



Applicable International Treaties, Conventions and Regulations Re: India's Agricultural Crisis

In the opinion of Sikh Human Rights Group Prime Minister Narendra Modi and the Indian Government's recent attempt to implement the Three Farmers Bills into India's domestic law has breached many international human rights norms as well as many international human rights law provisions.

The three farm laws were brought in without consultation with farmers or their leaders, they remove the provision for independent evaluation of produce in relation to costs of production and they also deny farmers access to independent justice in case of contractual disputes.

The key international Treaties that are of concern are

- *The Universal Declaration on Human Rights;*
- *The United Nations Declaration on Rights of Peasants and Other People Working in Rural Areas;*
- *The International Covenant on Civil and Political Rights;*
- *The United Nations Declaration on the Right to Development;* and
- *UN Human Rights Council Resolution A/HRC/RES/24/5.*

We are also going to focus on the following domestic laws of India:

- *The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill 2020;*
- *Essential Commodities (Amendment) Bill 2020;*
- *The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill 2020; Which are collectively known as the Three Farmer Bills;*
- *The National Food Security Act 2013;* and
- *Article 253 of the Indian Constitution.*

The term 'Rural Workers' is defined by the Rural Workers Organisations Convention 1975 as follows:

Full Text:

https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C141

Article 2

1. [...] The term rural workers means any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner or, subject to the provisions of paragraph 2 of this Article, as a self-employed person such as a tenant, sharecropper or **small owner-occupier**.

2. This Convention applies only to those tenants, sharecroppers or small owner-occupiers who derive their main income from agriculture, who work the land themselves, with the help only of their family or with the help of occasional outside labour and who do not--

- (a) permanently employ workers; or
- (b) employ a substantial number of seasonal workers; or
- (c) have any land cultivated by sharecroppers or tenants.



Which legal instruments apply to the Farm Laws?

DENIAL OF ACCESS TO JUSTICE

Under the Three Farmer Bills India's small farmers will no longer be able to take a contractual dispute with a large national trader of produce to an 'ordinary' independent domestic court but must instead refer the matter to arbitration by a local government official. This means that no longer will a small farmer be able to rely on well-established principles of justice such as the right to an independent appeal if any of the parties are found to be breaching the contract but must instead depend on a Government appointed official who by no means can be considered to be independent.

This breaches some of the most fundamental rights guaranteed in the following international treaties:

The Universal Declaration of Human Rights (UDHR)

Full Text: https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

State Governments are bound to ensure that everyone *'is equal before the law and [that everyone is] entitled without any discrimination to [the] equal protection of the law'*.

International Covenant on Civil and Political Rights (ICCPR)

Full Text: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

PART II

Article 2

(1) Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, **property**, birth or other status.

(2) Each State Party to the present Covenant undertakes:

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, **property**, birth or other status.



Access to Justice is also guaranteed in the United Nations Declaration on Rights of Peasants 2018 (UNDROP)

Full Text: <http://undocs.org/en/A/RES/73/165>

Article 12

(1) Peasants and other people working in rural areas have the right to effective and non-discriminatory access to justice, including access to fair procedures for the resolution of disputes and to effective remedies for all infringements of their human rights. Such decisions shall give due consideration to their customs, traditions, rules and legal systems in conformity with relevant obligations under international human rights law.

(2) States shall provide for non-discriminatory access, through impartial and competent judicial and administrative bodies, to timely, affordable and effective means of resolving disputes in the language of the persons concerned, and shall provide effective and prompt remedies, which may include a right of appeal, restitution, indemnity, compensation and reparation.

REMOVAL OF INDEPENDENT EVALUATION OF FAIR PRICE FOR FARMERS

The Farm Laws remove any independent evaluation of the produce. The Farm Laws will allow the market to establish the valuation of any produce. Farming, particularly small farms are protected around the world from the unpredictability of the market by ensuring a reasonable price as a base line to be paid to farmers. This is ensured in the:

Article 11

(3) States shall take appropriate measures to promote the access of peasants and other people working in rural areas to a fair, impartial and appropriate system of evaluation and certification of the quality of their products at the local, national and international levels, and to promote their participation in its formulation.

Article 16

(2) States shall take appropriate measures to favour the access of peasants and other people working in rural areas to the means of transportation, and processing, drying and storage facilities necessary for selling their products on local, national and regional markets at prices that guarantee them a decent income and livelihood.

(3) States shall take appropriate measures to strengthen and support local, national and regional markets in ways that facilitate, and ensure that peasants and other people working in rural areas have, full and equitable access and participation in these markets to sell their products at prices that allow them and their families to attain an adequate standard of living.

Article 9

(3) States shall take appropriate measures to encourage the establishment of organizations of peasants and other people working in rural areas, including unions, cooperatives or other organizations, particularly with a view to eliminating obstacles to their establishment, growth and pursuit of lawful activities, including any legislative or administrative discrimination against such organizations and their members, and provide them with support to strengthen their position when negotiating contractual arrangements



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in order to ensure that conditions and prices are fair and stable and do not violate their rights to dignity and to a decent life.

In 2018 the World Bank Group recognised on pages 35 – 36 of its report entitled India: SYSTEMATIC COUNTRY DIAGNOSTIC (Realizing the promise of prosperity):

Full Text: <http://documents1.worldbank.org/curated/en/629571528745663168/pdf/Volumes-1-AND-2-India-SCD-Realising-the-promise-of-prosperity-31MAY-06062018.pdf>

That whilst 'most input subsidies are a blunt instrument for supporting redistribution or providing safety nets to vulnerable farmers, since the benefits linked to input usage, accrue to the biggest users, who are likely to be the largest and wealthiest farmers. It could be argued [and sustained] that MSP provides a safety net to farmers'.

The International Labour Organisation (ILO) also supports a reasonable price for produce or fair-trade in produce and has made the following observations in their report entitled '*Agricultural Workers and Their Contribution to Sustainable Agriculture and Rural Development*':

Full Text:

https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_113732.pdf

Fair-trade is a trading partnership, based on dialogue, transparency and respect... It contributes to sustainable development by offering better trading conditions, such as securing the rights of, marginalised producers and workers... 'Fair-trade' is therefore a recognized term for agreements between producers in developing countries and commercial buyers who wish to purchase and market products based on stable and 'just' or 'fair' prices and production criteria which respect labour and environmental standards. Fair trade aims to increase producers' access to markets, improve their incomes, and ensure that their production is based on sustainable development principles.

FAILURE TO CONSULT BEFORE ENACTING LAWS

Prior to the week commencing 01 December 2020 no formal channels of communication or negotiation had been established by PM Modi or his Governmental Ministers with any of India's state Governments or farmers associations before enacting the Three Farmers Bills. Which deprived the Farmers of their to participate in decision-making processes regarding the enactment of legislation or policies that may affect their lives, lands and livelihoods. Which is a protected right under the following legal instruments:

UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 73/165 (UNDROP).

Full Text: <http://undocs.org/en/A/RES/73/165>

Article 10

(1) Peasants and other people working in rural areas have the right to active and free participation, directly and/or through their representative organizations, in the preparation



and implementation of policies, programmes and projects that may affect their lives, land and livelihoods

(2) [...] this includes respecting the establishment and growth of strong and independent organizations of peasants and other people working in rural areas and promoting their participation in the preparation and implementation of food safety, labour and environmental standards that may affect them.

Article 15

(4) Peasants and other people working in rural areas have the right to determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty. This includes the right to participate in decision-making processes on food and agriculture policy and the right to healthy and adequate food produced through ecologically sound and sustainable methods that respect their cultures.

Article 2

(3) Without disregarding specific legislation on indigenous peoples, before adopting and implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.

Article 11

(3) States shall take appropriate measures to promote the access of peasants and other people working in rural areas to a fair, impartial and appropriate system of evaluation and certification of the quality of their products at the local, national and international levels, and **to promote their participation in its formulation.**

The farmers right to participate in Governmental decision making processes is also enshrined within the Rural Workers' Organisations Convention 1975 (No. 141)

Full Text: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C141

Article 4

It shall be an objective of national policy concerning rural development to facilitate the establishment and growth, on a voluntary basis, of strong and independent organisations of rural workers as an effective means of ensuring the participation of rural workers, without discrimination as defined in the Discrimination (Employment and Occupation) Convention, 1958, in economic and social development and in the benefits resulting therefrom.

Article 6

Steps shall be taken to promote the widest possible understanding of the need to further the development of rural workers' organisations and of the contribution they can make to improving employment opportunities and general conditions of work and life in rural areas as well as to increasing the national income and achieving a better distribution thereof.



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In 2018 the World Bank Group recognised on page 36 of its report entitled India: SYSTEMATIC COUNTRY DIAGNOSTIC (Realizing the promise of prosperity) the need for negotiation between GovT and farmers:

Full Text: <http://documents1.worldbank.org/curated/en/629571528745663168/pdf/Volumes-1-AND-2-India-SCD-Realising-the-promise-of-prosperity-31MAY-06062018.pdf>

*The Government [of India] is well aware of the problem of misdirected and unsustainable subsidies, but reforming subsidies, especially those in agriculture, is politically sensitive. Even when farmers understand the benefit of moving to a more sustainable and non-discriminatory system based on agricultural technology and infrastructure investments instead of subsidies, none of them—rich, middle-income, or poor farmers—are confident of the transition. The strategy for rationalizing the present [MSP] system **will have to be negotiated.***

The ILO also encourages State Governments in its Rural Policy Brief entitled ‘Addressing Informality for Rural Development’ to:

Text: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_182737.pdf

Foster recognition of rural workers’ and employers’ organizations by authorities, to guarantee rural voices and representation in public policy debates and their participation in designing and implementing rural development and poverty alleviation programmes, so as to ensure their needs, interests and priorities are addressed’

Support rural cooperatives, to improve the efficiency, competitiveness and capitalization of rural producers, while ensuring legal empowerment and participation

The SME Unit of the ILO also recently found in its Issue Brief No.1 2017 (Matt Ripley - Senior Advisor) that:

Full Text: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/-emp_ent/documents/publication/wcms_547157.pdf

Interventions have the potential to maximise small farmers chances of economic and social success. However, in order for them to benefit small farmers the interventions must ensure that contract farming does not overload support to small holders in the early stages of the scheme; there are constant information flows between buyers and suppliers in order to encourage the transparent setting of price ceiling and floors; and the policy maker must be open to adapting and changing the scheme over time in collaboration with the small farmer in order to arrive at a commercially viable model.

FURTHER GUIDING PRINCIPLES, PROVISIONS AND BREACHES THAT MAY BE OF INTEREST

THE FARMERS RIGHT TO PROTEST

Between 80,000 and a hundred thousand small farmer protestors have been at the receiving end of obstructions, heavy handedness and the threat of violent suppression by India’s Government, police and national army. The protests began as PM Modi refused to engage in a dialogue with the small farmers. The first protests started in Punjab (India). The protestors have now moved to Delhi, the capital city where the Government sits.



Furthermore, many of the protestors who managed to overcome the water cannon and tear gas attacks are now being held in custody by the police on fraudulent charges such as attempted murder and with their whereabouts unknown. However, under:

The Universal Declaration of Human Rights (UDHR)

Full Text: https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

Article 20

Everyone has the right to freedom of peaceful assembly and association

Article 19

Everyone has the right to freedom of opinion and expression. Which includes the freedom to hold opinions without undue interference and to seek, receive and impart information and ideas through any media and regardless of frontiers

The farmers right to peaceful assembly or peaceful protest is also protected under the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 73/165 (UNDROP):

Full Text: <http://undocs.org/en/A/RES/73/165>

Article 8

(1) Peasants and other people working in rural areas have the right to freedom of thought, belief, conscience, religion, opinion, expression and peaceful assembly. They have the right to express their opinion, either orally, in writing or in print, in the form of art, or through any other media of their choice, at the local, regional, national and international levels.

(2) Peasants and other people working in rural areas have the right, individually and/or collectively, in association with others or as a community, to participate in peaceful activities against violations of human rights and fundamental freedoms.

(4) States shall take all necessary measures to ensure protection by the competent authorities of everyone, individually and in association with others, against any violence, threat, retaliation, de jure or de facto discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise and defence of the rights described in the present Declaration.

The farmers right to peaceful assembly and right not be subjected to arbitrary arrest or detention is protected under International Covenant on Civil and Political Rights (ICCPR)

Full Text: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are



necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

Article 9

(1) Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

Further, support can be found in the UN Human Rights Council Resolution A/HRC/RES/24/5

Full Text:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=dtYoAzPhJ4NMy4Lu1TOebIM8c1X4GZjGEGHV9SBM9XQgV7F5z%2BPq5Glml5ITjdvduU0tGVMSyUViLAYIYQwi2IDE8JUwqK%2F20i0Zmegp1WZS1z2fjpK5mEtiYLwTOXF5>

Article 2

Reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.

Article 5

Stresses that respect for the rights to freedom of peaceful assembly and of association, in relation to civil society, contributes to addressing and resolving challenges and issues that are important to society, such as the environment, sustainable development, crime prevention, human trafficking, empowering women, social justice, consumer protection and the realization of all human rights.

ENVIRONMENTAL CONSIDERATIONS

The farmers have a right under the following provisions to utilise the natural resources found within their communities and a right to participate in the formulation and implementation of environmental policies: For instance, under:

UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 73/165 (UNDROP)

Full Text: <http://undocs.org/en/A/RES/73/165>

Article 5

(1) Peasants and other people working in rural areas have the right to have access to and to use in a sustainable manner the natural resources present in their communities that are



required to enjoy adequate living conditions, in accordance with article 28 of the present Declaration. They also have the right to participate in the management of these resources.

(2) States shall take measures to ensure that any exploitation affecting the natural resources that peasants and other people working in rural areas traditionally hold or use is permitted based on, but not limited to:

(a) A duly conducted social and environmental impact assessment;

(b) Consultations in good faith, in accordance with article 2.3 of the present

Declaration;

(c) Modalities for the fair and equitable sharing of the benefits of such exploitation that have been established on mutually agreed terms between those exploiting the natural resources and the peasants and other people working in rural areas.

Article 10

(2) States shall promote the participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes that may affect their lives, land and livelihoods; this includes respecting the establishment and growth of strong and independent organizations of peasants and other people working in rural areas and promoting their participation in the preparation and implementation of food safety, labour and environmental standards that may affect them.

Article 14

(4)(d) States shall take all measures necessary to ensure: That there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals so as to avoid their use for other purposes and to eliminate or minimize the risks to safety and health and to the environment.

Article 16

(4) States shall take all appropriate measures to ensure that their rural development, agricultural, environmental, trade and investment policies and programmes contribute effectively to protecting and strengthening local livelihood options and to the transition to sustainable modes of agricultural production. States shall stimulate sustainable production, including agroecological and organic production, whenever possible, and facilitate direct farmer-to-consumer sales.



INDIA'S CONSTITUTION RE: THE THREE FARMER BILLS

DENIAL OF ACCESS TO JUSTICE

The denial of access to independent judicial process in resolution of a contractual dispute is also contrary to the Constitution of India.

Full Text: <https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text>

It is contrary to the human rights guarantees under India's Constitution Part III Fundamental Rights

Part III 14. Equality before law - The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Further the constitution also insists that no law may derogate from this

13. Laws inconsistent with or in derogation of the fundamental rights

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

Equal access to justice is also emphasized in the Directive Principles of the Constitution.

Article 39A Equal Justice and Free Aid. The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall in particular, provide free... For securing justice are not denied to any citizen by reason of economic or other disabilities.

INDEPENDENT EVALUATION OF PRICING

The system of an independent evaluation of fair prices for farmers is also guaranteed in the National Food Security Act 2013

Full Text: http://www.egazette.nic.in/WriteReadData/2013/E_29_2013_429.pdf

SCHEDULE III PROVISIONS FOR ADVANCING FOOD SECURITY

(1)(c) Revitalisation of Agriculture includes - ensuring livelihood security to farmers by way of remunerative prices, access to inputs, credit, irrigation, power, crop insurance, etc...;

GENERAL PROVISIONS

Article 39

Certain principles of policy to be followed by the State - The State shall, in particular, direct its policy towards securing—

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;



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REFERENCE TO INTERNATIONAL AGREEMENTS, TREATY, CONVENTION

Constitution Article 253

Legislation for giving effect to international agreements

Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body.