



SIKH HUMAN RIGHTS GROUP
NGO with special consultative status at UN ECOSOC
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14th December 2020

To

The United Nations High Commissioner for Human Rights

Dear Ms Michelle Bachelet Jeria,

Ref: Indian Farmers right to food security and a minimum standard of living in danger
Contravention of **Articles 2, 10, 11, 12 and 15** of the **United Nations Declaration on rights of Peasants 73/165 (UNDROP)**. Request for urgent expression of concern and action.

We write to you directly as there is no reporting mechanism yet in place for the **UNDROP**.

The issue at stake is the enactment of laws introducing free market forces in the small farming sector, which is a protected sector almost everywhere in the world.

These laws, called the Three Farmer Bills, will erode the fragile protection afforded to India's small farmers. The laws were brought in without consultation with farmers. This contravenes the **UN Declaration on the Rights of Peasants (UNDROP)** adopted in 2018. The current Government enjoys a large majority in Parliament. However, it refused to go through the normal stages of legislation, such as setting up a parliamentary working group, or permitting a proper debate in Parliament.

Currently small farmers in India only have a few protections.

The Government sets an assured price, called Minimum Support Price (MSP) for some 22 crops after considering costs, such as fertilisers, diesel for tractors, electricity etc...

In some states there are subregional markets with warehouses, so farmers don't have to travel long distance to sell and deliver their produce.

The Three Farmer Bills have removed MSP without replacing it with any financial support to ensure small farming as an occupation carries on. The Government says that the small farmers can sell their crops in the open market at any price. However, this will push prices down as large trading houses take over from the small traders. Therefore, the farmers fear that they will go bankrupt and have to sell their land to the large trading houses.

Secondly the laws will remove the subregional markets. Which will make it extremely difficult for farmers to move their produce without fear of it rotting.

Therefore, both of these issues contravene the protections and facilities that the **UN Declaration on the Rights of Peasants** seeks to protect in order to ensure that small farming as a way of life continues.

The third violation of international norms is that the Three Farmer Bills have introduced the denial of access to legal recourse in the event of a dispute arising between a small farmer and a large mega trader. The Government has legislated that farmers cannot go to court but must instead refer the matter to a designated Governmental Official. Which removes any independence in the process of dispute resolution. Moreover corruption is widespread in India. 89% of Indians think



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corruption is rife. Therefore, by removing access to an independent judicial system, the small farmers fear that they will be at the mercy of corrupt Government officers.

The farmers feel that they will be driven out of farming as an occupation and thrown to the unregulated employment sector. Only 10% of Indians currently work in the regulated employment sector.

We also wish to bring to your attention obstructions, heavy handedness and the further possibility of violent suppression of the legitimate protests against the Three Farmers Bills brought in by the Indian Government that threaten the livelihoods of small farmers.

The protests began as Prime Minister Narendra Modi refused to engage in a dialogue with the small farmers. The first protests started in Punjab, India. However, they quickly spread to several other states as farmers elsewhere started to realise the implications of the Three Farmer Bills. The protestors have now moved to Delhi, the capital city where the Government sits.

On route they were met with water cannons, nail barriers, tear gas and even an attempted baton charge. The determination of the farmers to persuade the Government to repeal the laws has inspired them to overcome all of these obstacles.

There is now a fear that the Army might be used as the number of farmers reaching Delhi has increased daily. For instance, it is estimated that between 80,000 and a hundred thousand farmers are now camped in Delhi, surrounded by the Police and with the Indian national army on standby.

The protests of the farmers is legitimate particularly as the Government has contravened a few international norms. The protests have been peaceful despite the Government's attempts to introduce agent provocateurs and malign the protestors as secessionists, communists and politically motivated. Therefore, we request you to remind the Government of India of the following:

- Everyone has the right to freedom of peaceful assembly and association; **Article 20 UDHR** (*the farmers are engaged in a peaceful protest*)
- The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right [by the Government, police, army or otherwise] 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 21 International Covenant on Civil and Political Rights (ICCPR)** (*there is no evidence of any public safety, public order, public health issues or freedoms of others issues. The farmers have been courteous to the police, people and officials despite the Governments attempts to tarnish them as anti-national*)
- For the following reasons they are acting in contravention of the **UN Declaration on the Rights of Peasants and Other People Working in Rural Areas 73/165** (UNDROP):



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- (i) Prior to the week commencing 01 December 2020 no formal channels of communication and/or negotiation had been established by the Central Government with any of India's State Governments or farmers associations before enacting the Three Farmers bills; **Articles 2(3) and 10(2) UNDROP and India's constitution**

India is a democracy with a federal structure. Legislative powers are distributed through the Seventh Schedule to the Constitution which contains a Union List, a State list and a Concurrent list.

Agriculture with all its associated, ancillary and subsidiary enterprises – including education and research, livestock, fisheries, irrigation etc... is classified as a State rather than a Union subject. 'Markets and fairs' are also a State subject (Entry 28 of the State list). Even trade and commerce within a State is also a State Subject (Entry 27). However, this is subject to Entry 33 of the concurrent list which has been put to use by PM Modi to enact the Three Farmer Bills by contending that the aforementioned legislation 'is expedient in the public interest' and therefore a Union matter.

- (ii) Further or alternatively, by removing any reference to MSP in the Three Farmer Bills and by simply telling the protestors to trust the Governments word the Government is not providing an 'appropriate system of evaluation and certification of the quality of their products at the local, national and international levels'; **Article 11(3) UNDROP (The Three Farmer Bills have removed MSP without replacing it with any financial support to ensure that small farming as an occupation carries on)**
- (iii) By legislating that a contractual dispute between a small farmer and a large national trader cannot be taken to an 'ordinary' domestic court but must instead be arbitrated by a local Government official. PM Modi and his government has taken away the farmers right to have access to an effective remedy via a competent domestic court; **Articles 6 and 7 UDHR and Article 12 UNDROP (The farmers fear that they will be at the mercy of corrupt Government officers and thus forced to sell their land to large national traders)**
- (iv) Small farmers in India have a right to 'determine their own food and agriculture systems, recognized by many States and regions as the right to food sovereignty... [and a 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...'; **Article 15(4) UNDROP (India's small farmers have not been consulted and the Three Farmer Bills have removed MSP without replacing it with any financial support to ensure that small farming as an occupation carries on. Which will have far reaching implications for India's overall food security)**

We will willing put you in contact with some of the farmer leaders, an expression of concern to the Government of India and a reminder to it on its obligations will give the farmers a tremendous deal of hope and trust in the United Nations and its good intentions.

Kind regards,

Mr Carlos Arbuthnott

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