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LEGISLATIVE
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**Submission to the
Supreme Court Committee
on Farm Laws**

*To Sh. Anil Ghanwat, Dr Ashok Gulati and Dr Pramod Joshi
Members, Supreme Court Committee on Farm Laws*

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SOCIAL CHANGE THROUGH PUBLIC POLICY



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Submission to the Supreme Court Committee on Farm Laws

To Sh. Anil Ghanwat, Dr Ashok Gulati and Dr Pramod Joshi, Members, Supreme Court Committee on Farm Laws

1. Introduction: The Importance of Reform

Despite decades of policy interventions, a majority of Indian farmers have not seen their incomes rise. Farmers with small or marginal holdings, who make up around two-thirds of all farmers, find themselves prey to indebtedness, a lack of choice in inputs, and underdeveloped warehousing and processing facilities. In each agricultural cycle, we witness a host of farmer agitations, leading to further band-aid solutions in the form of top-up subsidies, loan waivers or new farmer assistance schemes.

Successive governments have tried to support farmers by subsidising agricultural inputs and offering high support prices for the outputs. The Union and states provide a host of subsidies for seeds, fertilisers, electricity, water, farm machinery and research and development to reduce input prices. As part of the measures to increase the output price, Union and state governments procure food grains at minimum

support prices for multiple crops.

However, current policy interventions are not working. The gamut of policy interventions have affected farmers adversely. So much so that India is one of the few countries where farmers receive a negative subsidy and suffer a net loss. These policies ignore that the distress in the sector mainly results from farmers having little or no control over anything in agriculture. Indian agricultural policies provide a cautionary tale of messing with the market process. The policy framework has destroyed the signalling role played by prices, and no one is better off. The recently passed farm laws are a remedy to some of the issues in the sector.

2. The Agriculture Laws: Assessment

Academics and expert committees alike have extensively studied the need for reform in the agriculture sector. The first expert committee to suggest extensive reforms to the Agricultural Produce

Market Committee (APMC) was the Shankarlal Guru Committee in 2001. The report included recommendations for promoting direct marketing and encouraging private sector investments to develop agricultural marketing.

2001 saw the creation of two more relevant reports: The Montek Singh Ahluwalia task force on Employment and The RCA Jain Task Force. The Montek Singh report recommended liberalisation of agricultural marketing and allowing competing markets. RCA Jain recommended enabling private and cooperative sectors to establish and operate agricultural marketing infrastructure, direct marketing of agricultural commodities and permitting contract farming.

The Government later released the Model APMC Act, 2003. This model Act included provisions to remove the state government monopoly on regulated wholesale markets and provide a framework for contract farming.

MS Swaminathan produced reports in five reports between 2004 and 2006 with various recommendations on improving farmer income. In 2005 the Food and Agriculture Organization of the United Nations also published a set of recommendations to strengthen India's agriculture sector. These reports broadly recommended removing the monopoly of State APMC, encouraging private investment, reforming the ECA and encouraging contract farming.

Between 2012 and 2017, there were chapters in multiple Economic Surveys dedicated to agricultural reform. The various economic surveys recommended extensive reform of agricultural marketing and ending the monopoly of State APMC. The surveys also addressed issues with the ECA, contract farming, skill development, and international trade.

In 2019, a Standing Committee on Agriculture released a report encouraging private markets and contract farming. The three farm Acts passed in 2020 are a culmination of nearly two decades of reform thinking in Agriculture. The benefits of contract farming, private yards, and ECA reform have been discussed and

studied in great detail, and the evidence is clear that these reforms are desperately needed. The sections that follow discuss specific nuances of these Acts.

Farmers Produce Trade and Commerce Act, 2020: More choice to farmers

The Farmers Produce Trade and Commerce(Promotion and Facilitation) Act, 2020 (FPTC) liberalises spot markets in agriculture. It allows for the opening of more trade areas or market yards operated by private players. It also allows more people to become traders and buy farmers' produce. The Act enables farmers more freedom to choose to whom they sell. Farmers can now cross state lines and sell where it is most profitable for them, and buyers can buy from anywhere, increasing their flexibility. It further allows the creation of an electronic trading and transaction platform for online trade of produce. It improves farmer choice and competition in the sector and does not close the existing government-run APMC yards. The option of additional sales channels, without the closing of existing ones, improves farmer choice without hurting existing protections. The law also incentivises private yards from exempting trades outside APMC yards from paying APMC cess.

However, the dispute resolution system is limited to the bureaucratic machinery. It is problematic that there exists no provision for a judicial means to review decisions. One possible change is allowing both parties to appeal decisions made by the Sub-divisional magistrate (SDM) or collector to the judicial system. Further, while there exists a prescribed time limit for resolution, there is no penalty if the SDM fails to meet the timeline.

Farmers Agreement on Price Assurance and Farm Services Act, 2020: Based on consent, not coercion

The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020 (FAPAFS) creates a framework for the sale of future farming produce at a mutually agreed price. This contract gives farmers a guaranteed selling price, irrespective of market changes and buyers a guaranteed purchase price, irrespective of fluctuations. The agreement can also create a price determination mechanism based on a mutually agreed format. This means more price stability for both parties since they can insulate against sudden shocks.

The Act allows parties to specify the quality, grade and standards of farming produce. This protects the buyer from having to pay for sub-standard goods. It also helps a farmer to estimate the expenses warranted to meet specified quality standards. The Act also allows the parties to have a third party assayers to monitor and certify the quality, grade and standards during cultivation and rearing. It enables parties to reach a mutual agreement on the point of delivery. This is beneficial to both parties since the price of goods can take into account delivery or pick up charges.

The Act offers farmers and buyers much more flexibility in how they sell or buy produce. This freedom allows for long term guarantees and more stability. Making this process easy is crucial in improving farmer welfare.

However, much like the previous law, the dispute resolution framework remains a bureaucratic process.

The use of private conciliation boards is a welcome step. However, the review mechanism should allow for judicial intervention. Currently, both parties can appeal the conciliation boards decision to the collector. One possible change is allowing both parties to request a review of the collector's decision to the judicial system.

The Essential Commodities Act, 2020

The Essential Commodities (Amendment) Act, 2020 (ECA) amends the existing ECA to limit government intervention in the price and stock of essential commodities. The ECA has affected private investments in warehousing and transport of agri commodities. While this act does liberalise it to some degree, problems exist in this Act.

The Act limits the government's ability to intervene in food commodities' price to extraordinary circumstances. The Act does not provide clarity on what counts as an extraordinary circumstance. This vagueness can justify interventions for political purposes. The Act is also silent on the limits on the length of government intervention or a redressal mechanism if the intervention was unjustified.

The Act authorises imposition of stock limits based only on price rise. There are a few issues with this; firstly, there is no single commodity price. Onion prices, for instance, vary from market to market and city to city. It is not clear what price is used to determine if the price rise goes over the Act's limit. Secondly, since price rises trigger stock limits, entrepreneurs may not invest in warehousing facilities. The committee should consider strengthening this reform by further limiting the scope of government. The ECA should be scrapped altogether. India is now a food surplus nation, and there is no need for price or stock controls. These controls only limit farmer income.

3. Other Reforms

These three laws take steps in the right direction. The liberalise aspects of agri trade and lift some of the shackles that have hurt farmer income. However, further reforms are needed to improve the income of farmers. Some possible ideas are listed below.

Lift Restrictions on Land Ownership, Sale, Tenancy and Use

The prime capital asset of a farmer—land—is heavily regulated in India. A combination of laws, enacted at the state level, restrict the sale, purchase, use, and lease of land. These restrictions mean farmers are stuck with land they do not want and cannot sell for remunerative prices. Lift restrictions on leasing and allow laws such as the Transfer of Property Act, 1882 and the Indian Contract Act, 1872, to govern agricultural land. A functional land market cannot be established as long as buyers and sellers do not have conclusive records of ownership protected by the legal system. State governments need to prioritise completion of record digitisation, including information on the transfer of ownership, to ensure that records reflect timely and accurate information on land ownership.

Move from Inputs Subsidies to Direct Transfers

Dr Pramod Joshi has argued in favour of Direct Benefit Transfer (DBT). DBT is a policy intervention that could be more effective than the current subsidy regime. DBTs are more cost-effective, with less leakage and fewer intermediaries. Transfer of fertiliser subsidy directly to farmers' bank accounts has likely reduced overuse of fertilisers and stopped divergence of urea illegally to other sectors. Dr Ashok Gulati has argued that this move would also help conserve the water table if applied to electricity subsidies.

The Rythu Bandhu scheme is a cash transfer scheme for farmers in Telangana that started in 2018. A 2020 survey of recipients of the scheme showed that 66% of farmers preferred cash transfers over direct input subsidies. Amongst farmers with marginal landholdings, this preference was stronger, with 85% preferring cash transfers. Farmers likely preferred cash transfers because it could serve immediate agricultural needs and that the seeds and fertilisers provided by the government via input subsidies were of low quality. With cash transfers, farmers are free to choose what seeds and fertilisers they buy.

Single-Window Platform for Agri-technology

Genetic modification of seeds introduces desirable traits like resistance to chemicals, pests, or environmental conditions. The modification is not done by cross-fertilisation but by introducing desirable genes in seed DNA. Every GM variety has different uses and effects and has to undergo scrutiny and tests. The regulatory decisions have been influenced strongly by political considerations and not by scientific findings. The minister often overrides Genetic Engineering Appraisal Committee (GEAC) resolutions; in 2010, GEAC gave clearance to Bt Brinjal's cultivation, but the then environment minister placed an "indefinite moratorium" as there were protests throughout the state/country.

Another instance is how GEAC introduced a requirement that firms obtain a No Objection Certificate (NOC) from the state to conduct free trials since agriculture is a state subject and would give the states a certain level of independence. Even after GEAC's approval, states have declined to issue NOCs. Such conflicts between GEAC and states hinder the building of a smooth regulatory framework for technology advancement.

A clear regulatory framework must have a single platform where all private and public companies can register, access regulatory information, and get approvals. These approvals should be based on evidence and must not be revoked suddenly, by any authority, without sufficient reason, or without following due procedure. The Biotechnology Regulatory Authority of India Bill, 2013 envisages establishing such an independent authority—the Biotechnology Regulatory Authority of India (BRAI)—for the regulation of organisms and products of modern biotechnology. The Bill was introduced in 2013 and referred to the standing committee. The Bill is likely to be reintroduced with revision—however, there is no clarity on the timeline. Once established, it will create a single window for matters concerning research, transportation, import, containment, environmental release, manufacture and use of all such products.



Arjun Krishnan is a political science graduate from Ashoka University and has a master's degree from Warwick University. At CCS, his main area of focus is Agriculture policy, with a focus on improving the freedom and wellbeing of Indian farmers.



Prashant Narang has been in the sphere of policy ideas for nearly 15 years. A regulatory researcher in the area of education and livelihood, he speaks often on the Rule of Law, K-12 education, street vending, and public policy issues at top law schools and Centre for Civil Society (CCS). He currently serves as a Senior Fellow, Research and Policy Training Programs at CCS.

He co-conceptualized the Street Vendor Compliance Index to track the implementation of the Street Vendors Act 2014, contributed to all three editions of the index ([2017](#), [2019](#) and [2020](#)) and co-created the [Matrix of State Rules](#) and [Matrix of State Schemes](#). He has represented vendors at various courts (including the Supreme Court) for the implementation of the Act and against harassment.

He co-authored “NEP 2020: One Time Comprehensive Evaluation” and contributed to quality assessment of all state-level Education Laws. He co-drafted the Model State School Code - a Model Law to implement the NEP 2020 and an amendment to the Right to Education Act 2009.

Prashant has a Doctorate degree from Center for the Study of Law and Governance at Jawaharlal Nehru University, where he submitted his thesis on the Constitutional Right to Trade and Business. He led a team of 15 people to conduct a [process audit](#) of 24 public services across five departments in Punjab. This work has been instrumental in reforming the public services in the state.

Prashant has taught Constitutional Law at the Faculty of Law, University of Delhi. While he enjoys legislative drafting, he finds law and economics, and empirical legal research fascinating.



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