizens' rights are highlighted. It is essential to find a way to resolve these protests in varying ways, including the need for agricultural modernization while also protecting farmers' livelihood and respecting democratic

freedoms. India's ever-changing landscape necessitates the central importance of maintaining the constitutional principles of justice, equality, and the right to protest in any policy discussion.

BACKGROUND OF THE AGRICULTURAL REFORM LAWS

Three major agricultural reform laws were passed by the Indian Parliament in September 2020, leading to widespread protests and debate across the country. These laws, which aim to reform the agricultural sector, include The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020; The Farm Services Act. Government officials aimed to modernize agriculture, attract private capital and increase farmers' incomes by offering them more market choices. The perceptions of these laws have varied among different stakeholders, with farmers in Punjab and Haryana being the primary contributors to the widespread unrest.

The Farmers' Produce Trade and Commerce Act, 2020, aims to establish an environment where farmers and traders can choose their preferred method for selling and buying farmers' produce outside the state-mandated APMC laws. In the past, the APMC system managed the selling of agricultural products, leading to grievances about middlemen being exploited and farmers having restricted market access. This law aims to promote competitive pricing and enhance farmers' bargaining power by permitting them to sell their produce outside the APMC markets. Backers contend that it can facilitate better price deciphering and decrease the reliance on intermediaries, ultimately benefiting farmers. Contract farming is regulated by the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020. Farmers are authorized to engage with agribusiness firms, processors, wholesalers and exporters or large retailers to sell future farming produce at 'the price they set'. The aim of this rule is to guarantee that farmers are aware of the price before planting their crops, thereby decreasing the risks associated with market prices. Its aim is to create stable and predictable incomes for farmers by implementing formal agreements that involve corporate partners and encourage them to adopt new farming methods and technologies. The law is regarded as a means of connecting farmers to the broader societal context, increasing investment, and improving productivity.

The Essential Commodities (Amendment) Act, 2020, aims to regulate the production, storage, transportation, and distribution of commodities such as cereals, pulses. The removal of these items

from the list of essential commodities is intended to encourage private investment in infrastructure, reduce wastage, and improve supply chain efficiencies. This deregulation is expected to attract substantial private investment into agriculture, leading to the establishment of cold storage facilities and modern supply chains. This, according to the government, will reduce seasonal price fluctuations and enhance the year-round availability of these goods. Despite the government's assurances and the potential economic advantages, farmers in Punjab and Haryana have been highly unpopular since these laws were passed. The MSP system in these regions is a safety net for farmers, as the government guarantees minimum prices for certain crops. The MSP system has been a key component of agricultural policy in these states, guaranteeing farmers equal wages and shielding them from market fluctuations. But farmers fear the new laws could 'put the MSP system at risk and' force it to collapse. Without the MSP, they fear being subjected to price cuts and exploitation by big businesses and market forces. In addition, farmers say new laws favor large agribusinesses and corporates which could lead to corporatization of agriculture. The emergence of private players in the agricultural sector may result in reduced bargaining power for small and marginal farmers, according to their concerns. There are concerns that in an unregulated market, large corporations could monopolize small-scale agriculture.

Demonstrations against these laws have emphasized the deep-seated suspicion among farmers and the government. Farmers' unions and other organizations have complained that there was no consultation or discussion before these laws were passed. They are urging for the annulment of the laws and a legal guarantee to maintain the MSP system. The government's attempts to negotiate have been fruitless, resulting in an ongoing impasse. To sum up, the agricultural reform laws of 2020 have not only brought about modernization of the sector and increased market access for farmers but also led to widespread protests. Farmers' worries about the MSP system and its potential corporatization underscore a need for policy-making that is more inclusive and consultative. The solution to these problems lies in reconciling the objectives of economic reform with the safeguarding of farmers' livelihoods and ensuring that the benefits of modernization are equally distributed.

THE FARMERS' PROTESTS

The farmers' protests, which began in Punjab and Haryana, quickly disseminated throughout northern India, resulting in one of the most extensive and persistent movements in recent Indian history. The passing of three agricultural reform laws by the Indian Parliament in September 2020 triggered protests. Farmers were concerned that the implementation of these laws would weaken agriculture

and expose it to large corporations. The extensive opposition prompted significant rallies, protests and marches to the capital of Delhi, leading to a major conflict with the government. Protests from the start were characterized by their vastness, persistence and the presence of so many like-minded individuals. Farmers from Punjab, Haryana, Uttar Pradesh, and Maharashtra gathered in Delhi, blocking major highways and setting up protest camps at the city's borders. These camps quickly transformed into encampments, furnished with kitchens, hospitals, and even libraries. Women, elderly farmers, and youth were among those who joined the movement, reflecting the deep-seated anxiety of the new laws. The presence of women in organizing langars (community kitchens), managing supplies, and participating in the demonstrations underscored the collective resolve of the farming community.

During the protest, farmers made unambiguous and strong demands. The three agricultural reform laws were called for full repeal by them, as they felt they posed a threat to their livelihoods and the MSP system. For farmers, the MSP system has provided a guaranteed price for their crops and acted as reassurance against market fluctuations. Without the MSP, farmers were worried that they would have to sell their crops at lower prices to multinational corporations, which could lead to financial ruin and insecurity.

Along with the revocation of agricultural regulations, the farmers also demanded a legal obligation to maintain the MSP system. The government was requested to uphold the MSP scheme, guaranteeing them a reliable source of income. This demand arose from reluctance to accept market forces and the fear that corporate interests would dominate the agricultural sector, sidelining small-scale farmers who were marginalized. The Electricity (Amendment) Bill, 2020 was also a crucial demand. Farmers were worried that this bill would increase electricity costs, making irrigating and other farming activities more expensive. Their argument was that the higher electricity prices would only make their financial situation worse and not improve. The demand for access to essential resources, such as electricity, was emphasized due to the uncertainties of agriculture and high input costs.

The farmers also requested that they not be liable for burning stubble, which is customary in North India. While stubble burning is a cost-effective and efficient way to clear fields after harvest, it has adverse environmental and health impacts, including significant air pollution. Even though they

recognized the urgency to address these issues, farmers maintained that they needed practical and affordable alternatives before any repercussions were brought forth. They urged the government to support sustainable farming practices that would minimize stubble burning.

To address their concerns, the government held multiple meetings with farmers' unions. The two sides were unable to come to a decision after multiple meetings and discussions. While the government proposed amendments and promises, the farmers persisted in their demands for a complete repeal of the laws, which the protesters believed were not enough. The standoff resulted in a sustained demonstration that captured the interest of both local and global audiences, garnering backing from various parties, public figures, and international activists. The farmers demonstrated remarkable organization and strength during the protests. They persisted in peaceful protests despite adverse weather conditions, barricades by police, and efforts to discredit their movement. The protests were peaceful and community-oriented. Organizers working for farmers' unions and other organizations helped to keep the movement organized and focused on its goals. Finally, the protests of farmers against the new laws on agricultural reform represent a pivotal moment in socio-political India. The demonstrations emphasized the farmers' fundamental concerns regarding the future of India's agriculture. But the demands of the farmers to have these laws repealed, there is a legal guarantee for the MSP system, the Electricity (Amendment) Bill was withdrawn, as well as promises on stubble burning, which are more generalised reflections of wider economic security, environmental sustainability and social justice. The extended duration of the protests and the lack of agreement with the government indicate the complexity and inability to reach a consensus on these matters. The protests have become a significant factor in public discourse, emphasizing the importance of inclusive and participatory policy-making that considers all stakeholders in the agricultural sector.

CONSTITUTIONAL CHALLENGES

Agricultural reform laws set to be passed in 2020 have generated much debate and disagreement, not just on economic grounds but also from constitutional considerations. Questions of legislative competence and the potential violation of fundamental rights in the Indian Constitution are central concerns in challenging these laws through legal means. This section discusses these constitutional disputes, focusing on the issues of legislative power and protection of rights.

The Constitution of India outlines the division of legislative powers between the Union and the States in three lists called the Seventh Schedule, which are the union list, the State list (for further clarification) and then the Concurrent List. The Union List includes subjects that can only be legislated upon by the Parliament, while the State List contains subjects which can also be passed by state legislatures, and the Concurrent List comprises subjects on which both the Union and State governments can legislate, with Union law prevailing in case of conflict.

The State List (Entry 14) explicitly includes agriculture, which encompasses agricultural education and research protection, pest control, and plant disease prevention. The classification implies that state governments hold the primary responsibility for enacting laws related to agriculture. Those who oppose the agricultural reform laws contend that they have infringed on a state-reserve area, which the central government has exploited.

The Union List encompasses trade and commerce with foreign nations, import and export within customs borders, and inter-State trade (Entries 41 and 42). The central government has a legislature on trade and commerce in foodstuffs under the Concurrent List (Entry 33) as a form of self-defense. The food production, supply chain entry is part of the government's definition and allows it to pass agricultural reform laws. Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020, is designed to create a framework in which farmers can purchase agricultural produce from markets not located within state Agricultural Producing Market Committee (APMC) laws. The central government maintains that this is a part of the wider inter-State trade and commerce, thus justifying its legislative authority under the Concurrent List. The framework for contract farming is established by the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, which facilitates negotiations between farmers and agribusiness firms, processors, and wholesalers. The central government maintains that contractual arrangements, which frequently involve representatives from multiple states, legitimize the enactment under its powers concerning inter-State commerce. The production, storage, transportation and distribution of commodities like cereals, pulses (Pulses), oilseeds edible oil, onions, and potatoes are defined by the Essential Commodities (Amendment) Act, 2020. Government officials argue that the regulation of key commodities affects both trade and commerce between States, making it a central legislative area. These laws are criticized by some for weakening the states' authority to regulate agriculture,

which is a crucial subject of the State List. The Concurrent List permits central legislation on certain aspects of trade and commerce in foodstuffs, but its broad scope changes the agricultural landscape, necessitating state intervention and regulation.

Besides legislative competence, the constitutional challenges also involve allegations of violating fundamental rights. According to farmers and their advocates, the new laws violate their right to life as well as equality and freedom of trade and commerce. According to Article 21, the new laws undermine farmers' right of livelihood by dismantling the MSP system and subjecting them to the free market's uncertainties. Farmers have relied on the MSP system as a means of receiving steady income for many years. If they don't have this assurance, they risk financial instability and the potential for big businesses to take advantage of it.

The right to equality, as stated in Article 14, leads some to assert that the laws create an imbalance between large agribusinesses and small farmers. The laws could lead to the marginalization of small farmers, as they would undermine the constitutional guarantee of fairness and equality for large corporations. While the government claims that these laws promote trade and commerce, farmers argue that they will ultimately result in monopolistic practices. They are apprehensive that the rise of large corporations could result in farmers being unable to sell their crops at fair prices, which could limit their economic freedom.

The constitutional challenges to the agricultural reform laws highlight the significant differences between central and state governments regarding legislative competence, as well as the safeguarding of farmers' fundamental rights. Despite these difficulties, agricultural reform necessitates careful and equitable consideration of both the constitutional separation of powers and the rights and opportunities afforded to farmers. The outcome of the ongoing legal disputes and debate will have far-reaching consequences for federalism and civil liberties in India.

CONCLUSION

India's democratic and constitutional history is marked by the protests of farmers against the agricultural reform laws. The demonstrations emphasize the conflict between the government's push for economic reform that aims to modernize agriculture and the pursuit of social justice, which is driven by farmers' fears of financial ruin and corporate oppression. The disagreement also

underscores the larger conflict between the state's developmental goals and the basic rights of its populace, particularly the right to sustenance, egalitarianism, and free speech.

A more nuanced approach is needed to resolve this deadlock, not just in economic terms. The task demands a policy that balances modernizing agriculture with ensuring the economic well-being of farmers. The protection of their livelihoods is essential for ensuring social stability and equitable distribution of reforms' benefits. Moreover, the protection of democratic freedoms, such as the right to protest, is necessary for any policy initiatives to be both legitimate and sustainable. The constitutional principles of justice, equality, and the right to protest must be maintained as India's terrain becomes more challenging. Keeping these principles in mind will not only address the farmers' immediate needs but also uphold the fundamental values of India's democratic system. This balanced approach is crucial in achieving a peaceful and equitable resolution to the ongoing protests, while also setting precedents for future policy-making.

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