

CONFRONTING STATE VIOLENCE: LESSONS FROM INDIA'S FARMER PROTESTS

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ABSTRACT

In December 2021, following a year of sustained mass protests, farmers in India forced the repeal of three controversial Farm Laws that attempted to deregulate India's agricultural sector in service of corporate interests. Farmers feared that the laws would dismantle price supports for key crops, jeopardize their livelihoods, and facilitate a corporate takeover of India's agrarian economy. This Article situates India's historic farmer protests in the context of the country's longstanding agrarian crisis and the corporate capture of agriculture worldwide. I argue that the protests arose in response not only to the Farm Laws, but also to decades of state-sponsored ecological and economic violence that have relegated millions of Indian farmers to a state of precarity and desperation. I further argue that the protests hold key insights for social movements around the globe, and for the future of food in India and beyond.

The Article analyzes the farmers' protests using a four-part paradigm to assess contemporary movements for social change: Roots, Resistance, Reform, and Reconstruction. In so doing, it makes several contributions to legal scholarship. First, it makes visible the lived realities of India's rural masses who have been left behind amidst the country's celebrated economic growth. Second, it reveals the many

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ways in which State violence manifests, and how that violence is mediated through agricultural policies. Third, it demonstrates the power of mass nonviolent resistance as a strategic tool to confront State violence. And fourth, it explores the tension between reform and revolution. I argue that the farmers' reformist demands do not sufficiently address the ecological harms and caste-based inequities that underpin India's agrarian crisis. But the movement's building of broad-based alliances across caste and class has opened the door to more transformative change.

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INTRODUCTION

In a nationally televised speech on the morning of November 19, 2021, Indian Prime Minister Narendra Modi announced a dramatic policy reversal as he acquiesced to the demands of hundreds of thousands of farmers who for twelve long months had occupied the outskirts of the country's capital. "Friends," he said:

Our government brought in the new [agricultural] laws . . . for the welfare of farmers While apologizing to the countrymen, today I want to say sincerely that perhaps . . . we could not explain [that] truth . . . to the farmer brothers Today I want to tell you, the entire country, that we have decided to repeal all three agricultural laws.¹

Prime Minister Modi, who leads India's Bharatiya Janata Party (BJP), was careful with his words. He did not apologize for the unconstitutional passage of the agricultural laws, or the repressive State tactics deployed against farmers protesting in the streets and activists dissenting online. Instead, he apologized for not having been able to explain the government's "good intention[s]" to the protesting farmers.² The onus, then, was not on the government for failing to protect more than half its citizenry. It was on the farmers for not being able to understand the import of the laws. In the same breath that he offered an apology, Modi implied that those who had spent their lives farming and surviving decades of neoliberal onslaught knew nothing about how the Indian agricultural acts of 2020 [hereinafter Farm Laws] would hasten the demise of key State supports for agriculture.³

1. *Full Text: What Modi Said in His Farm Laws Repeal Speech*, REDIFF NEWS (Nov. 19, 2021, 6:30 PM), <https://www.rediff.com/news/report/full-text-what-modi-said-in-his-farm-laws-repeal-speech/20211119.htm> [<https://perma.cc/UKC6-GB32>] (translated from Hindi).

2. *Id.*

3. The date chosen for the speech—the Gurburab of Guru Nanak Ji—was also deliberate. The Gurburab celebrates the birth of Guru Nanak, the first Sikh guru and the founder of Sikhism. *Guru Nanak Jayanti 2021: Date, History, Importance, and Significance of Gurburab*, THE INDIAN EXPRESS (Nov. 18, 2021, 11:30 AM), <https://indianexpress.com/article/lifestyle/life-style/guru-nanak-jayanti-2021-date-history-importance-significance-gurburab-sacred-day-prakash-utsav-7626681/> [<https://perma.cc/2HL5-9V56>]. Many of the protesting farmers were Sikhs from the northern state of Punjab but they were neither fooled nor assuaged by this piece of political theater. Veena Dubal & Navyug Gill, *Governments Are Invincible Until They're Not: On the Farmers' Victory in*

The Prime Minister concluded his speech urging the protesting farmers to return to their homes, fields, and families, and end the mass protests that they had begun a year earlier.⁴ For the first time since coming to power in 2014, Modi capitulated.⁵ Soon after his announcement, celebrations erupted across the country. At the Singhu border—which separates the state of Haryana from Delhi and which was one of several sites where farmers had set up encampments—victorious protestors distributed Indian sweets, burst firecrackers, and danced in the streets to *bhangra* (Punjabi folk) music.⁶

Over the course of their year-long occupation, as they built and camped out in “protest cities” along major highways outside New Delhi, farmers withstood the region’s blistering summer heat, monsoon rains, and its near freezing winters. They also endured a deadly second COVID-19 wave. As discussed in Part II, farmers faced down brutal and repressive policing tactics, including the firing of water cannons and tear gas, and arrests under draconian national security laws, all while being villainized by the mainstream media. By the end of the protests, more than 700 protestors had died due to poor weather conditions, illness (including COVID-19), State violence, and suicide.

On December 9, 2021, three weeks after Modi’s speech, the Indian Parliament formally repealed the three Farm Laws⁷ and promised to withdraw all cases that had been filed against protesting

India, LPE PROJECT (Jan. 18, 2022), <https://lpeproject.org/blog/governments-are-invincible-until-theyre-not-on-the-farmers-victory-in-india/> [https://perma.cc/9VRN-NR3S] [hereinafter Dubal & Gill, *Governments Are Invincible Until They're Not*].

4. Full Text: *What Modi Said in His Farm Laws Repeal Speech*, *supra* note 1.

5. Hannah Ellis-Petersen, *The Strongman Blinks: Why Narendra Modi Has Backed Down to Farmers*, THE GUARDIAN (Nov. 19, 2021, 11:14 AM), <https://www.theguardian.com/world/2021/nov/19/the-strongman-blinks-why-narendra-modi-has-backed-down-to-farmers> [https://perma.cc/3VQS-8E78] (citing instances where Prime Minister Modi did not back down and stating “[s]ince Modi was first elected in 2014, his modus operandi has been that of a tough, unyielding, authoritarian strongman leader who does not bow to public pressure.”).

6. Hindustan Times, *Jalebis, Crackers, Bhangra: Watch How Farmers Shared Joy Over Repeal of Three Farm Laws*, YOUTUBE (Nov. 19, 2021), <https://www.youtube.com/watch?v=v2aA2CdeZow> [https://perma.cc/U34M-5Y4C].

7. The Farm Laws Repeal Bill, 2021, Bill No. 143 of 2021 (Nov. 29, 2021). *The Farm Laws Repeal Bill, 2021*, PRS LEGISLATIVE RESEARCH, <https://prsindia.org/billtrack/the-farm-laws-repeal-bill-2021> [https://perma.cc/ZGR9-NX3M].

farmers and their supporters. On that same day, the farmers suspended but did not conclude their protests as their additional demands for agricultural reforms, which are analyzed in Part III, had yet to be met.⁸

The laws at the heart of the controversy, which are further discussed in Part I, were introduced eighteen months earlier in June 2020, while India was still under the grip of its first COVID-19 lockdown, and hastily enacted in September 2020. In short, the Farm Laws “deregulated and privatized India’s agrarian economy by allowing private corporations to purchase crops at market prices without paying taxes, stockpile essential commodities in unlimited quantities, and engage in contract farming while denying farmers legal recourse.”⁹ Farmers feared that the laws would facilitate a corporate takeover of India’s agricultural sector, and eventually impact their livelihoods and their land ownership.¹⁰ As discussed in Part I, the Farm Laws also held implications for the environment and for food security in a country where vast swaths of the population rely on the public distribution of subsidized food for nourishment.

The significance of the farmers’ victory in achieving a repeal of the Farm Laws cannot be overstated. As described by historian Navyug Gill:

It is a defeat for the neoliberal agenda that makes a fetish of privatization . . . ; for the centralizing Indian state that violates the jurisdictional limits of its own constitution; . . . and for the global economic order that demands countries like India remove protections and supports in order to uphold trade asymmetries.¹¹

This Article situates India’s Farm Laws in the broader context of India’s longstanding agrarian crisis and the corporate capture of agriculture worldwide. I argue that the repeal of the Farm Laws is a significant blow to ongoing efforts to consolidate corporate power in

8. Ashok Sharma, *Indian Farmers Suspend Year-Long Protest Against New Laws*, AP NEWS (Dec. 9, 2021), <https://apnews.com/article/business-india-new-delhi-f064050e3fc76f355ae04eda96f46c5ff> [<https://perma.cc/S599-N7E4>].

9. Natasha Behl, *India’s Farmer Protest: An Inclusive Vision of Indian Democracy*, 116 AM. POL. SCI. REV. 1141, 1142 (2022) (citation omitted).

10. Manu Moudgil, *India’s Farmers’ Protests Are About More Than Reform—They Are Resisting the Corporate Takeover of Agriculture*, WAGING NONVIOLENCE (Feb. 16, 2021), <https://wagingnonviolence.org/2021/02/indian-farmers-protests-resisting-corporate-takeover-agriculture/> [<https://perma.cc/J7SX-3EJM>].

11. Dubal & Gill, *Governments Are Invincible Until They’re Not*, *supra* note 3.

India's agricultural sector. The farmers' victory also holds key insights for social movements around the globe, and for the future of food in India and beyond.

The Article makes several contributions to legal scholarship. First, it makes visible the lived realities of India's rural masses who have been left behind amidst the country's celebrated economic growth. Their erasure is not accidental. "Part of the telling of the fairy tale of 'Shining India'¹² demands that the poor disappear,"¹³ both statistically¹⁴ and narratively. In a country where more than 400,000 farmers have died by suicide since 1995, it is important to understand what rural communities are resisting and why.

Second, the Article reveals the many ways in which State violence manifests, and how that violence is mediated by State and private actors through agricultural policies.¹⁵ Specifically, it examines different forms of violence embedded in and emanating from policies

12. "India Shining" was a slogan popularized by the BJP during India's 2004 general elections in reference to the BJP's claim that the country had boomed economically under its rule from 1999 to 2004. Some attribute the BJP's 2004 election losses to the fact that the campaign alienated India's poor, particularly in rural areas, who had not benefited from urban economic growth. Bhuvan Bagga, *What Makes NDA's 'India Shining' Campaign the 'Worst' Poll Strategy in Indian History*, INDIA TODAY (May 14, 2013, 8:39 AM), <https://www.indiatoday.in/india/story/nda-india-shining-worst-poll-strategy-162922-2013-05-14> [<https://perma.cc/J6L3-N2FS>].

13. RAJ PATEL, STUFFED AND STARVED: THE HIDDEN BATTLE FOR THE WORLD FOOD SYSTEM 37 (2012).

14. *Id.* at 37–38 (describing the "statistical sleights of hand that have enabled India's poor to vanish since the 1970s").

15. Agriculture has long been a site of contestation and struggle. A rich body of literature situates current food and agrarian crises, and resistance therein, in the political economy of colonial and corporate food regimes. *See, e.g.*, Harriet Friedmann, *The Political Economy of Food: A Global Crisis*, 197 NEW LEFT REV. 29 (1993) (analyzing "the rise of a [postwar] food regime and the emergence of contradictory and conflictual relations within it."); Philip McMichael, *A Food Regime Genealogy*, 36 J. PEASANT STUD. 139, 139–64 ("[A] coherent political-economy and political-ecology of food is of utmost importance . . . to situate the world food system and its crisis within a broader historical understanding of geo-political and ecological conditions."); PEASANTS AND GLOBALIZATION: POLITICAL ECONOMY, RURAL TRANSFORMATION AND THE AGRARIAN QUESTION (A. Haroon Akram-Lodhi & Cristóbal Kay eds., 2009) (discussing the "agrarian question" and "the extent to which capitalism is or is not transforming agriculture"); TRANSNATIONAL AGRARIAN MOVEMENTS CONFRONTING GLOBALIZATION (Saturnino M. Borrás, Jr., Marc Edelman & Cristóbal Kay eds., 2008) (discussing peasants and farmers whose struggles at home pushed them to confront global institutions).

that have hastened the growth of globalized industrial agriculture in India.

Third, the Article demonstrates the power of mass nonviolent resistance. Indian farmers understand the mechanisms and structures that are needed to build a broad-based movement that mounts a coordinated and vigorous response to State violence.

Finally, the Article explores the tension inherent in propping up a failing, inequitable system while seeking systems change. Or put differently, the tension between reform and revolution. In many ways, the farmers' movement is emblematic of resistance to late-stage capitalism. It also sheds light on the vagaries and contradictions of our current condition, and the trajectories that may lie ahead.

This Article analyzes the farmers' protests using a four-part paradigm to assess contemporary movements for social change. This paradigm is inspired by peasants' movements and food sovereignty struggles that are simultaneously resisting, reforming, and rebuilding food systems. Farmer, food sovereignty activist, and author Leah Penniman offers the following framework:

[M]ovement work is most successful when we engage in three equally crucial strategies: (1) protest and direct action to resist oppression; (2) working within the system to evolve policies and practices toward justice; and (3) building alternative institutions and creating models of the world we want to see.¹⁶

This Article is structured around these pillars of movement work, which I have labeled Resistance, Reform, and Reconstruction. I further offer that in addition to balancing their efforts on these three

16. LEAH PENNIMAN, *FARMING WHILE BLACK: SOUL FIRE FARM'S PRACTICAL GUIDE TO LIBERATION ON THE LAND* 281 (Chelsea Green Publishing 2018). *See also* Eric Holt-Giménez & Annie Shattuck, *Food Crises, Food Regimes and Food Movements: Rumbblings of Reform or Tides of Transformation?*, 38 *J. PEASANT STUD.* 109, 117–18 (2011) (presenting a “food regime/food movement framework” to map reformist versus transformative food movement strategies and arguing that “[r]egime change will require sustained pressure from a strong global food movement, built on durable alliances between Progressive and Radical trends”). For an overview of dominant approaches to conceptualizing and theorizing the dynamics and outcomes of social movements, *see* Dana M. Moss & David A. Snow, *Theorizing Social Movements*, in *HANDBOOK OF CONTEMPORARY SOCIOLOGICAL THEORY* 547, 554 (Seth Abrutyn ed., Springer 2016) (noting that “[d]iscussions of social movement dynamics . . . often cast social movements as either revolutionary or reform-oriented” and adding that these orientations are “not easily reconciled”).

fronts, contemporary social movements must interrogate and address the Root causes of the crisis we now face.

When analyzed through this framework, the farmers' movement in India offers a valuable case study of what social movements are up against today, and what it takes to win. The movement's experience also cautions against pursuing reforms that do not attend to the social injustices and ecological harms that underpin our intersecting crises. And it signals the critical need to move past reforms and simultaneously build alternative systems and models of the world we want to inhabit.

The Article unfolds as follows: Part I (Roots) examines the origins and impacts of India's agrarian crisis, which has been fomented by successive Indian governments. I argue that the farmers' movement arose in response not just to the controversial Farm Laws, but to consecutive waves and forms of State violence dating back to the 1960s: from the ecological violence of the Green Revolution, to the economic violence of neoliberal reforms, to the epidemic of farmer suicides that continues unabated today. Though farmers may die by their own hands, I argue that it is the State that brings farmers to the precipice of self-annihilation.

Part I concludes with an examination of the Farm Laws. Although no longer in force, an examination of the laws offers an opportunity for analysis and reflection on how law is used to mediate and entrench power. I argue that under the guise of promoting freedom of choice for farmers, the Farm Laws threatened to undermine rural livelihoods, exacerbate food insecurity, and intensify environmental harms.

Part II (Resistance) examines the tactics of the farmers' movement. In response to the waves of State violence described in Part I, farmers responded with a strategic nonviolent campaign that drew from multiple traditions and histories of struggle, and that embodied key principles and tactics that enabled the campaign to succeed on its own terms. Key to this success was the movement's ability to mobilize hundreds of thousands of stakeholders to engage in sustained protests that disrupted the workings of capital and withdrew public support and cooperation from power structures that had relied on the farmers' tacit collaboration, including at the voting booth.

Having achieved the repeal of the Farm Laws and having brought the government to the negotiating table, farmers in India now have an opportunity to reclaim the narrative around what constitutes meaningful agricultural reforms. Part III (Reform) examines farmers'

key demand to expand minimum price supports and the public procurement of agricultural products. I argue that while the proposed reforms would economically empower farmers, they do not in and of themselves attend to the issues that underpin India's agrarian crisis. This Part further argues for more comprehensive reforms, informed by the recommendations of India's National Commission on Farmers.

In Part IV (Reconstruction), I argue that to build a sustainable, nourishing, and just food future, the social and ecological dimensions of India's agrarian crisis must finally take center stage. This in turn requires transitioning to diversified agroecological food systems, founded on the principles of food sovereignty. It also requires taking on the inequities of caste, the abolition of which can no longer be postponed. Although these demands are not yet central to the farmers' struggle, I argue that the movement has already opened the door to imagining alternative futures.

I. The Roots and Impacts of India's Agrarian Crisis

"From the city, it is hard to see the violence in the countryside, both physical and economic, to which rural communities have been subjected."

— Raj Patel, *Stuffed and Starved*.¹⁷

More than half of India's population of 1.4 billion people makes their living from farming.¹⁸ As such, and as with other agrarian economies, the nutrition, health, and livelihoods of a majority of India's people depends on its food and agricultural system.¹⁹ An estimated 85% of Indian farmers operate small family farms and own less than

17. PATEL, *supra* note 13, at 26.

18. Although an estimated 58% of the population earns its living from farming, agricultural and allied sectors only account for about 17% of India's Gross Domestic Product. See *Agriculture and Food Industry and Exports*, INDIA BRAND EQUITY FOUND., <https://web.archive.org/web/20220110152646/https://www.ibef.org/exports/agriculture-and-food-industry-india.aspx> [https://perma.cc/63CK-8MNS] (last updated Nov. 2021); see also *Agriculture, Forestry, and Fishing, Value Added (% of GDP)*, THE WORLD BANK, <https://data.worldbank.org/indicator/NV.AGR.TOTL.ZS> [https://perma.cc/F9JA-Z4QW] (the World Bank's list of countries and agriculture, forestry, and fishing's percentage of GDP).

19. See generally THE CATHOLIC HEALTH ASSOCIATION OF INDIA ET AL., *EXPLORING THE POTENTIAL OF DIVERSIFIED TRADITIONAL FOOD SYSTEMS TO CONTRIBUTE TO A HEALTHY DIET 1* (2018) (discussing the impact of India's agricultural and food policies on food security and nutrition).

five acres of land.²⁰ Small farmers possess 46% of the country's operated land but contribute 51% of its agricultural output, and a much higher share of its high-value crops.²¹ Indian farmers feed the world's second most populous nation and they help feed the world, contributing significantly to the global food basket.²² They are also in crisis.

Agriculture in India is an increasingly nonviable profession. Farmers' input costs are up, while yields and profits are down.²³ Weather patterns are increasingly erratic and the natural resource base on which food production depends is rapidly degrading. To afford costly inputs and help make ends meet, farmers often take out high-interest loans from community moneylenders, trapping them in a cycle of insurmountable debt and putting at risk their minimal landholdings and their lives.²⁴ Farmers' incomes are precarious, to say the least, and in states like Punjab and Haryana, are highly dependent on the government purchasing their wheat and paddy (unprocessed rice) crops at specific prices.²⁵

Farmers feared that the 2020 Farm Laws would eviscerate these price supports and facilitate the corporate capture of agriculture. It was the last straw. And farmers, particularly from the food grain producing northwestern states of Punjab and Haryana, revolted. To be

20. See Achin Vanaik, *The Indian Farmers' Movement Has Shown Us How to Fight Narendra Modi*, JACOBIN (Dec. 8, 2021), <https://jacobinmag.com/2021/12/indian-farmers-movement-narendra-modi-protest-farm-laws-repeal> [https://perma.cc/6SXR-Q92M] ("Small and marginal farmers with less than two hectares of land make up 85 percent of the total [of Indian farmers].").

21. Sukhpal Singh, *Future of Indian Agriculture and Small Farmers: Role of Policy, Regulation and Farmer Agency*, DOWN TO EARTH (Feb. 2, 2021), <https://www.downtoearth.org.in/blog/agriculture/future-of-indian-agriculture-and-small-farmers-role-of-policy-regulation-and-farmer-agency-75325> [https://perma.cc/56E8-NKSE]. See *infra* note 38 for a definition of small farmers.

22. See *Agriculture and Food Industry and Exports*, *supra* note 18 (India exports agricultural, horticultural, and processed food to more than 100 countries).

23. See Tapas Singh Modak, *High Costs Hurt Farmers in Lockdown Year*, FRONTLINE (Jan. 1, 2021), <https://frontline.thehindu.com/cover-story/poor-earnings-income-for-farmers-peasants-during-covid19-lockdown-2020-low-prices-high-costs-agricultural-output/article33314151.ece> [https://perma.cc/74RE-S9NM] (discussing why expensive material inputs and cultivation costs, and the loans they require, are a suitable barometer of farmer prosperity, rather than overall crop yields).

24. See *infra* Part I.C. for a discussion of indebtedness and farmer suicides.

25. Ellen Ioanes, *India's Farmers Confronted Modi and Won. What Happens Now?*, VOX (Nov. 20, 2021, 6:27 PM), <https://www.vox.com/2021/11/20/22792934/india-farm-laws-repeal-modi-mass-protests> [https://perma.cc/83K8-GKN5].

clear, what the Farm Laws might have actually accomplished on the ground in the short to medium term is more complex. But farmers correctly read the Farm Laws as an attack on their interests. To understand why, a brief summary of some very complex history is in order. To that end, this Part examines the roots and impacts of India's agrarian crisis. It concludes with an examination of the 2020 Farm Laws, which, I argue, threatened to unleash another wave of rural violence.

A. The Ecological Violence of the Green Revolution

The Green Revolution, a byproduct of the Cold War, transformed northwest India's agricultural landscape. In the 1960s, a newly independent India found itself in an acute food crisis.²⁶ To counter a risk of communist alignment as India contemplated socio-political solutions to the crisis involving the redistribution of land, the U.S. offered a suite of technical solutions to increase crop yields using American agribusiness products.²⁷ In essence, to stave off the Red Revolution from the east, the U.S. offered India a "Green Revolution" from the west.²⁸

American advisors helped boost the production of rice and wheat in Punjab and Haryana, ushering in a new era of food production that combined high-yielding plant varieties with increased irrigation, highly mechanized production processes, and the use of nitrogen-based

26. See *The Farmers' Revolt in India*, TRICONTINENTAL, June 14, 2021, at 9–12 (explaining that the food crisis stemmed from India's economic reorganization under British colonial rule and the resulting plunder of Indian resources which caused system-wide indebtedness, followed by several other events including famine, wars, and a complex history of trade and industrialization).

27. Krishna Kumar, *Agricultural Modernisation and Education: Contours of a Point of Departure*, 31 ECON. & POL. WKLY. 2367, 2368 (1996); see also PATEL, *supra* note 13, at 131–33 (providing a brief history of reforms contemplated by the then-ruling Congress Party and explaining how the U.S. influenced the direction of India's agricultural policies).

28. See Aditya Bahl, *The Postcolonial Autumn: Agrarian Capitalism and Resistance in India*, SPECTRE (Jan. 29, 2021), <https://spectrejournal.com/the-postcolonial-autumn/> [<https://perma.cc/3V5M-NEHW>] (explaining that the Green Revolution "was designed to resolve the chronic problem of hunger in the Third World by increasing its agrarian productivity, thus invalidating the popular socialist demand for land reforms and redistribution of other resources in the newly independent countries.").

fertilizers and pesticides.²⁹ To encourage their adoption, the Indian government subsidized Green Revolution technologies, set Minimum Support Prices (MSP) for wheat and paddy, and procured crops for public distribution.³⁰ Soon farmers shifted away from agrobiodiverse practices, such as inter-cropping, mixed-cropping, and rotational cropping systems, toward the resource and chemical-intensive monocropping of a few select crops.³¹ The production of wheat and rice soared but to the detriment of other crops, many of which suffered and some of which disappeared altogether.³²

To address its hunger crisis, the Indian government adopted the Green Revolution's productivist approach which focused on the supply of food commodities and the efficiency of food production while sidestepping key questions related to poverty, access to food-producing resources, and social equity and power relations in the food system.³³ As a result, and despite the impressive increase in food production, inequality soared,³⁴ malnutrition intensified, and the environment quickly degraded.³⁵

The benefits of the Green Revolution flowed to farmers with sufficient resources to make capital improvements.³⁶ By opting for

29. Smita Narula, *Achieving Zero Hunger Using a Rights-Based Approach to Food Security and Sustainable Agriculture*, in FULFILLING THE SUSTAINABLE DEVELOPMENT GOALS: ON A QUEST FOR A SUSTAINABLE WORLD 75, 76 (Narinder Kakar, Vesselin Popovski, & Nicholas A. Robinson eds., 2021) [hereinafter Narula, *Achieving Zero Hunger*].

30. Shoumitro Chatterjee and Aprajit Mahajan, *Why Are Indian Farmers Protesting the Liberalization of Indian Agriculture?*, 24 AGRIC. & RES. ECON. UPDATE 1, 2–3 (2021).

31. CATHOLIC HEALTH ASSOCIATION OF INDIA, *supra* note 19, at 13, 20.

32. *See, e.g., id.* at 22 (“[I]ntensive rice monoculture systems led to the loss of wild leafy vegetables and other uncultivated greens that were earlier harvested from animal manure fertilised fields.”).

33. Narula, *Achieving Zero Hunger*, *supra* note 29, at 85.

34. Government subsidies were also disproportionately distributed and made available to rich and middle-class farmers which deepened inequalities. CATHOLIC HEALTH ASSOCIATION OF INDIA, *supra* note 19, at 18.

35. *See, e.g.,* NITI AAYOG, REPORT OF THE TASK FORCE FOR AGRICULTURAL DEVELOPMENT IN PUNJAB 1–2 (2017), https://www.niti.gov.in/writereaddata/files/Punjab_Report_0.pdf [<https://perma.cc/G6H8-Q4QD>] (noting that, as a result of increased paddy cultivation in Punjab since the 1960s, the “water table [has] receded alarmingly”).

36. Bahl, *supra* note 28; Mohammad Amir Anwar & Adnan Shakeel, *Taking the Bull by Its Horns: The Political Economic Logics of New Farm Laws and Agrarian Dissent in India*, 29 CONTEMP. S. ASIA 571, 572 (2021) (explaining that the Green Revolution “primarily benefitted landowners from the upper classes, who

technological fixes over land redistribution—a choice that placated landowners who wanted to raise agricultural yields without redistributive land reforms—the Indian government effectively left socio-economic inequalities unaddressed³⁷ and ultimately exacerbated them. Punjab’s small and marginal farmers quickly lost out.³⁸ Unable to afford the new technologies, they began losing their land to increased competition from middle and large farmers, and within a few years were transformed into landless laborers. Aditya Bahl offers these sobering statistics:

[B]y the mid-1970s, the number of landless laborers in Punjab had almost doubled By 1975, more than 75 percent of all wealth in rural Punjab was owned by 10 percent of the richest households. And by 1980, nearly 40 percent of the rural population in Punjab lived below the poverty line.³⁹

The State’s ongoing failure to implement land reforms also fortified caste-based inequalities around labor and land ownership.⁴⁰

had traditionally been large scale landowners”); Amy J. Cohen & Jason Jackson, *Rights as Logistics: Notes on the Right to Food and Food Retail Liberalization in India*, in *THE FUTURE OF ECONOMIC AND SOCIAL RIGHTS* 407, 413 (Katharine Young, ed., 2019) (noting that Green Revolution technologies “simultaneously reinforced existing inequalities and exacerbated uneven growth as most small farmers were unable to invest in them”).

37. See *The Farmers’ Revolt in India*, *supra* note 26, at 14 (arguing that land redistribution, together with greater investments in agricultural infrastructure, would have increased socio-economic equity and improved yields).

38. Farmers with less than two hectares (five acres) of land are classified as small farmers and those with less than one hectare of land (2.5 acres) are classified as marginal farmers. PRESS INFORMATION BUREAU, MINISTRY OF AGRICULTURE & FARMERS WELFARE, CATEGORISATION OF FARMERS (2019), <https://pib.gov.in/Newsite/PrintRelease.aspx?relid=188051> (on file with the *Columbia Human Rights Law Review*).

39. Bahl, *supra* note 28.

40. Post-independence, India pursued a series of land reforms aimed at abolishing the feudal *zamindari* (tax collecting) system, reforming tenancy laws, setting landholding ceilings, and consolidating small landholdings. While these reforms were successfully implemented in some states—including West Bengal, which redistributed more than 1 million acres of land and improved agricultural productivity through tenancy reforms—they failed in most states due to resistance from landowners, loopholes in the laws, incomplete recordkeeping, and other factors. As a result, only 1% of India’s agricultural land was redistributed. Tim Hanstad et al., *Learning from Old and New Approaches to Land Reform in India*, in *THE WORLD BANK, AGRICULTURAL LAND REDISTRIBUTION: TOWARD GREATER CONSENSUS* 241, 246 (Hans P. Binswanger-Mkhize, Camille Bourguignon & Rogier van den Brink eds., 2009); Maitreesh Ghatak & Sanchari Roy, *Land Reform and*

Dalits—formerly known as “untouchables” who sit at the bottom of India’s rigid caste system—comprise around 32% of Punjab’s population, but only 3.5% of Dalits own agricultural lands. Dalits also comprise 86% of agricultural laborers in the state where the practice of bonded labor is still rife.⁴¹

The Green Revolution helped reduce caloric deficiencies, but protein energy malnutrition and micronutrient deficiencies intensified due to the destruction of local, traditional diets and food systems, and worsening structural inequalities.⁴² The crops prioritized in Green Revolution policies, like maize, wheat, and rice, also lacked the nutrients of many local crops. Moreover, products like milk and fish became inaccessible to poorer communities as they were commodified.⁴³

The industrialization of agriculture also increased farmer dependency on external inputs and on fossil fuels and brought with it great environmental harms. Soil erosion, agrobiodiversity loss, pollution of surface water bodies, and rapidly depleting water tables are now commonplace in Punjab and elsewhere.⁴⁴ The indiscriminate use of pesticides has also led to an increase in the incidence of cancer, earning Punjab the unenviable title of the “cancer capital” of India; underscoring that the agrarian crisis in India is also an environmental justice issue.⁴⁵

Agricultural Productivity in India: A Review of the Evidence, 24 OXFORD REV. ECON. POL'Y 251, 263 (2007). Landholdings continue to be skewed along caste lines, with Dalit (outcaste) and Adivasi (Indigenous) communities being the most disadvantaged. Padmaja Mondal & Bailochan Behera, *Dalits' Access to Land in 21st Century Rural India: A Case Study of Punjab*, 6 INDIAN J. DALIT TRIBAL STUD. ACTION 69, 69 (2019), <http://www.ticijournals.org/dalits-access-to-land-in-21st-century-rural-india-a-case-of-punjab/> [<https://perma.cc/9JEG-YVB5>].

41. Bahl, *supra* note 28 (citing a study that notes that half a million Dalits are bonded laborers in Punjab). The practice of bonded labor is an exploitative labor arrangement for security from indebtedness to employers and moneylenders that is sustained by the caste system. Smita Narula, *Equal by Law, Unequal by Caste: The “Untouchable” Condition in Critical Race Perspective*, 26 WIS. INT'L L.J. 255, 282 (2008) [hereinafter Narula, *Equal by Law, Unequal by Caste*].

42. CATHOLIC HEALTH ASSOCIATION OF INDIA, *supra* note 19, at 5–6.

43. *Id.*; *see also id.* at 19–20 (“[Similar to the Green Revolution,] resource-intensive, industrial approaches were also adopted in policies designed to boost milk production (White Revolution) and to develop an export-oriented fisheries sector (Blue Revolution).”).

44. *Id.* at 21.

45. Jyotsna Singh, *Punjab, Cancer Capital of India*, DOWNTOEARTH (Feb. 2, 2013), <https://www.downtoearth.org.in/news/punjab-cancer-capital-of->

In the end, the Green Revolution delivered on its promise of increased yields, but it did so at tremendous costs. The Green Revolution displaced alternative routes that sought to address structural inequalities and left in its wake a toxic and degraded landscape where the ecological violence inflicted in the production of food now infuses and infects the health of food producers and food consumers while undermining the natural resource base on which food production depends.⁴⁶

B. The Economic Violence of Neoliberal Reforms

Current attempts to deregulate the Indian agricultural sector stem from, and are linked to, neoliberal reforms enacted by the Congress Party-led government in 1991.⁴⁷ Confronted with a critical foreign exchange crisis following the collapse of the Soviet Union, and under the direction of the International Monetary Fund (IMF) and World Bank's Structural Adjustment Programme, India introduced dramatic shifts in macroeconomic policy and aggressively pursued the privatization of industries and the liquidation of policies and controls in economic planning and regulation.⁴⁸ The stated goal of such policies was to promote rapid economic development within India.⁴⁹

india-40255 [https://perma.cc/EGX9-CSQ7] (cancer cases are highest in the cotton-growing Malwa region).

46. See also VANDANA SHIVA, THE VIOLENCE OF THE GREEN REVOLUTION: THIRD WORLD AGRICULTURE, ECOLOGY AND POLITICS 19 (1991) (noting in 1991 that "after two decades of the Green Revolution, Punjab . . . is a region riddled with discontent and violence"); Carmen G. Gonzalez, *Climate Change, Food Security, and Agrobiodiversity: Toward a Just, Resilient, and Sustainable Food System*, 22 FORDHAM ENVTL. L. REV. 493, 505 (2011) ("While the Green Revolution dramatically increased global food production, it also perpetuated food insecurity in the Global South by increasing poverty and inequality.").

47. David Harvey defines neoliberalism as "a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets and free trade. The role of the state is to create and preserve [that] institutional framework." DAVID HARVEY, A BRIEF HISTORY OF NEOLIBERALISM 2 (2005).

48. Narula, *Equal by Law, Unequal by Caste*, *supra* note 41, at 283.

49. See D. Narasimha Reddy & Srijit Mishra, *Agriculture in the Reforms Regime*, in AGRARIAN CRISIS IN INDIA 3, 19–21 (D. Narasimha Reddy & Srijit Mishra eds., 2009) (describing the various areas in which the IMF and World Bank pushed liberalization in India).

In the years that followed, India opened its markets to global trade and an influx of multinational corporations.⁵⁰ It also withdrew support from key sectors, including agriculture.⁵¹ These reforms, which limited small farmers' access to public credit and greatly reduced decades-old agricultural subsidies, crushed farmers facing higher production costs and competition with multinational agribusiness companies.⁵² As liberalization led to a capital-intensive mode of production requiring a greater proportion of highly skilled workers to manage automated production processes, a large migration of "unskilled" labor to the agricultural sector also drove down wages for agricultural workers as a whole.⁵³

Although India's neoliberal reforms helped usher in an era of dramatic economic growth, that growth has been unevenly distributed—benefiting the nation's elite while rural communities and

50. CHRISTIAN AID, THE DAMAGE DONE: AID, DEATH, AND DOGMA 17–19 (2005), <https://www.christianaid.org.uk/sites/default/files/2017-08/the-damage%20done-may-2005.pdf> [<https://perma.cc/WX2U-ESDA>]. India joined the 1994 World Trade Organization Agreement on Agriculture, "reducing trade restrictions on many agricultural products." Amy J. Cohen & Jason Jackson, *Governing Through Markets: Multinational Firms in the Bazaar Economy*, 16 REGUL. & GOVERNANCE 409, 419 (2022) [hereinafter Cohen & Jackson, *Governing Through Markets*]. Although foreign direct investment (FDI) was permitted in certain industries following the 1991 economic reforms, it was initially restricted in agriculture and in multi-brand retail. *Id.* In 2012, the government opened the door to FDI in the food retail sector, following decades of domestic protectionism and despite significant political opposition and resistance from food retailers and farmers. Amy J. Cohen, *Supermarkets in India: Struggles over the Organization of Agricultural Markets and Food Supply Chains*, 68 U. MIAMI L. REV. 19, 33–34 (2013).

51. CHRISTIAN AID, *supra* note 50, at 17–18 (explaining that the World Bank's structural adjustment plan for India "envisage[d] a withdrawal of the state from key industrial, economic and agricultural sectors to be replaced by private corporations").

52. Sarang Narasimhaiah, *Farmers Against Fascism: How India's Farmers' Protests Cultivated Alternatives to Neoliberal Hindu Nationalist Dystopia*, 20 PERSPS. ON GLOB. DEV. & TECH., 511, 517 (2022).

53. Narula, *Equal by Law, Unequal by Caste*, *supra* note 41, at 284.

the urban poor continue to endure grinding poverty,⁵⁴ and cementing India's reputation as a country of stark inequality.⁵⁵

India now has the third highest number of billionaires, as well as a huge proportion of people suffering from poverty and hunger in the world today.⁵⁶ As the rich get richer through crony capitalism, "the poor are still struggling to earn a minimum wage and access quality education and healthcare services, which continue to suffer from chronic under-investment."⁵⁷ The widening gap between the rich and poor has also exacerbated inequalities along the lines of caste, gender, region, and religion—inequalities that long predated the economic reforms.⁵⁸

54. *Id.*; see also Jens Lerche, *The Farm Laws Struggle 2020–2021: Class-Caste Alliances and Bypassed Agrarian Transition in Neoliberal India*, 48 J. PEASANT STUD. 1380, 1389 (2021) ("Compared to the times of greater government support to the agricultural sector, before 1991, small farmers have clearly lost out compared to other groups. They—as well as informalised labourers, Dalits, Adivasis, etc.—have been on the wrong side of the increasing inequality gap in India.").

55. *India: Extreme Inequality in Numbers*, OXFAM INT'L (May 21, 2019), <https://www.oxfam.org/en/india-extreme-inequality-numbers> [<https://perma.cc/D2FX-WS5B>]. See also Carmen G. Gonzalez, *Trade Liberalization, Food Security and the Environment: The Neoliberal Threat to Sustainable Rural Development*, 14 TRANS. L. & CONTEMP. PROB. 419, 471 (2004) (arguing that for developing countries, "the neoliberal policy prescription of the World Bank, the IMF, and the WTO reinforced debilitating specialization in agro-export production, accelerated the adoption of ecologically harmful monocultures, and increased rural poverty and inequality").

56. *Forbes' Richest List: India Ranks Third Among Countries with Most Billionaires*, THE INDIAN EXPRESS (Apr. 8, 2021), <https://indianexpress.com/article/business/india-top-richest-billionaires-mukesh-ambani-gautam-adani-shiv-nadar-radhakishan-damani-uday-kotak-7264167/> [<https://perma.cc/8KBM-RGF2>]; *FAO in India: India at a Glance*, FOOD & AGRIC. ORG. U.N., <https://www.fao.org/india/fao-in-india/india-at-a-glance/en/> [<https://perma.cc/FUH3-TX5Z>] (last visited Feb. 11, 2022) (noting that almost 98 million people live in extreme poverty in India, which is home to one-quarter of the world's hungry).

57. OXFAM INT'L, *supra* note 55.

58. See Narasimhaiah, *supra* note 52, at 517 ("Neoliberalization has compounded the regressive dynamics of a society that has yet to fully remove the shackles of feudalism."); Narula, *Equal by Law, Unequal by Caste*, *supra* note 41, at 284 ("[E]conomic reforms in India cling faithfully to the flawed 'trickle down' theory—a theory that holds even less relevance for Dalits . . . for whom few benefits can permeate the caste ceiling or trickle below the 'upper-caste' stranglehold on the fruits of economic growth.").

Neoliberal reforms unleash structural violence.⁵⁹ They are violent in their restructuring of economies, in their rupturing of States' duties to their citizens, and in their relegating of entire communities into states of precarity, ultimately rendering them economically disposable. In the case of Indian farmers, and as explored in the next section, the industrialization of agriculture, combined with neoliberal economic reforms, has proven to be a deadly combination.

C. Farmer Suicides

1. Indebted to Death

Between 1995 and 2018, nearly 400,000 farmers died by suicide in India. That's an average of 48 suicides a day, every day, over a period of 23 years.⁶⁰ Indian farmer suicides—which continue unabated—represent the largest wave of recorded suicides in human history.⁶¹ These are the casualties of India's agrarian crisis. Small and marginal farmers are disproportionately affected.⁶² The situation has been particularly dire for cotton farmers in the western state of Maharashtra and elsewhere.⁶³ The situation is also dire in the state of

59. See Johanna Oksala, *Violence and Neoliberal Governmentality*, 18 CONSTITUTIONS 474, 474 (2011) (seeing economic violence in neoliberal settings as “an instrument for redistributing power in a way that benefits certain sectors of the population . . . while disadvantaging the majority”); Nitasha Kaul, *The Economics of Turning People into Things*, 52 DEV. 298, 299 (2009) (understanding economic violence as “not only the violence caused for economic reasons, but also the violence caused by spurious economics”); see also Chaumtoli Huq, *Charting Global Economic Inequalities and Revealing Human Rights Responses from the Ground Up: The Tea Worker Movement of Bangladesh*, 52 COLUM. HUM. RTS. L. REV. 372, 373 (2020) (using Bangladesh's tea worker movement to show how “national and international legal structures and economic policies facilitate the entry of global capital in subnational spaces, threatening the displacement of marginalized communities and creating further economic inequality”).

60. Nanda Kishore Kannuri & Sushrut Jadhav, *Cultivating Distress: Cotton, Caste and Farmer Suicides in India*, 28 ANTHROPOLOGY & MED. 558, 559 (2021).

61. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, EVERY THIRTY MINUTES: FARMER SUICIDES, HUMAN RIGHTS, AND THE AGRARIAN CRISIS IN INDIA 3 (2011).

62. Though seldom centered in the discourse or scholarship, Dalits and members of so-called “backward castes” are particularly at risk as they lack not only economic but also social and cultural capital to survive the volatility of the agrarian condition. Kannuri & Jadhav, *supra* note 60, at 559, 569.

63. As a cash crop, cotton is particularly vulnerable to price fluctuations in the global market. It is also more susceptible to damage from weather and pests. The increasing role of multinational agribusiness giants in cotton production has

Punjab where according to a study commissioned by the Punjab Government, 16,606 farmers and farm laborers died by suicide between 2000 and 2014.⁶⁴

Debt is the proximate cause for many farmer suicides. In the absence of sufficient public credit, and in order to purchase expensive farming inputs, smallholder farmers often take out loans from community moneylenders who charge exorbitant interest rates. During a bad year, money from the sale of crops might not cover even the initial cost of the inputs, let alone suffice to pay the usurious interest on loans or provide adequate food or necessities for the family. Often the only way out is to take on more loans and buy more inputs, which in turn can lead to even greater debt.⁶⁵

At the same time, farmers are dealing with increased living costs as healthcare and education services are defunded,⁶⁶ and with weather patterns that have been altered by climate change. The monsoon rains are shorter and more intense and are followed by months of drought⁶⁷ which contribute to lower yields, especially where

also increased costs while reducing yields and profits for many cotton farmers. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, *supra* note 61, at 1, 4, 6.

64. Ninety-seven percent of the suicides took place in the Malwa region, where many of the farmers' unions involved in the protests are active. Within the Malwa region, suicides were significantly higher in the six cotton-growing districts but affected the non-cotton growing districts as well. S. S. Dhaliwal, *Farm Suicides Continue Unabated in Punjab but There Is a Twist in the Tale*, NATIONAL HERALD (last updated Dec. 13, 2020, 7:55 PM), <https://www.nationalheraldindia.com/india/farm-suicides-continue-unabated-in-punjab-but-there-is-a-twist-in-thetale> [<https://perma.cc/3ZB3-5PGU>]; see also Hartosh Singh Bal, *Mandi, Market and Modi*, CARAVAN 28, 33 (Feb. 28, 2021), <https://caravanmagazine.in/essay/farm-laws-adani-reliance> (on file with the *Columbia Human Rights Law Review*) (commenting that wheat and paddy farmers in Punjab are keenly aware of the benefits of an assured MSP-public procurement system as they have witnessed the grim toll of the profession on cotton farmers, whose crops are only partially publicly procured and for which MSPs are not fully realized).

65. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, *supra* note 61, at 1.

66. Tanya Singh et al., *Resisting a "Digital Green Revolution": Agri-logistics, India's New Farm Laws and the Regional Politics of Protest*, 32 CAPITALISM NATURE SOCIALISM 1, 5–6 (2021).

67. Living on Earth, *India's Farm Crisis and the Climate Emergency*, PUBLIC RADIO EXCHANGE, at 01:05 (Feb. 12, 2021), <https://loe.org/shows/segments.html?programID=21-P13-00007&segmentID=1> [<https://perma.cc/VL9K-6EGF>].

irrigation is either insufficient or non-existent.⁶⁸ Over time, farmers find themselves trapped in a cycle of insurmountable debt.⁶⁹

In addition to financial distress, farmers who fail to pay their debts risk public humiliation and a loss of honor and social standing. As such, suicides result not just from the tremendous financial pressures that farmers face, but also from farmers' shame of not being able to pay back their debts or of losing their family land.⁷⁰

2. Suicide as a Form of State Violence

As astounding as farmer suicide figures are, they underestimate the real toll of the crisis as official statistics often fail to capture the deaths of those who do not have title to land—a key

68. Most Indian smallholder farmers do not have irrigation systems and rely on monsoon rains to water their crops. Pinki Mondal, *Help for Indian Small Farmers in a Changing Climate*, COLUM. CLIMATE SCHOOL: STATE OF THE PLANET (July 10, 2015), <https://news.climate.columbia.edu/2015/07/10/help-for-indian-small-farmers-in-a-changing-climate/> [https://perma.cc/QWC6-5V2P].

69. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, *supra* note 61, at 10. The COVID-19 pandemic, which resulted in widespread disruptions to markets and livelihoods and an increase in staple food prices, also increased pressures on farmers and agricultural laborers. UN WORLD FOOD PROGRAMME, FOOD SECURITY RESPONSE DURING COVID-19 AND PDS BEST PRACTICES IN SOME STATES/UTS 8 (2021), https://docs.wfp.org/api/documents/WFP-0000133645/download/?_ga=2.217996563.447838072.1644597014-1938680503.1644597014 [https://perma.cc/SP3P-HY94]. Even amid an economic contraction, the agricultural sector, which was buoyed by a good monsoon, grew in 2020–2021. Mekhala Krishnamurthy, *Indian Agriculture and Its Contradictions*, SEMINAR (Jan. 3, 2022), <https://india-seminar.com/2022/749/749-MEKHALA%20KRISHNAMURTHY.htm> [https://perma.cc/7X3G-3FJK]. While the agricultural sector recorded positive growth in 2020, it also recorded a higher number of suicides than the previous year. According to the National Crime Record Bureau, 10,677 persons involved in the farming sector died by suicide in 2020. NAT'L CRIME REC. BUREAU, ACCIDENTAL DEATHS & SUICIDES IN INDIA 2020, at 203 (2020), https://ncrb.gov.in/sites/default/files/ADSI_2020_FULL_REPORT.pdf (on file with the *Columbia Human Rights Law Review*). In 2019, 10,281 suicides were recorded in the farming sector. NAT'L CRIME REC. BUREAU, ACCIDENTAL DEATHS & SUICIDES IN INDIA 2019, at 201 (2019), https://ncrb.gov.in/sites/default/files/Chapter-2-Suicides_2019.pdf (on file with the *Columbia Human Rights Law Review*).

70. See Leemamol Mathew, *Coping with Shame of Poverty: Analysis of Farmers in Distress*, 22 PSYCH. & DEVELOPING SOCIETIES 385, 385–87, 393, 399–400 (2010) (explaining that farmers' shame of being unable to repay loans and public shaming by moneylenders are essential contributing factors in farmer suicides); see also Anita Gill & Lakhwinder Singh, *Farmers' Suicides and Response of Public Policy: Evidence, Diagnosis and Alternatives from Punjab*, 41 ECON. & POL. WKLY. 2762, 2765 (2006) for further exploration of the same.

criterion to be considered a farmer.⁷¹ How a farmer is defined has significant implications. Those who farm but lack title to land cannot avail themselves of government schemes designed to benefit farmers.⁷² And when they end their lives because of agrarian distress, their death does not count as a “farmer suicide.” Their surviving family members are therefore unable to access the little governmental relief that may be on offer.⁷³

By focusing on who owns the land being farmed, rather than the person doing the farming, the economic contributions of those who lack land titles are deeply diminished. This includes women, Dalit, and Adivasi (Indigenous) farmers, as well as agricultural laborers.⁷⁴ It is estimated that 60-70% of farmers in India are actually women but many are not considered farmers because their names rarely appear

71. Kabir Agarwal, *Indian Agriculture’s Enduring Question: Just How Many Farmers Does the Country Have?*, THE WIRE (Mar. 9, 2021), <https://thewire.in/agriculture/indian-agricultures-enduring-question-just-how-many-farmers-does-the-country-have> [https://perma.cc/GU3Y-UXBH]. The NCRB defines “farmers/cultivators” as “those whose profession is farming and include[s] those who cultivate on their own land as well as those who cultivate on leased land/other’s land with or without the assistance of agricultural labourers.” NAT’L CRIME REC. BUREAU 2020, *supra* note 69, at 239 n.1.

72. Priscilla Jebaraj, *Who Is a Farmer? Government Has No Clear Definition*, THE HINDU (Dec. 2, 2019, 2:06 PM), <https://www.thehindu.com/sci-tech/agriculture/who-is-a-farmer-government-has-no-clear-definition/article61612154.ece> [https://perma.cc/J5B7-ZRG7]. Suicides among agricultural laborers climbed by 18% between 2019 and 2020, a fact that has been attributed in part to the ineligibility of landless laborers for financial support under the country’s ‘PM-Kisan’ scheme which provides income support to small and marginal landholding farmer families. Vishwa Mohan, *Suicides of Agricultural Labourers Rise by 18%: NCRB Report*, THE TIMES OF INDIA (Oct. 29, 2021, 10:38 AM), <https://timesofindia.indiatimes.com/india/suicides-of-agricultural-labourers-rise-by-18-ncrb-report/articleshow/87344897.cms> [https://perma.cc/ZU9D-J5EU].

73. See Dnyandev Talule, *Farmer Suicides in Maharashtra, 2001–2018*, 55 ECON. & POL. WKLY. 116, 117 (2020) (stating that a large percentage of suicides between 2001 and 2018 in parts of Maharashtra “were declared as ineligible farmer suicides” because farmers lacked proper title to land). Families of such farmers were also deemed ineligible for state compensation. *Id.*

74. P. Sainath, *The Slaughter of Suicide Data*, P. SAINATH: RURAL REPORTER (Aug. 5, 2020), <https://psainath.org/the-slaughter-of-suicide-data/> [https://perma.cc/LXM7-F5Q7]. The NCRB defines “agricultural labourers” as persons “who primarily work in [the] farming sector (agriculture/horticulture) [and] whose main source of income is from agriculture labour activities.” NAT’L CRIME REC. BUREAU 2020, *supra* note 69, at 239 n.3.

on land ownership documents.⁷⁵ Nearly 40,000 female farmers are estimated to have died by suicide between 1997 and 2012, but these deaths are not reflected in National Crime Record Bureau (NCRB) statistics.⁷⁶ Even within India's forgotten countryside, some deaths count less than others.

The Indian government has also gone to great lengths to minimize the farmer suicide crisis. Rather than recognizing and addressing these deaths as the byproduct of neoliberal policies, farmer suicides are normalized as part of the general societal condition.⁷⁷ In 2014, the NCRB also instituted major changes to their methodology for suicide data collection, which resulted in dramatic decreases in the accounting of reported farmer suicides from the year prior.⁷⁸ Erasure, too, is a form of State violence.

75. Sainath, *supra* note 74. Women are also seldom identified as farmers—only as farmers' wives—further undermining their agency and their access to resources. Gowri Janakiramanan, Note, *Protecting the Living Victims: Evaluating the Impact of India's Farmer Suicide Crisis on Its Rural Women*, 20 WM. & MARY J. WOMEN & L. 491, 494, 512 (2014). This phenomenon is not limited to India. See, e.g., Julie C. Keller, "I Wanna Have My Own Damn Dairy Farm!": *Women Farmers, Legibility, and Femininities in Rural Wisconsin, U.S.*, 29 J. RURAL SOC. SCI. 75, 75 (2014) (noting that women farmers in Wisconsin, U.S. "often face an uphill battle in asserting themselves as farmers, particularly if they are living and working in communities in which masculinities and femininities have been shaped over time by the gendered symbolic categories of *farmer* and *farm wife*").

76. K. Nagaraj et al., *Farmers' Suicides in India: Magnitudes, Trends, and Spatial Patterns, 1997-2012*, 4 REV. OF AGRARIAN STUD. 53, 58–59 (2014).

77. See, e.g., P. Sainath, *Agrarian Crisis and Farmers' Suicide*, 22 INDIA INT'L CENT. OCCASIONAL PUBL'N 1, 10–11 (2012), <https://iicdelhi.in/sites/default/files/2020-11/Occ%20Pub%2022.pdf> [<https://perma.cc/KP3Y-AQUG>] (discussing a study in the state of Kerala which declared that farmer suicides had nothing to do with the agrarian crisis, and citing another study where the government of the state of Maharashtra asserted that one should not look at farmer suicides as a ratio of farmers, but as a ratio of the general population).

78. Devanik Saha, *No One Believes NCRB's Farmer Suicide Data, Not Even NCRB*, HINDUSTAN TIMES (July 21, 2015, 1:10 PM), <https://www.hindustanimes.com/india/no-one-believes-ncrb-s-farmer-suicide-data-not-even-ncrb/story-yOEGCC8nNZkZ10KwE7TQOI.html#> [<https://perma.cc/7QVZ-A6SW>] (stating that in 2013, farmer suicides constituted 9% of total suicides in India, but only 4.3% in 2014). In 2014, the NCRB began classifying farm-related suicides under two categories, farmers and agricultural laborers, and also shuffled many farmer suicides into the category of "Others." The suicides of thousands of tenant farmers—who cultivate land owned by others and pay rent for the land either in cash or with a share of the produce grown—were subsequently recorded as those by agricultural laborers, which further served to dilute farmer suicide numbers. P. Sainath, *supra* note 74.

As the government minimizes the suicide crisis, it also avoids taking responsibility for it. Indeed, a significant byproduct of neoliberalism is its shifting of responsibility away from the State and towards individuals for not being able to compete in a system that was never designed to let them survive, let alone thrive.⁷⁹ For farmers, the internalization of this responsibility, and with it shame, can leave them both financially and emotionally exploited.

As described above, small-scale farmers in India live in a state of constant distress and with an undercurrent of anxiety over their own annihilation.⁸⁰ Ironically, many farmers end their lives “by ingesting the very pesticide they went into debt to purchase.”⁸¹ Suicides that result from policy-induced extreme economic distress can also be seen as a form of State violence. Farmers may die by their own hands, but it is the State that brings them to the brink of self-annihilation.⁸² On a related point, Kannuri and Jadhav opine that farmers’:

pervasive humiliation and lack of hope is ‘cultivated’ by a cascade of decisions taken by others with little or no

79. See HARVEY, *supra* note 47, at 65–66, 76 (stating that under neoliberalism, “[i]ndividual success or failure are interpreted in terms of entrepreneurial virtues or personal failings (such as not investing significantly enough in one’s own human capital through education) rather than being attributed to any systemic property” and adding that “[t]he social safety net is reduced to a bare minimum in favour of a system that emphasizes personal responsibility”); see also Margot J. Pollans, *Eaters, Powerless by Design*, 120 MICH. L. REV. 643, 670 (2022) (arguing, in the context of critiquing U.S. food law, that neoliberal “[r]esponsibilization . . . deemphasizes structural causes of poverty and places the blame on the poor”).

80. Still, it is the economic rather than the emotional distress that is foregrounded in the farmers’ movement, unlike movements for racial, gender, and climate justice that, as argued by Noa Ben Asher, “rely heavily on the rhetoric and logic of emotional trauma.” Noa Ben Asher, *Trauma-Centered Social Justice*, 95 TULANE L. REV. 95, 97 (2020).

81. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, *supra* note 61, at 1; see also Behere et al., *Suicidal Ideation and Pesticide Exposure in Rural Communities of Central India*, 12 J. NEUROSCIENCES IN RURAL PRAC. 623, 624 (2021) (noting that pesticide consumption and hanging are common methods employed for suicide and listing the easy availability of poisons and pesticides as an important factor in farmer suicides).

82. The Indian government’s fomentation of the agrarian crisis, and its failure to address or even fully acknowledge farmer suicides, bring to mind philosopher Achille Mbembe’s work on necropolitics in which he argues that the ultimate expression of sovereignty is “the capacity to define who matters and who does not, who is *disposable* and who is not.” Achille Mbembe, *Necropolitics*, 15 PUBLIC CULTURE 11, 27 (Libby Meintjes trans.) (2003).

responsibility to the farmers and the land they hope to cultivate. Suicide resolves the farmers' humiliation and is a logical conclusion to farmers' exclusion from decisions which increase their debt and reconfigure agricultural spaces into socially toxic places.⁸³

For family members left behind, however, there is no resolution. To the contrary, behind each suicide statistic lies an intense familial tragedy: families inherit their loved ones' debt, children drop out of school to become farmhands, and surviving family members may themselves end their lives out of sheer desperation.⁸⁴ The State has, in effect, turned rural communities into neoliberalism's "sacrifice zones," all while obfuscating and concealing the mental, familial, and societal havoc that its policies have caused.⁸⁵

D. "One Nation, One Market" and the State-Corporate Nexus

In addition to dealing with increasing financial and emotional distress, a pandemic, and the ecological debt of the Green Revolution, farmers are also battling the rise of oligarchic power in India, ushered in by a government intent on centralizing power. Although successive Indian governments have sought to liberalize the Indian economy over the past few decades, privatization and the centralization of power "have accelerated in periods of BJP rule."⁸⁶ A key platform of the BJP-led National Democratic Alliance is the building of "One Nation, One

83. Kannuri & Jadhav, *supra* note 60, at 571.

84. CENTER FOR HUMAN RIGHTS AND GLOBAL JUSTICE, *supra* note 61, at 1. Women bear the brunt of suicides as they are forced to take on the work and debt left behind by their husbands, fathers, or brothers, and may be harassed by moneylenders to repay the loans. Janakiramanan, *supra* note 75, at 493–494.

85. The term "sacrifice zones" is used in environmental justice literature to describe areas where predominantly low-income communities and communities of color experience dangerously elevated levels of hazardous chemicals due to their proximity to polluting industries. STEVE LERNER, SACRIFICE ZONES: THE FRONT LINES OF TOXIC CHEMICAL EXPOSURE IN THE UNITED STATES 2 (2012). Margot J. Pollans uses the language of "sacrifice zones" to describe the communities who bear the costs of the industrial food system, arguing that "[d]ominant food security narratives tend to erase smallholder farmers," whose livelihoods and bodies are "sacrificed" in order to expand certain kinds of agricultural technologies, increase farmland consolidation, and promote "free trade." Margot J. Pollans, *Bodies as Food System Sacrifice Zones*, in RESEARCH HANDBOOK ON INTERNATIONAL FOOD LAW (Michael Roberts ed. forthcoming 2023).

86. Singh et al., *supra* note 66, at 11.

Market.”⁸⁷ For agriculture, this means overcoming the fragmentation of markets at the state level, and creating a unified national market that directly connects buyers and farmers, including through an electronic trading platform for agricultural commodities.⁸⁸

Amy Cohen and Jason Jackson comment that the BJP is seeking “a market that is legible to and governable by a single, centralized state.”⁸⁹ A unified national market can also more easily be captured by powerful conglomerates such as Reliance Industries Limited and the Adani Group, which are headed by billionaires Mukesh Ambani and Gautam Adani, respectively, and which have benefited greatly from BJP rule.⁹⁰ These corporate conglomerates are also heavily invested in agriculture.⁹¹ Cohen and Jackson add that large-scale corporate actors like Ambani and Adani are seen to offer “regulatory and market governance benefits against existing small-scale traders” whose webs of wholesale markets “seem resistant to national-level state control.”⁹²

The centralization of power also requires the manufacturing of consensus and the crushing of dissent. Examples abound of India’s use of draconian laws to criminalize and silence dissent⁹³ and its growing

87. Sayantan Bera, *Government Planning ‘One Nation, One Market’ in Agricultural Sector*, MINT (May 2, 2017, 4:42 AM), <https://www.livemint.com/Politics/W8qZHagCw6huzwW3ukSTcN/Government-planning-one-nation-one-market-in-agriculture.html> [<https://perma.cc/B5C5-D4FW>].

88. See *infra* note 130 and accompanying text.

89. Amy J. Cohen & Jason Jackson, *Paradoxes of Neoliberal Governance: How Markets Make States*, LPE PROJECT (Apr. 4, 2021), <https://lpeproject.org/blog/paradoxes-of-neoliberal-governance-how-markets-make-states/> [<https://perma.cc/3W9W-RN3J>].

90. Singh et al., *supra* note 66, at 11 (stating that since the BJP came to power nationally in 2014, Ambani, for instance, “has acquired near-monopoly in petrochemicals, retail, textiles and telecoms, while Adani . . . has captured infrastructural sectors including airports and ports.”).

91. “Since the early 2000s domestic Indian conglomerates, often with wealth from extractive industries and technology, [have] been investing billions in modernizing food supply chains. When they struggled to gain market share on the ground, planners invited multinational capital into the mix.” Cohen & Jackson, *Governing Through Markets*, *supra* note 50, at 410. The BJP has continued to push through FDI reforms in the food retail sector initiated by the Congress party in 2012, while also propping up domestic conglomerates. *Id.* at 414.

92. Cohen & Jackson, *supra* note 89.

93. See *infra* notes 194–198 and accompanying text.

restrictions on press freedom.⁹⁴ Most media houses in India are owned by private corporations with close ties to the BJP, including Reliance Industries.⁹⁵

The manner in which the 2020 Farm Laws were adopted further implies that the BJP's ultimate goal was to transfer regulatory authority over agricultural markets from state governments to the center. The laws were first introduced as ordinances in June 2020, at the height of the first wave of the COVID-19 pandemic. They were passed on September 20, 2020 without deliberation, and by using a voice vote rather than a recorded vote, causing an uproar amongst opposition legislators in parliament.⁹⁶ In addition, the laws were seen as running afoul of federal principles, since under the Indian Constitution, agriculture falls under the purview of states and provinces, not the central government.⁹⁷

The passage of the Farm Laws also undermined India's constitutional commitment to being a modern welfare state. Ultimately, and as described in the next section, the government was prepared to hand over a key sector to private interests whose profit-maximization motives were at sharp odds with India's duty to protect the welfare of its citizens and the environment.

94. HUMAN RIGHTS WATCH, *WORLD REPORT 2022: INDIA* (2022), <https://www.hrw.org/world-report/2022/country-chapters/india> [<https://perma.cc/8A6X-TB8Z>].

95. Matt Dagher-Margosian, *Trolley Times: The Farmers Protests & Fighting for India's Soul*, ASIA ART TOURS (Aug. 17, 2021), <https://asiaarttours.com/trolley-times-the-farmers-protests-fighting-for-indias-soul/> [<https://perma.cc/P3G8-KQLS>]; Megha Bahree, *Reliance Takes Over Network18: Is This The Death Of Media Independence?*, FORBES (May 30, 2014, 2:36 PM), <https://www.forbes.com/sites/meghabahree/2014/05/30/reliance-takes-over-network18-is-this-the-death-of-media-independence/?sh=1dbfd7d665c1> [<https://perma.cc/WSL5-QSMS>].

96. S.N. Sahu, *The Way Farm Bills Passed in Rajya Sabha Shows Decline in Culture of Legislative Scrutiny*, THE WIRE (Sept. 21, 2020), <https://thewire.in/politics/farm-bills-rajya-sabha-legislative-scrutiny> [<https://perma.cc/MQZ9-FQUZ>].

97. Vinay Sankar, *The Commodification of Food, Farming and Farmers: A Critical Review of Farm Laws*, 8 SPACE AND CULTURE, INDIA 18, 19 (2020); see also Sruthisagar Yamunan, *Centre's Farm Bills Attempt to Bypass State Laws on Agriculture. How Can the States Respond?*, SCROLL.IN (Sept. 22, 2020, 9:56 AM), <https://scroll.in/article/973678/centres-farm-bills-attempt-to-bypass-state-laws-on-agriculture-how-can-the-states-respond> [<https://perma.cc/BU7H-ENDU>] (noting that “[w]hile agriculture is in the state list under the Constitution, Entry 33 of the Concurrent List provides Centre and the states powers to control production, supply and distribution of products of any industry, including agriculture”).

E. Green Revolution 2.0?

Unironically dubbed by some as Green Revolution 2.0,⁹⁸ and by Prime Minister Modi as a “watershed moment in the history of Indian agriculture,”⁹⁹ the 2020 Farm Laws attempted a dramatic regulatory overhaul of Indian agricultural law and policy. As observed by Sarang Narasimhaiah, the Farm Laws can be seen as “an extreme manifestation—and perhaps the culmination—of the neoliberalization drive that has plagued India’s small farmers for decades.”¹⁰⁰

This section begins with a brief overview of the existing *mandi*, public procurement, and public distribution system—a system that farmers feared the laws would dismantle—followed by an analysis of the key features of the three Farm Laws. I argue that in their implementation, the Farm Laws would have compounded asymmetries of power between corporations and farmers, and between the State and its citizens. I further argue that the laws threatened rural livelihoods, food security, and the environment.

1. *Mandis*, Minimum Support Prices, and the Public Distribution System

As referenced in Part I.A., in order to incentivize the adoption of Green Revolution technologies in the 1960s, the Indian government instituted Minimum Support Prices (MSPs) for wheat and paddy, which it then procured for public distribution.¹⁰¹ The procurement of these grains typically takes place at regulated agricultural market yards called *mandis*, which are governed at the state level via Agricultural Produce Market Committee (APMC) Acts that have been enacted in nearly all Indian states.¹⁰² These Acts were “initially

98. See, e.g., Mridula Ramesh, *Farms Acts Necessary for Green Revolution 2.0: Transparency, Income Support, Incentives and Communication Are Key*, FIRSTPOST (Dec. 18, 2020, 2:26 PM), <https://www.firstpost.com/india/farms-acts-necessary-for-green-revolution-2-0-transparency-income-support-incentives-and-communication-are-key-9123741.html> [<https://perma.cc/69B6-JWUQ>] (stating that the Farm Acts “are a much needed step to get us to Green Revolution 2.0”).

99. Bal, *supra* note 64 at 28.

100. Narasimhaiah, *supra* note 52, at 517.

101. Chatterjee & Mahajan, *supra* note 30, at 3.

102. See Amit Meharia & Amit Singhal, *Farm Laws and APMC: A Riddle of Agriculture Marketing in India*, KNOWLEDGE BANK (MCO Legals) June 11, 2021, at 1, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4123209 [<https://perma.cc/A4GP-4N6F>] (providing information on states that do not have APMC laws and what they instead have in place).

colonial-era legislation designed to govern the first point of sale between farmers and traders that [have] now evolved through complex regulatory arrangements of taxes, license fees, and dispute resolution services.”¹⁰³

Private Indian commission agents (*arhtiyas*) typically broker *mandi* sales, operating as intermediaries between the farmers and traders through a complex and informal network of personal relationships.¹⁰⁴ Most farmers depend on these agents for credit, price information, transportation, and storage.¹⁰⁵ This decentralized network based on reputation and patronage has been unwieldy for more consolidated corporations to navigate.¹⁰⁶

The MSP is a predetermined price that the Food Corporation of India, the government's grain procurement agency, commits to paying farmers so that they can recover the costs of cultivation.¹⁰⁷ MSPs also serve to incentivize the production of certain crops in order to ensure an abundant supply of key staple foods. Each year, the Indian government announces MSPs for 23 crops,¹⁰⁸ but far fewer are upheld

103. Amy J. Cohen et al., *Living Under Value Chains: The New Distributive Contract and Arguments About Unequal Bargaining Power*, 22 J. AGRARIAN CHANGE 179, 185 (2022).

104. Cohen, *supra* note 50, at 23.

105. Devesh Kapur & Mekhala Krishnamurthy, *Understanding Mandis: Market Towns and the Dynamics of India's Rural and Urban Transformations* 13 (Univ. of Pa. CASI Working Paper Series, Paper No. 14-02, 2014).

106. Cohen, *supra* note 50, at 57.

107. Udit Misra, *Explained: What are MSPs, and how are they decided?*, THE INDIAN EXPRESS (Mar. 3, 2022, 7:02 PM), <https://indianexpress.com/article/explained/everyday-explainers/farmers-crops-price-msp-explained-7789563/> [<https://perma.cc/ABY6-DAA8>]. The government bases its decision for the MSP amounts on the recommendations of the Commission for Agricultural Costs and Prices (CACP). These recommendations are based on a multitude of factors including the supply and demand of a commodity, the cost of production, and market price trends. *Id.* The Food Corporation of India is a statutory body that was set up in 1965. It procures, stores, and distributes food grains, along with state government agencies. FOOD CORP. OF INDIA, <http://www.fci.gov.in/> (last visited June 27, 2022) (on file with the *Columbia Human Rights Law Review*).

108. These include seven cereal crops, five pulses, seven oilseeds, and four commercial crops. Misra, *supra* note 107.

in practice.¹⁰⁹ The actual procurement at MSP varies by crop and region, though typically includes paddy and wheat.¹¹⁰

Although the public procurement system is geographically concentrated in a few areas of the country—according to one estimate, only 15–25% of Indian farmers benefit directly from the system¹¹¹—as noted by Kaur and Saratchand, “a wide cross section of the peasantry intuitively and correctly understand that an attenuation of even this relatively limited system of public procurement would undermine their viability.”¹¹² The absence of public procurement would also affect farmers whose crops are not publicly procured as it would increase the bargaining power of agribusiness actors engaged in private procurement.¹¹³

Significantly, MSP-based procurement is the foundation of India’s largest anti-poverty program. Once procured, wheat, rice and other select foods are provided as subsidized foods to households below the poverty line through a Public Distribution System and Fair Price Shops across India, which help feed huge swaths of the country’s population who are food insecure, including farmers themselves.¹¹⁴

109. Shagun, *Farm Laws: Is MSP Guarantee Really the Elixir That Indian Agriculture Needs?*, DOWNTOEARTH (Nov. 24, 2021), <https://www.downtoearth.org.in/news/agriculture/farm-laws-is-msp-guarantee-really-the-elixir-that-indian-agriculture-needs—80351> [<https://perma.cc/AX6A-EPZH>].

110. Misra, *supra* note 107.

111. Lerche, *supra* note 54, at 1382.

112. Navpreet Kaur & C. Saratchand, *The Struggle Against Corporate Encroachment in Indian Agriculture*, 46 CAP. & CLASS 159, 161 (2022); see also Pravesh Sharma & Rashmi Sharma, *Farmers’ Protest Far From Being Illogical*, FIN. EXPRESS (Dec. 24, 2020, 7:15 AM), <https://www.financialexpress.com/opinion/farmers-protest-far-from-being-illogical/2156336/> [<https://perma.cc/A6JQ-7CQT>] (noting that “farmers appear to sense, that with these reform laws, the government is signaling, even if not explicitly stating, that it will not invest in mandis.”).

113. Kaur & Saratchand, *The Struggle Against Corporate Encroachment*, *supra* note 112, at 116.

114. See NAT’L COMM’N ON FARMERS, SERVING FARMERS AND SAVING FARMING: JAI KISAN: REVISED DRAFT NATIONAL POLICY FOR FARMERS 1 (2006) [hereinafter NAT’L COMM’N ON FARMERS (2006)] (stating that “[a] majority of the hungry live in rural India and also depend on agriculture for their livelihood”). India’s National Food Security Act (2013), which was enacted after a long-fought civil society-led right to food campaign, “transform[ed] subsidized grain allotments into justiciable human rights.” Cohen & Jackson, *supra* note 36, at 407. Under the Act, up to 75% of India’s rural population and 50% of its urban population is entitled to receive subsidized food grains. National Food Security Act, 2013, § 20.II.3(2) (2013). See also Lerche, *supra* note 54, at 1382–83.

Publicly procured foodstuffs are also sold to private companies or channeled into a reserve of buffer stock.¹¹⁵

The current system is riddled with problems. With regard to *mandis*, for example, farmers have decried the cartelization and collusion between commission agents and buyers, the lack of transparency in the trading process, and delays in payments that force farmers to turn to commission agents for loans to cover expenses.¹¹⁶ This, in turn, leads to concentrations of power within the *mandi* system. Delays in payments through public procurement can also lead smaller farmers to sell to private procurers at a lower cost than offered by government MSPs.¹¹⁷ MSPs do not extend to the private sector where procurement prices typically fall 20–25% below government MSPs. Farmers must also transport their produce at their own expense and often over great distances.¹¹⁸ But even with these issues, *mandis* are still seen as providing “avenues for dispute resolution, accountability and stakeholder representation.”¹¹⁹ Studies have also shown that despite their shortcomings, farmers prefer dealing with commission agents over corporate actors. Many have also expressed strong reservations about contract farming, which the Farm Laws sought to facilitate.¹²⁰

Though MSPs are often inadequate, in agriculturally dependent states like Punjab and Haryana, the MSP together with the public procurement system at least provides farmers a guaranteed

115. See Singh et al., *supra* note 66, at 1, 4; Veena Dubal & Navyug Gill, “Long Live Farmer-Laborer Unity”: Contextualizing the Massive Resistance Going on in India, LPE PROJECT (Dec. 28, 2020), <https://lpeproject.org/blog/long-live-farmer-laborer-unity-contextualizing-the-massive-resistance-going-on-in-india/> [https://perma.cc/VP6W-UM46] [hereinafter Dubal & Gill, “Long Live Farmer-Laborer Unity”]; Suyash Tiwari, *MSP and Public Procurement*, PRS LEGISLATIVE RESEARCH: THE PRS BLOG (Dec. 9, 2020), <https://prsindia.org/theprsblog/msp-and-public-procurement> [https://perma.cc/M2PM-4M3N].

116. Singh et al., *supra* note 66, at 4; Sthanu R. Nair & Reddy Sai Shiva Jayanth, *How Farmers View the Existing Mandi System*, NEW INDIAN EXPRESS (Dec. 12, 2020, 7:14 AM), <https://www.newindianexpress.com/opinions/2020/dec/12/how-farmers-view-the-existing-mandi-system-2235123.html> [https://perma.cc/Y87Z-QAQC].

117. Shivam Dwivedi, *MSP & Public Procurement Must Be Considered Separately*, KRISHI JAGRAN (Jan. 10, 2022, 5:14 PM), <https://krishijagran.com/blog/msp-public-procurement-must-be-considered-separately/> [https://perma.cc/FAF9-7UD7].

118. *Id.*

119. Singh et al., *supra* note 66, at 4.

120. See *infra* notes 148–152 and accompanying text.

income.¹²¹ Farmers in these states therefore have much to lose if MSP structures are weakened.¹²²

Given the above, and as discussed in Part III, farmers' unions are seeking an expansion of MSPs and of public procurement to a greater range of crops. They are also demanding MSPs as a legal guarantee. But the 2020 Farm Laws were leading in the opposite direction. As described below, under the pretext of protecting farmers from commission agents, the new laws streamlined procurement contracts between farmers and retail firms, allowing firms to sidestep the complex network of wholesale markets and traders in the *mandi* system.¹²³ Additionally, the laws offered no guarantee that third-party non-governmental actors would be required to offer an MSP to farmers.¹²⁴ Taken together, the laws threatened to undermine the existing *mandi*-MSP-public procurement system and held potentially far-reaching socio-economic and environmental consequences.

2. The 2020 Farm Laws

The 2020 Farm Laws should be considered together to fully understand their scope and intention. The first of the three laws, the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act (FAPAFSA), provided a legal framework for farmers to engage in contract farming to produce for companies.¹²⁵ These contracts would serve as direct agreements

121. See Singh et al., *supra* note 66, at 5–6 (noting that MSPs “provid[e] minimal stability in regions that still have a well-functioning *mandi* system”).

122. EPW Engage, *Farmers' Protests: What are the Main Concerns Regarding the Farm Bills Passed by the BJP Government?*, ECON. & POL. WKLY (Dec. 11, 2020), <https://www.epw.in/engage/article/farmers%E2%80%99-protests-what-are-main-concerns-regarding> [<https://perma.cc/TT96-JP4R>]; see also Pritam Singh, Commentary, *BJP's Farming Policies: Deepening Agrobusiness Capitalism and Centralisation*, 55 ECON. & POL. WKLY (Oct. 10, 2020), <https://www.epw.in/journal/2020/41/commentary/bjps-farming-policies.html> (on file with the *Columbia Human Rights Law Review*) (noting that agribusiness interests in more industrial states like Gujarat and Maharashtra would ostensibly benefit from the Farm Laws “due to easier access to foodstuffs and agricultural raw materials from other states”).

123. EPW Engage, *supra* note 122.

124. *Id.*

125. The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, No. 20 of 2020, India Code (Sept. 20, 2020), <https://prsindia.org/billtrack/the-farmers-empowerment-and-protection-agreement-on-price-assurance-and-farm-services-bill-2020> [<https://perma.cc/M7FJ-X45R>] [hereinafter FAPAFSA]. The FAPAFSA purported to create a national framework

between a farmer and a “sponsor” to sell future harvests at pre-set prices, and could cover terms such as supply, quality, price, and agricultural inputs.¹²⁶ Critically, no MSP was guaranteed to farmers in the text of the Act.

The second of the three laws, the Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Act (FPTCA), was also known as the “APMC Bypass Bill.” It allowed farmers to engage in both inter-state and intra-state trade outside physical markets notified under state APMC acts.¹²⁷ The FPTCA removed the ability of states to levy taxes on sales outside the *mandi* system.¹²⁸ The rationale was to encourage farmers to sell their produce to big businesses and retailers outside *mandis* where, it was argued, they could procure better prices.¹²⁹ The FPTCA further proposed an electronic trading system to facilitate online trading with new parties.¹³⁰

“on farming agreements that protects and empowers farmers to engage with agri-business firms, processors, wholesalers, exporters or large retailers for farm services and sale of future farming produce at a mutually agreed remunerative price framework in a fair and transparent manner” as well as “for matters connected therewith or incidental thereto.” *Id.*

126. *Id.* at § 2(g), § 6. “Sponsors” include individuals, companies, partnership firms, limited liability groups, and societies. The contracts are capped at five years of maximum duration, unless the production cycle of a particular crop is longer than five years. *Id.* at § 3(3).

127. The Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Act, No. 21 of 2020, India Code (Sept. 20, 2020), <https://prsindia.org/billtrack/the-farmers-produce-trade-and-commerce-promotion-and-facilitation-bill-2020> [<https://perma.cc/B5MX-UKV3>] [hereinafter FPTCA], at §§ 3–4. The FPTCA defined itself an Act to: “provide for the creation of an ecosystem where the farmers and traders enjoy the freedom of choice relating to sale and purchase of farmers’ produce which facilitates remunerative prices through competitive alternative trading channels”; “promote efficient, transparent and barrier-free inter-State and intra-State trade and commerce of farmers’ produce outside the physical premises of markets or deemed markets notified under various State agricultural produce market legislations”; and “provide a facilitative framework for electronic trading and for matters connected therewith or incidental thereto.” *Id.*

128. *Id.* at § 6.

129. Anwar & Shakeel, *supra* note 36, at 573.

130. FPTCA, *supra* note 127, § 4(2). Here, some scholars argue that the deeper goal of the legislation was to “intensify the financialisation of agriculture and land, to capture existing logistical infrastructure, and to accelerate a new (digitalised) stage of the Green Revolution.” Singh et al., *supra* note 66, at 3. In part the electronic trading system relates to the electronic national agricultural market (e-NAM) which was set up in 2016 to “digitally link existing mandis” and “connect farmers and buyers across states.” *Id.* The e-NAM had “multiple design flaws” and has barely been used. *Id.* The FPTCA, “while nodding to the e-NAM, is vaguer and

The third law, the Essential Commodities (Amendment) Act (ECA), sought to amend the 1955 Essential Commodities Act by restricting the powers of the Indian government to regulate the supply, production, and distribution of essential agricultural commodities, effectively allowing businesses to stockpile an unlimited amount of essential food commodities.¹³¹

a. Compounding Asymmetries of Power

The 2020 Farm Laws were the subject of two vastly different and competing narratives. According to the central government and the Farm Laws themselves, the new acts would “free,” “protect” and “empower” farmers, and even enable them to “double their incomes.” On the day of the laws’ passage, for example, Prime Minister Modi tweeted:

For decades, the Indian farmer was bound by various constraints and bullied by middlemen. The bills passed by Parliament liberate the farmers from such adversities. These bills will add impetus to the efforts to double income of farmers and ensure greater prosperity for them.¹³²

In a televised speech days after the passage of the laws, Modi added: “A few days ago this country freed its farmers from a lot of constraints. Now farmers can sell their produce anywhere and to anyone.”¹³³ Modi is not the first to vilify commission agents or “middlemen.” Indian state elites have long characterized these actors as exploitative intermediaries who eat into farmer incomes and stand in the way of constructing efficient markets.¹³⁴

more capacious in scope—with notable regulatory elisions around data rights.” *Id.* at 9.

131. The Essential Commodities (Amendment) Act, No. 22 of 2020, India Code (2020), <https://prsindia.org/billtrack/the-essential-commodities-amendment-bill-2020> [<https://perma.cc/T7ED-N9LK>] [hereinafter ECA].

132. Narendra Modi (@narendramodi), TWITTER (Sept. 20, 2020, 2:51 AM), <https://twitter.com/narendramodi/status/1307618386013085698> [<https://perma.cc/CZ7T-CBPF>].

133. See France 24 English, *What’s Behind the Spate of Farmer Suicides in India?*, YOUTUBE (Oct. 20, 2020), <https://www.youtube.com/watch?v=VOfRRfjLpyY> [<https://perma.cc/R4NG-HHBW>] (excerpting the speech).

134. See Cohen & Jackson, *Governing Through Markets*, *supra* note 50, at 414 (noting that in 2012, India’s National Congress Party argued that allowing FDI in food retail would allow farmers to sell their goods directly and get a better price, and quoting Supreme Court judges who in upholding the constitutionality of FDI

On their face, the 2020 Farm Laws appeared to give farmers more freedom of choice by promoting the idea that they are now free to sell outside the *mandi* system, thereby freeing them from intermediary commission agents.¹³⁵ But many states had already granted this so-called freedom to farmers through state-level reforms.¹³⁶ In 2017, for example, Punjab amended its APMC Act to allow private actors to purchase produce at existing *mandis*. These reforms, however, were accompanied by significant state regulation. Private actors must be licensed by the state and must pay taxes, including a market fee that helps maintain the *mandis*, a rural infrastructure tax that helps maintain roads and infrastructure, and a commission for *arhtiyas* who provide cleaning, weighing, and grain sorting services before the grain is procured.¹³⁷ By contrast, the Farm Laws cut taxes and commission agents, along with their services, out of the picture. As a result, if significant procurement of food grains had moved outside the *mandi* system, the revenue that sustains *mandi* infrastructure would also have disappeared.¹³⁸

stated that “eradicating the traditional trade intermediaries/middlemen. . . who are a curse to [the] Indian economy and who are sucking it [dry]” would facilitate market access for farmers.); see also P. Sainath, *Punjab's Arhtiyas: Sins of Commission*, PEOPLE'S ARCHIVE RURAL INDIA (July 2, 2018), <https://ruralindiaonline.org/en/articles/punjabs-arhtiyas-sins-of-commission/> [https://perma.cc/UH4T-E3R9] (explaining that commission agents are a politically powerful group who wield great control over farmers through the mechanism of debt); Anju Agnihotri Chaba & Harish Damodaran, *Explained: Who Are Arhtiyas, Also Part of the Farmers' Protest? What Is Their Role?*, THE INDIAN EXPRESS (Dec. 15, 2020, 3:15 PM), <https://indianexpress.com/article/explained/the-arhtiya-business-7098629/> [https://perma.cc/55Y4-AJGK] (noting that commission agents also “extend[ed] critical support to the ongoing farmers’ agitation” to avoid the loss of jobs and impediments to the commission agents’ role).

135. EPW Engage, *supra* note 122.

136. Twenty-seven of the twenty-eight states that had APMC Acts had already made amendments to open up sales between farmers and a range of buyers outside the *mandi* system. Mekhala Krishnamurthy, *Farm Laws Debate Missed a Lot. Neither Supporters Nor Modi Govt Identified the Real Problem*, THE PRINT (Nov. 24, 2021, 10:13 AM), <https://theprint.in/opinion/farm-laws-debate-missed-a-lot-neither-supporters-nor-modi-govt-identified-the-real-problem/770867/> [https://perma.cc/7GXD-8ZTK]. The sale of farm produce outside the *mandi* system is also prevalent in states that have not legalized such sales. Anwar & Shakeel, *supra* note 36, at 573. Even outside *mandis*, farmers rely on commission agents to get their produce to the market. *Id.* at 574.

137. Bal, *supra* note 64, at 34.

138. *Id.*

The experience of farmers in the eastern state of Bihar is also instructive. In 2006, the Bihar state government abolished its APMC Act, allowing private actors to purchase agricultural produce from farmers directly.¹³⁹ In the wake of this abolition, “private investment in the creation of new markets and strengthening of facilities in the existing ones did not take place . . . leading to low market density.” When combined with the low scale and participation of government grain procurement, farmers were left “to the mercy of traders who unscrupulously fix lower prices for agricultural produce that they buy from farmers.”¹⁴⁰ Ultimately,

[p]rivatisation, ostensibly meant to squeeze out middlemen, only ended up fattening them in Bihar. What the protesting farmers claim will happen with the new laws has already come to pass in Bihar—procurement infrastructure has collapsed, private traders have a monopoly and purchase prices for farmers have plummeted.¹⁴¹

For their part then, farmers contended that the laws do not provide freedom to farmers by removing the barrier of the *mandi* system. Rather, the laws remove the protections and services that the *mandi* system provides.¹⁴² The ability of third parties to contract directly with farmers without adequate regulation essentially bolstered fears that the laws would fully unravel the *mandi* system and corporations would capture Indian agricultural markets, creating an

139. Chintan Patel & Vivek Kaul, *Bihar's APMC Story Does Not Inspire Much Confidence*, VIVEK KAUL (Mar. 3, 2021), <https://vivekkaul.com/2021/03/03/bihars-apmc-story-does-not-inspire-much-confidence/> [https://perma.cc/C5XH-TYMH] (noting that although the FPTCA “does not call for the closure of state APMCs . . . the core idea of deregulating agriculture trade outside of APMCs is the same.”).

140. Vivek Kaul, Opinion, *How Feasible Is MSP as a Legal Right? The Good, the Bad and the Impossible*, NEWSLAUNDRY (Dec. 4, 2021), <https://www.newslaundry.com/2021/12/04/how-feasible-is-msp-as-a-legal-right-the-good-the-bad-and-the-impossible> [https://perma.cc/Z2S9-3RL9].

141. Bal, *supra* note 64, at 34; see also Mukta Patil, *India's Farmer Protests Are Also About Climate Change*, SIERRA (Apr. 5, 2021), <https://www.sierraclub.org/sierra/india-s-farmer-protests-are-also-about-climate-change> [https://perma.cc/2NKH-K9TE] (noting that the 2006 abolishment of mandis in Bihar increased the volatility of grain prices and citing a 2018-19 study that “showed that deregulation had not led to improved infrastructure through private investment like the government claimed it would”).

142. EPW Engage, *supra* note 122.

increased dependence on corporate actors.¹⁴³ As noted above, what the Farm Laws might have actually accomplished in the short to medium term is more complex.¹⁴⁴ But the farmers correctly read the intent of the laws as an attack on a system that, even with its many failings, provides farmers greater market power than the system that the Farm Laws promoted—namely, one that sought to facilitate the growth of contract farming and the concentration of supply chains under the control of large corporations.

Studies have found that despite structural inequalities, many small producers prefer existing markets over a new corporate regime.¹⁴⁵ *Mandis* are spaces that farmers know how to navigate, whereas corporate capital is seen as “a predatory force, controlling and fixing prices outside [the physical and geographic space] of the market.”¹⁴⁶ Even the much-derided commission agents—who often double as moneylenders and charge high interest rates—are seen as “extend[ing] the information capabilities of buyers and sellers beyond what they could acquire individually,” while “creat[ing] relationships of trust among otherwise anonymous actors.”¹⁴⁷

143. *Id.*

144. See Cohen et al., *supra* note 103, at 185 (concluding that “[d]espite reforms in a number of states to encourage the growth of agribusiness and corporate retail-led value chains, a significant proportion of food crops still make their way from producer to consumer through a network of public markets or *mandis* (some regulated by APMC rules, some not).”). For a range of perspectives on the import and potential impact of the Farm Laws, see the following source and the essays linked to therein: *Introduction to e-Symposium: Understanding the New Farm Laws*, IDEAS FOR INDIA (Oct. 12, 2020), <https://www.ideasforindia.in/topics/agriculture/introduction-to-e-symposium-understanding-the-new-farm-bills.html> [<https://perma.cc/LP67-YA3M>].

145. See, e.g., Cohen, *supra* note 50, at 23–24, 41 (concluding, based on interviews with approximately one hundred small horticultural farmers in the state of West Bengal where the entry of corporate actors into the retail of food has been legally and politically resisted, that “for many small producers, existing markets represent a far more desirable economic, social, and political ideal (despite their inequalities and conflicts) than the corporate legal and contractual regime that would replace them”).

146. *Id.* at 65.

147. *Id.* at 49. In a study of wholesale grain markets in the state of Madhya Pradesh, farmers reported that although they experienced exploitation by commission agents, their condition worsened “once commission agents and the personal networks they had created were abolished in favor of ‘direct’ sales.” *Id.* at 51–52, (citing Mekhala Krishnamurthy, *Harda Mandi: Experiencing Change in an Agricultural Market in Central India (1980 – 2010)* (2011) (Ph.D. dissertation, University College London) (on file with University College London)).

Similarly, farmers have expressed “strong reservations” to contract farming, noting that “they preferred to hedge against risk through their more immediate knowledge of the market and market relations than through future contracts with powerful economic actors.”¹⁴⁸ Contract farming is seen as exacerbating, rather than ameliorating existing inequalities. Farmers fear a loss of control if the market is captured by corporate capital.¹⁴⁹ They argue that initially, private actors would likely purchase goods at a price higher than the MSP. Once their monopoly power was secured, they could then set prices far below the MSP.¹⁵⁰

Rajendra Singh, a farmer who had camped out with other protestors at the Singhu border, shared:

I have seen the dark side of contract farming. A big company came to our district, offered farmers very good deals for the first 2 years . . . payment was prompt. But in the third year, the company bought much less, rejected much of the yield . . . in the fourth year, it did not take anything.¹⁵¹

Singh feared that if such practices were encouraged, “the commission agents [would] eventually fade away and farmers will be trapped by these agribusinesses.” Contract farming, he concluded, “does not really expand choices when there is so much power asymmetry and farmers have little bargaining power.”¹⁵²

The Farm Laws essentially indulged the free market fantasy of marginal farmers and corporate actors meeting on a level playing field. This allusion to freedom assumes that small producers have agency in a deregulated market system. But without an MSP, the so-called freedom given to farmers to enter into contracts with private actors becomes illusory given their relative lack of bargaining power in such transactions.¹⁵³ As explored in Part I, small and marginal farmers experience high rates of indebtedness. Their economic desperation, in

148. Cohen, *supra* note 50, at 64.

149. *Id.* at 66–67.

150. See Behl, *supra* note 9, at 1142.

151. Patralekha Chatterjee, *Agricultural Reform in India: Farmers Versus the State*, 5 LANCET e187, e187 (2021).

152. *Id.*

153. A 2018 Model Act on contract farming published by the federal government recognized farmers as the weaker party and included regulatory provisions to make contracts less one-sided. By contrast, the 2020 Farm Laws, which streamlined rules of contract farming, lacked the “distributive language of the 2018 Model Act.” Cohen et al., *supra* note 103, at 185–86, 192.

turn, would affect their ability to negotiate a strong price for farm produce with their sponsors.¹⁵⁴ Farmers with limited time and resources would also be up against expensive lawyers hired by powerful corporate actors.¹⁵⁵

The Farm Laws also explicitly prohibited any judicial remedy for breaches of contract.¹⁵⁶ Under both the FPTCA and the FAPAFSA, parties must first arbitrate amongst themselves to settle disputes. If no resolution is reached, parties can submit a complaint to a Sub-Divisional Magistrate for resolution.¹⁵⁷ The Bar Council of Delhi, among others, decried the bar of civil court jurisdiction under the laws as a form of executive overreach, noting that handing over dispute settlement authority to administrative structures under the control of executive authorities violated the constitutional separation of powers between the executive and the judiciary.¹⁵⁸ By authorizing the Sub-Divisional Magistrate or Collector to settle disputes, the Acts also sidelined farmers' unions whose collective bargain power is an

154. Nayakara Veerasha, Letter to the Editor, *Missing Links in Farm Bills*, 55 ECON & POL. WKLY (last updated Oct. 10, 2020), <https://www.epw.in/journal/2020/41/letters/missing-links-farm-bills.html> [<https://perma.cc/6PAX-FPQR>] (adding that under FAPAFSA, small and marginal farmers would also be burdened with additional transaction and transportation costs) (on file with the *Columbia Human Rights Law Review*).

155. Pritam Singh, *supra* note 122. See also Amy J. Cohen, *Negotiating the Value Chain: A Study of Surplus and Distribution in Indian Markets for Food*, 45 LAW & SOC. INQUIRY 460, 478 (2020) (noting, in the context of "a qualitative study of how small farmers negotiate with the buyers of retail and agribusiness corporations in India" that farmers "may engage in practical forms of resistance and conflictual negotiations as they calculate how best to sustain their own existence under unequal bargaining conditions").

156. Under a provision labeled "Bar of jurisdiction of civil court," the FAPAFSA stated that "[n]o civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any dispute which a Sub-Divisional Authority or the Appellate Authority is empowered by or under this Act to decide" and "no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act or any rules made thereunder." FAPAFSA, *supra* note 125, § 19. Similar language is included in FPTCA, *supra* note 127, § 15.

157. FPTCA, *supra* note 127, § 3, ¶¶ 3-5. See also FAPAFSA, *supra* note 125, § 14 (1). Under the APMC system, disputes are settled by state committees whose members are more accessible to farmers than the regulatory authorities proposed by the Farm Laws. Moudgil, *supra* note 10.

158. Letter from Ramesh Gupta, Senior Advocate, Chairman, Bar Council of Delhi, to Narendra Modi, Prime Minister of India (Dec. 2, 2020), <https://theleaflet.in/wp-content/uploads/2020/12/Bar-Council-Delhi-Letter.pdf> [<https://perma.cc/5PWQ-BKX5>].

essential asset in settling disputes in a manner that preserves farmers' interests.¹⁵⁹

In the end, rather than “freeing” farmers and creating an “ecosystem” where farmers are “empowered” and “protected,” the reforms envisioned by the Farm Laws would thrust farmers into unregulated market spaces with acute debt and little bargaining power to negotiate contracts, and without any judicial recourse should the buyer renege on the contract's terms.¹⁶⁰ As described below, structural changes such as these are not abstract. Farmers faced potentially significant consequences to their daily lives if the Farm Laws were implemented as intended.

b. Socio-Economic and Environmental Risks

i. Land and Livelihood Loss

The farmers' protests were driven in part by their acute fear that the sale of goods far below the MSP would cripple their livelihoods, and ultimately dispossess them of their already meager landholdings.¹⁶¹ Farmers further understood that in the context of rising unemployment rates and casualized labor markets, “there is no post-agricultural future if they are dispossessed.”¹⁶² As one student leader involved in the protests declared, under the laws, “a specter of

159. Nayakara Veerasha, *Farm Bills, 2020: Agrarian Liberalisation or Insurrection?*, SOCIALSCIENCES.IN (Jan. 3, 2021, 1:03 PM), <http://www.socialsciences.in/article/farm-bills-2020-agrarian-liberalisation-or-insurrection> [https://perma.cc/HGT5-AVL8]. See also Anwar & Shakeel, *supra* note 36, at 574.

160. Both the FAPAFSA and the FPTCA also inoculated the government from any liability. FAPAFSA, *supra* note 125, § 18; FPTCA, *supra* note 127, § 13.

161. Although Section 15 of FAPAFSA states that “no action for recovery . . . shall be initiated against the agricultural land of the farmer,” the farmer can still end up in debt, forcing them to sell their land to cover their losses. See Kiran Vissa & Yogendra Yadav, *Modi Govt's Proposal Shows It Wants Farmers to Look Unreasonable, not Address Their Concerns*, THE PRINT (Jan. 6, 2021, 5:02 PM), <https://theprint.in/opinion/modi-govts-proposal-shows-it-wants-farmers-to-look-unreasonable-not-address-their-concerns/580575/> [https://perma.cc/TPR8-WDDP].

162. Singh et al., *supra* note 66, at 14.

mass landlessness and indebtedness was looming large over Punjab, as well as the rest of the country.”¹⁶³

Shifts in land use that accompany the growth of corporate farming can also affect landless laborers, many of whom are Dalits. As more land is pulled into agricultural production, their access to common lands, which are relied upon for foraging and livestock grazing, would be ruptured.¹⁶⁴ With large corporate retail chains threatening to displace retail chains driven by small traders, the specter of mass unemployment in urban areas also loomed large.¹⁶⁵ And given that corporate farming would lead to larger, fewer, and more mechanized farms that required less labor, the livelihoods of rural landless laborers faced increasing threats.¹⁶⁶

Though not as well considered, the laws also held gender-based impacts. Narasimhaiah, for example, argues that the elimination of intermediaries would deprive women of an important source of institutional credit, adding that “the notion of competition that [the laws advanced] additionally ignored many other obstacles confronting women in the agricultural sector, such as mobility, access to markets, and generational networks to secure buyers and up-to-date price information.”¹⁶⁷

ii. Food Insecurity

Taken together, the Acts also held potentially significant implications for food security in India. Beyond the impact of the Farm Laws on farmers' own livelihoods, and in turn food security, an estimated two-thirds of India's population benefits from the public distribution system where the government, as the largest procurer of farmers' produce, stockpiles food for distribution at subsidized prices.¹⁶⁸ If the government ceases to procure food grains at MSPs, it cannot supply subsidized essential food commodities through its public

163. Bahl, *supra* note 28.

164. Singh et al., *supra* note 66, at 15.

165. Paramjit Singh, *Neoliberal Capitalism and Misery of Small Peasantry and Agricultural Labourers in India*, 15(2) HUM. GEOGRAPHY 211, 212 (Oct. 2021).

166. Lerche, *supra* note 54, at 1383.

167. Narasimhaiah, *supra* note 52, at 517.

168. See *supra* note 115 and accompanying text (regarding what happens to publicly produced foodstuffs in India); see also *National Food Security Act (NFSA)*, DEPT OF FOOD & PUB. DISTRIBUTION, <https://dfpd.gov.in/nfsa.htm> (last visited Aug. 1, 2022) (providing subsidized food grains for about two-thirds of the population).

distribution system.¹⁶⁹ Moreover, the ECA removed multiple commodities from a list of “essential” commodities, including oils, oilseeds, potatoes, cereals, and pulses. As a result, the government could regulate the prices for such commodities only under extraordinary circumstances such as war or famine.¹⁷⁰

Further, the Act generally allowed more private sector investment in domestic agricultural infrastructure. Private actors could produce, move, store, distribute, and supply produce.¹⁷¹ They could also stockpile food—which was formerly only permitted to the Indian government—so long as the amount stockpiled did not exceed export demands.¹⁷² Critics feared that the removal of restrictions would allow corporate actors to hoard essential food commodities, which in turn could exacerbate food insecurity and affect the prices and supply of food grains locally.¹⁷³

An increase in food prices, coupled with the undermining of the public distribution system, would hold significant consequences for impoverished urban and rural communities, including farmers and agricultural laborers who rely on the subsidized distribution of food that they themselves produce.¹⁷⁴

iii. Environmental Risks

The Farm Laws also carried numerous environmental risks. The push toward corporate-led industrial agriculture would lead to more resource-intensive and environmentally degrading farming, and to greater greenhouse gas emissions. With profit-maximization as their chief motive, private actors are likely to incentivize environmentally destructive Green Revolution agricultural practices—which use

169. Anwar & Shakeel *supra* note 36, at 574–75.

170. ECA, *supra* note 131, § 2(1)(a).

171. *Id.* at § 2(1)(a); *see also* EPW Engage, *supra* note 122 (indicating that farmers’ organizations saw the Act as allowing for the increased participation of private companies in agriculture).

172. ECA, *supra* note 131, at § 2(1)(b).

173. Anwar & Shakeel, *supra* note 36, at 575; Narasimhaiah, *supra* note 52, at 516–17.

174. Lerche, *supra* note 54, at 1382–83. To compensate—and because under the 2013 National Food Security Act India’s poorest populations are legally entitled to receive subsidized food grains—Navyug Gill argues that the government may have turned to purchasing food from private actors or providing direct cash transfers so that families can themselves purchase food from private actors. Either way, the private actor wins out and “a public system is dismantled to further enrich private interests.” Dubal & Gill, “*Long Live Farmer-Laborer Unity*,” *supra* note 115.

massive inputs of water, chemicals, and fossil-fuel based energy to produce high yields, but only in the short term—thereby moving India in “the opposite direction of where it needs to go to address the climate crisis.”¹⁷⁵

Increased food waste was also cited as a concern. Under the current system, produce rejected by corporate retailers with strict aesthetic requirements can still be sold at *mandis*, and any produce unsold at *mandis* can still be circulated through informal channels. But as noted by Singh et al., “the skill and intricacies involved in these layered local systems are rarely visible to policy makers and mainstream economists, who remain convinced that centralised and formalised economies of scale are inevitable and necessary.”¹⁷⁶

These potentially far-reaching effects of the Farm Laws were easiest for farmers, those with the biggest stake in the fight, to identify and mobilize against. The next Part examines key elements of the farmers’ mobilization that contributed to their success in repealing the Farm Laws.

II. Resistance

Set against the backdrop of the agrarian crisis in India, the farmers’ protests can be seen as a repudiation of decades of neoliberal reforms that have relegated more than half of India’s population to a state of precarity and desperation. This Part examines the multitude of strategies and tactics deployed by the movement over a period of fifteen months to secure their historic victory.

While the farmers’ protests unfolded in a particular socio-economic and political context, they embodied several characteristics that are worth naming and exploring. As I argue below, the success of

175. Patil, *supra* note 141 (quoting Basav Sen); *see also* Sankar, *supra* note 97 at 23 (noting that the agribusiness firm could always move on after “exploiting” a particular area and adding that contract farming would favor export-oriented commercial crops over essential food crops); *see also* Mahima A. Jain, *Will the New Farm Laws Lead to More Greenhouse Gas Emissions From India’s Farms?*, THE WIRE SCIENCE (Apr. 20, 2021), <https://science.thewire.in/environment/will-the-new-farm-laws-lead-to-more-greenhouse-gas-emissions-from-indias-farms/> [<https://perma.cc/U3PY-R9PT>] (discussing the increase in emissions that would occur as a result of the Farm Laws including through excess fertilizer and pesticide use, land use changes, shifts toward livestock and cash crops, and the practice of stubble burning and the flooding of paddy fields).

176. Singh et al., *supra* note 66, at 8; *see also id.* (pointing to the higher GHG emissions that would result from longer-distance trade).

the movement is rooted in a strong foundation of political education and years of labor organizing that helped build farmer-worker alliances. During the protests themselves, the movement exemplified the principles of mutual aid and decentralized decision-making. It also garnered significant support from diaspora communities, global peasants' movements, and even celebrities on Twitter.

Perhaps most critical to the movement's success was its strategy of nonviolent resistance and its mobilization of hundreds of thousands of stakeholders to engage in sustained and disruptive protests, often in harsh climatic and pandemic conditions and while staring down oppressive State tactics. Protestors understood the mechanisms and structures that are needed to build and maintain a broad-based intersectional movement that mounts a coordinated and vigorous response to State violence (whether delivered in kind or mediated through law).

This Part begins by sketching an anatomy of the protests. As described below, over a period of fifteen months protestors organized nationwide actions, orchestrated labor and supply chain disruptions, and weathered extensive State repression.

A. A Timeline of Resistance and Repression

The farmer protests were largely led by farmers' unions and activists from Punjab, Haryana, and Western Uttar Pradesh in northwest India—areas that were also laboratories for the Green Revolution.¹⁷⁷ Northern farmers enjoyed strong support from the All India Kisan Sangharsh Coordination Committee (AIKSCC), a platform of nearly 400 farmer organizations from around the country.¹⁷⁸ Punjab's farmer unions and AIKSCC were central to the formation of the Samyukt Kisan Morcha (United Farmers Front or SKM),¹⁷⁹ an umbrella body comprised of more than forty farmer organizations.¹⁸⁰ SKM played a key leadership role in the farmer protests, as did the more "radical" Bhartiya Kisan Union (Indian Farmers' Union)—Ekta

177. Singh, *Neoliberal Capitalism and Misery of Small Peasantry*, *supra* note 165, at 1.

178. Surinder S. Jodhka, *Why Are the Farmers of Punjab Protesting?*, 48 *J. PEASANT STUD.* 1356, 1364 (2021).

179. Lerche, *supra* note 54, at 1391. The All India Kisan Sabha is the peasant wing of the Communist Party of India. Its "broad-based and progressive agenda" led to the formation of the AIKSCC in 2017 and the 2018 farmers' march in Maharashtra. *Id.* at 1391. *See infra* note 292 for more on the 2018 march.

180. Vanaik, *supra* note 20.

Ugrahan (or BKU–Ekta Ugrahan) which holds “wider agendas on caste, gender, and redistributive issues.”¹⁸¹ In the repeal of the Farm Laws, these varied unions found a singular, common cause.¹⁸²

In the summer of 2020, even before the Farm Laws were formally passed, protests and acts of civil disobedience began erupting in Punjab—a state whose farmers had much to lose under the new agricultural legal regime. Farmers “shut down grocery stores, gas stations, shopping malls, and grain silos owned by Reliance Industries and the Adani Group”¹⁸³—conglomerates that stood to greatly benefit from the Farm Laws.

On November 26, 2020, two months after the passage of the laws, the movement ramped up nationally using two simultaneous but distinct organizational tactics. First, it took part in a joint farmer-worker protest alongside an estimated 250 million workers who orchestrated a twenty-four-hour nationwide general strike to protest the Farm Laws as well as new and controversial labor laws.¹⁸⁴ Multiple states witnessed a complete shutdown in what has been called the world's largest general strike.¹⁸⁵ That same day, tens of thousands of farmers from Punjab, Haryana, Uttar Pradesh, Madhya Pradesh and

181. Singh et al., *supra* note 66, at 16.

182. *Id.*

183. Narasimhaiah, *supra* note 52, at 521.

184. Shemin Joy, *At Least 25 Crore Workers Participated in General Strike; Some States Saw Complete Shutdown: Trade Unions*, DECCAN HERALD (Nov. 26, 2020), <https://www.deccanherald.com/national/at-least-25-crore-workers-participated-in-general-strike-some-states-saw-complete-shutdown-trade-unions-920200.html> [<https://perma.cc/3RM7-RUTT>]; *see also* Alasdair Pal & Manoj Kumar, *Businesses Cheer, Unions Fear Contentious Indian Labour Reforms*, REUTERS (Sept. 24, 2020, 6:51 AM), <https://www.reuters.com/article/india-labour-idINKCN26F1T2> [<https://perma.cc/9R3E-7UR8>]; Charanpreet Singh, *Analyzing the Impact of New Labor Code for the Indian Labor Force*, SKUAD (Apr. 28, 2021), <https://www.skquad.io/blog/analyzing-the-impact-of-new-labor-code-for-the-indian-labor-force> [<https://perma.cc/375S-4KCB>] (summarizing some of the more controversial labor laws that the Indian government was working to adopt to restrict trade unions and make hiring and firing processes easier, including the Industrial Relations Code, the Code on Social Security Bill, and the Occupational Safety, Health, and Working Conditions Code Bill).

185. Joy, *supra* note 184; Pranav Jeevan P, *Anarchism, Mutual Aid, And Self-Organization: From The George Floyd Uprising To India's Farmer Rebellion*, IT'S GOING DOWN (Mar. 5, 2021), <https://itsgoingdown.org/anarchism-mutual-aid-and-self-organization-from-the-george-floyd-uprising-to-indias-farmer-rebellion/> [<https://perma.cc/W2N6-B7BT>].

Rajasthan began marching toward the capital as part of the “*Dilli Chalo*” (“Let’s go to Delhi”) campaign.

Citing COVID-19 protocols, the Delhi Police rejected protestors’ request to march to the capital and instead barricaded all three entry points to the city. The next day, police used tear gas, batons, and water cannons to disperse farmers in Haryana’s Ambala district,¹⁸⁶ effectively mounting a militarized response to nonviolent protests. Within days, farmers set up encampments or “protest cities” along Delhi’s arterial highways, which remained standing for more than a year and whose population swelled to nearly 300,000 people.¹⁸⁷

Farmers also engaged in other forms of protest, including rallies, marches, and hunger strikes. They engaged in civil disobedience, shutting down government buildings and, as noted above, targeting the facilities and services owned by Reliance Industries and the Adani Group.¹⁸⁸ Critically, farmers called for and executed nationwide strikes and shut down transportation lines. On December 8, 2020, for example, they called for a “Bharat Bandh” (nationwide shutdown)—a call that was supported by dozens of trade unions and opposition political parties. Farmers blocked national highways and railway lines, stopped the movement of people and goods, and “put a squeeze on transport services and food supplies in several states.”¹⁸⁹

On January 12, 2021, after successive rounds of talks between farmers and the government failed, the Supreme Court of India stayed the implementation of the three Farm Laws.¹⁹⁰ But the protests

186. Gursharan Bhalla, *Farmers Call Off Protests, Vacate Borders Around Delhi: Here’s A Timeline Of Their Agitation*, MSN NEWS (Nov. 12, 2021), <https://www.msn.com/en-in/news/other/farmers-call-off-protest-will-vacate-borders-in-2-days-here-s-a-timeline-of-their-agitation/ar-AAQTjJr> [<https://perma.cc/3XAJ-EX5S>]; Behl, *supra* note 9, at 1143. Later, farmers were allowed to enter Delhi where they engaged in peaceful protest at Nirankari Ground in North-West Delhi. *Farmers End Year-Long Protest: A Timeline of How It Unfolded*, INDIAN EXPRESS (Dec. 9, 2021, 4:06 PM), <https://indianexpress.com/article/india/one-year-of-farm-laws-timeline-7511961/> [<https://perma.cc/F97Y-ZR9B>].

187. Singh et al., *supra* note 66, at 1–2; Behl, *supra* note 9, at 1143.

188. Behl, *supra* note 9, at 1143.

189. Arshad R. Zargar, *Indian Farmers Protesting Push for Deregulation Squeeze Food Supplies, and Narendra Modi’s Government*, CBS NEWS (Dec. 8, 2020, 9:10 AM), <https://www.cbsnews.com/news/india-farmer-protest-bharat-bandh-over-farm-laws-hits-food-supplies-narendra-modi-government/> [<https://perma.cc/HTM9-ZCUL>].

190. Bhalla, *supra* note 186.

continued as farmers demanded their full repeal. The confrontations reached a peak on January 26, 2021—India's Republic Day—when farmers' unions held a tractor rally near Delhi's historic Red Fort.¹⁹¹ When some protestors diverged from the agreed upon routes, police used tear gas and batons to try to turn them back. During the clashes, at least one protestor was killed and numerous others were injured on both sides.¹⁹² Many protestors entered the Red Fort, and some raised the Nishan Sahib flag (an important symbol to Sikh communities) at the same site where Prime Minister Jawaharlal Nehru raised the national flag on the day after independence from British rule. SKM subsequently issued a statement condemning the “unacceptable events” of the day and dissociating itself “from organizations and individuals [who] violated the route and indulged in condemnable acts.”¹⁹³

The State swiftly retaliated. According to farmers' groups, more than 100 people went missing after the January 26 rally as the Unlawful Activities (Prevention) Act (UAPA) and sedition laws were used to clamp down on protesters.¹⁹⁴ The UAPA has been called an

191. Republic Day commemorates the day that the Constitution of India officially came into force—January 26, 1950—marking India's transition to an independent republic. TNN, *What is Republic Day? Why Do We Celebrate It? History, Information and Importance of Republic Day of India*, TIMES OF INDIA (last updated Jan. 26, 2019, 7:22 AM), <https://timesofindia.indiatimes.com/life-style/events/what-is-republic-day-why-do-we-celebrate-it-information-history-and-importance-of-republic-day-of-india/articleshow/67676427.cms> [<https://perma.cc/CX5R-NELK>].

192. Esha Mitra & Helen Regan, *Indian Farmers Storm New Delhi's Red Fort During Tractor Protest*, CNN (Jan. 27, 2021, 3:20 AM), <https://www.cnn.com/2021/01/26/asia/india-republic-day-farmers-protests-intl-hnk/index.html> [<https://perma.cc/BU5L-2ZF8>].

193. *India Protest: Farmers Breach Delhi's Red Fort in Huge Tractor Rally*, BBC NEWS (Jan. 26, 2021), <https://www.bbc.com/news/uk-55793731> [<https://perma.cc/WV5N-JQ5U>]; see also Jariel Arvin, *India's Farmers Are Still Protesting — and Things Are Turning Violent*, VOX (Jan. 26, 2021, 5:30 PM), <https://www.vox.com/2021/1/26/22242395/india-farmer-protest-republic-day-delhi> [<https://perma.cc/5PVH-LLLF>] (reporting on the protest); see also Arvind Ojha, *Republic Day Violence Was Conspiracy to Make Red Fort New Farmer Protest Site: Delhi Police*, INDIA TODAY (May 27, 2021, 11:24 AM), <https://www.indiatoday.in/india/story/republic-day-violence-conspiracy-red-fort-farmer-protest-site-delhi-police-1807488-2021-05-27> [<https://perma.cc/S5A5-5RSA>] (detailing the associated charges made by the New Delhi police).

194. *India: Government Must Stop Crushing Farmers' Protests and Demonizing Dissenters*, AMNESTY INT'L (Feb. 9, 2021), <https://www.amnesty.org/en/latest/>

“assault on citizens’ [constitutional] rights to expression, assembly and association” as it “criminalizes various forms of non-violent political activity, including political protest,” and defines “terrorist activity” so vaguely and broadly that it can be weaponized against human rights activists and political dissenters.¹⁹⁵

The Indian authorities’ attempts to crush dissent drew opprobrium from Amnesty International, the U.N. Office of the High Commissioner for Human Rights,¹⁹⁶ and multiple media bodies,¹⁹⁷ among others. As described by Natasha Behl:

The BJP government reacted to the ongoing protest by erecting militarized borders around the protest camps and arresting hundreds of protestors[,] charg[ing] journalists with sedition, shut[ting] down internet services[,] . . . [and] order[ing] Twitter to suspend the accounts of noncompliant news organizations, and halt[ing] water and electricity to the camps.¹⁹⁸

news/2021/02/india-government-must-stop-crushing-farmers-protests-and-demonizing-dissenters/ [https://perma.cc/6JVG-XD4W].

195. *Why Is the UAPA Problematic?*, INDIA CIVIL WATCH INT’L (Dec. 16, 2018), <https://indiacivilwatch.org/uapa/> [https://perma.cc/9VFZ-89K9]. The UAPA was originally enacted in 1967 and amended in 2019 to, *inter alia*, “empower the government to designate individuals as terrorists” on the same grounds as it designates organizations. *The Unlawful Activities (Prevention) Amendment Bill, 2019*, PRS LEGISLATIVE RESEARCH, <https://prsindia.org/billtrack/the-unlawful-activities-prevention-amendment-bill-2019#> [https://perma.cc/6VM5-86VB]; *see also* HUMAN RIGHTS WATCH, STIFLING DISSENT: THE CRIMINALIZATION OF PEACEFUL EXPRESSION IN INDIA 3, 74 (2016) (noting that sedition laws prohibit representations or words that express contempt or create disaffection toward government, which infringes upon peaceful expression and international norms of freedom).

196. UN Human Rights (@UNHumanRights), TWITTER (Feb. 5, 2021, 10:18 AM), <https://twitter.com/UNHumanRights/status/1357710206612946944?s=20>

[https://perma.cc/99M5-G2WG] (calling on Indian authorities and on protestors to “exercise maximum restraint in ongoing #FarmerProtests,” and adding that “[t]he rights to peaceful assembly & expression should be protected both offline & online”).

197. PTI, *Farmers’ Protest: Media Bodies Condemn Arrest of Journalists by Delhi Police*, NEW INDIAN EXPRESS (Jan. 31, 2021, 7:28 PM), <https://www.newindianexpress.com/nation/2021/jan/31/farmers-protest-media-bodies-condemn-arrest-of-journalists-by-delhi-police-2257626.html> [https://perma.cc/NCS2-YJZC].

198. Behl, *supra* note 9, at 1143. In early 2021, the Indian government served Twitter with several orders demanding that it block hundreds of accounts tweeting support for the farmers’ protests. Billy Perrigo, *Why Twitter Blocked Accounts Linked to Farmers’ Protests in India—Only to Reverse Course*, TIME

Despite mainstream media hostility¹⁹⁹ and repressive state tactics, the protests grew in size,²⁰⁰ reaching another peak of confrontation on October 3, 2021, when four farmers, a journalist, and three others were mowed down and killed by a minister's convoy during a farmers' protest in Lakhimpur Kheri, Uttar Pradesh.²⁰¹ The minister's son was in one of the three cars responsible.²⁰² The incident "injected fresh political vitriol" into the nearly yearlong protests as opposition leaders, protest organizers, and public figures visited the communities affected, condemned government violence, and demanded that action be taken against those responsible.²⁰³

At the same time, the BJP began suffering electoral losses in multiple states, in part due to the farmers' anti-BJP campaigning. Farmers are a "numerically powerful voting bloc" in India²⁰⁴ and they knew how to take strategic advantage of that power. The pressure was on for the BJP to resolve what was becoming a political crisis in time for key state elections in Uttar Pradesh and Punjab, which were looming on the horizon.²⁰⁵ Finally, on November 19, 2021, almost a full year after the farmers began their *Dilli Chalo* campaign, Modi announced the repeal of the Farm Laws.²⁰⁶

(Feb. 1, 2021, 1:47 PM), <https://time.com/5935003/india-farmers-protests-twitter/> [<https://perma.cc/LU9P-TUYM>]. Similar instances of social media blackouts occurred on Facebook and Instagram. Stein Monteiro, *Farmer Protests in India and the Mobilization of the Online Diaspora on Twitter* (manuscript at 3–4), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3849515 [<https://perma.cc/B2K5-AF8N>].

199. See *infra* Part II.B.3.

200. Singh et al., *supra* note 66, at 1–2.

201. Emily Schmall, *Eight Killed as Tensions Around India's Farm Protests Worsen*, N.Y. TIMES (last updated Oct. 22, 2021), <https://www.nytimes.com/2021/10/04/world/asia/india-farmer-protests.html> (on file with the *Columbia Human Rights Law Review*); Namita Bajpai, *8 Killed in Violence at Farmers' Protest in UP's Lakhimpur-Kheri*, NEW INDIAN EXPRESS (last updated Oct. 4, 2021, 12:29 AM), <https://www.newindianexpress.com/nation/2021/oct/03/8-killed-in-violence-at-farmers-protest-in-ups-lakhimpur-kheri-2367160.html> [<https://perma.cc/8KFJ-E8AD>].

202. Bhalla, *supra* note 186.

203. Schmall, *supra* note 201; *India Farmers Killed After Violence Erupts During Protest*, AL JAZEERA (Oct. 3, 2021), <https://www.aljazeera.com/news/2021/10/3/eight-including-four-farmers-killed-in-uttar-pradesh> [<https://perma.cc/ZB2Z-XMBX>].

204. See Cohen et al., *supra* note 103, at 188.

205. Jeevan P, *supra* note 185.

206. See *supra* note 1 and accompanying text.

The victory came at a huge cost. As of December 15, 2021, private citizens recorded a total of 726 deaths of farmers and their supporters.²⁰⁷ These deaths resulted from a variety of hardships faced by the farmers, including violence, harsh weather conditions, illness (including COVID-19), and suicide.²⁰⁸ A statement made by SKM on November 20, 2021, the day after Modi announced the repeal of the controversial laws, bemoaned the fact that the government had yet to “acknowledge [the farmers’] sacrifice,” and demanded that the families of those who had died be provided with compensation and employment opportunities.²⁰⁹

In November 2021, the government promised the unconditional withdrawal of all cases filed against the protestors, as well as compensation to the families of farmers who died during the course of the agitation.²¹⁰ By December, the government reversed course and claimed that there was no record of farmers’ deaths during the protests, obviating the need to acknowledge them or address the

207. See *List of Deaths in Farmers’ Protest at Delhi Border Since 24 November 2020*, DEATHS IN FARMERS’ PROTEST 2020 (Dec. 9, 2020), <https://humancostoffarmersprotest.blogspot.com/2020/12/list-of-deaths-in-farmers-protest-at.html> (linking to a Google document which lists the names, ages, district, and date of death of 726 individuals involved in the protests) (on file with the *Columbia Human Rights Law Review*).

208. See Anju Agnihotri Chaba, ‘248 Farmers Have Died During Protest Against Three Agri Laws’, INDIAN EXPRESS (Feb. 22, 2021, 3:28 AM), <https://indianexpress.com/article/india/248-farmers-have-died-during-protest-against-three-agri-laws-7198797/> [<https://perma.cc/BY99-D522>]; A Farmer Protest in India Turns Deadly, Leaving 9 Dead and a Town on Edge, NPR (Oct. 4, 2021, 5:01 AM), <https://www.npr.org/2021/10/04/1042972083/a-farmer-protest-in-india-turns-deadly-leaving-9-dead-and-a-town-on-edge> [<https://perma.cc/WYM3-RNKC>]; Parth MN, *100 Days and 248 Deaths Later, Indian Farmers Remain Determined*, AL JAZEERA (Mar. 1, 2021), <https://www.aljazeera.com/news/2021/3/5/100-days-and-248-deaths-later-indian-farmers-remain-determined> [<https://perma.cc/5VX8-M6P6>]; *No Record of Farmers’ Death During Protests: Govt Informs Parliament, Says No Plans for Compensation*, HINDUSTAN TIMES (Dec. 1, 2021, 11:52 AM), <https://www.hindustantimes.com/india-news/no-record-of-farmers-death-during-protests-govt-informs-parliament-says-no-compensation-101638339553521.html> [<https://perma.cc/LH8T-6ZMS>].

209. PTI, *Gather in Large Numbers at Protest Sites on 1st Anniversary of Agitation on Nov 26: SKM to Farmers*, ECON. TIMES (Nov. 20, 2021, 6:43 PM), <https://economictimes.indiatimes.com/news/politics-and-nation/gather-in-large-numbers-at-protest-sites-on-1st-anniversary-of-agitation-on-nov-26-skm-to-farmers/articleshow/87820081.cms?from=mdr> [<https://perma.cc/SY82-4F3D>].

210. Bhalla, *supra* note 186.

subject of compensation.²¹¹ The State thus extended the violence of the protest crackdowns with the violence of erasure.²¹²

B. Confronting State Violence with Strategic Nonviolent Resistance

As described above, the farmers' movement responded to decades of State violence with a campaign of strategic nonviolent resistance. Though sometimes erroneously conflated with pacifism or living a nonviolent way of life, nonviolent resistance, which has a rich history in India,²¹³ "entails an active fight against conditions of oppression, injustice, exploitation, and tyranny . . . without resorting to violence or the threat of violence."²¹⁴ Nonviolent resisters generally employ three kinds of tactics: "(1) protest and persuasion; (2) noncooperation (such as boycotts, strikes, civil disobedience, and so forth); and (3) nonviolent intervention, which includes physical disruptions (such as sit-ins) or the building of parallel social institutions."²¹⁵

As explored in this section, the farmers' movement employed key tactics and approaches that channeled the nonviolent spirit of the movement into a potent force of political energy. The seeds for the movement's success were planted decades before the protests began.

211. HINDUSTAN TIMES *supra* note 208; ANI (@ANI), TWITTER (Dec. 1, 2021, 1:00 AM), <https://twitter.com/ANI/status/1465923730488496135> [<https://perma.cc/J4MR-8D8T>].

212. *See supra* Part I.C.2 (describing the violence of erasure in the context of farmer suicides).

213. Mahatma Gandhi's legendary nonviolent struggle was encapsulated by the *satyagraha* campaigns waged against the British Empire through mass strikes, boycotts of British manufactured goods, and refusal to pay British-imposed taxes. Echoes of *satyagraha* reverberated throughout the protests mounted by farmers almost a century after Gandhi's fateful Salt March where millions of Indians marched to the sea to make salt in defiance of the Salt Act of 1882, which imposed a salt tax on all Indians. *Salt March*, HISTORY (last updated Jan. 16, 2020), <https://www.history.com/topics/india/salt-march> [<https://perma.cc/Z9EU-YVYQ>].

214. SHARON E. NEPSTAD & LESTER R. KURTZ, NONVIOLENT CONFLICT AND CIVIL RESISTANCE, at xii (2012); *see also* Chenoweth et al., *State Repression and Nonviolent Resistance*, 61 J. CONFLICT RESOL. 1950, 1955 (noting that "living a nonviolent way of life is conceptually, theoretically, and empirically distinct from coordinating and carrying out nonviolent actions that seek to actively confront, disrupt, and overturn the status quo.").

215. NEPSTAD & KURTZ, *supra* note 214, at xii (citing Gene Sharp's seminal works on the subject on nonviolent struggle).

1. Movement Building and Farmer-Worker Unity

Under the slogan *Kisaan Mazdoor Ekta Zindabad* (Long Live Farmer-Worker Unity) farmers and laborers emerged as a united front in the protests against the Farm Laws.²¹⁶ Organizations in Punjab drew considerable support from small and marginal farmers, and from landless Dalit laborers.²¹⁷ From the outside, such unity may appear unsurprising. Farmers and agricultural laborers are, after all, both victims of India's longstanding agrarian crisis. Moreover, their current interests seem to converge on multiple fronts: both farmers and workers were threatened by the deregulation of the agricultural sector, including the potential unraveling of the public distribution system, and both have suffered great economic hardship during the pandemic.²¹⁸ Their anger at the government's handling of the pandemic was also palpable. In March 2020, for instance, giving one day's notice, the government declared a Delhi-wide lockdown. This abrupt policy sent droves of seasonal migrant laborers back to their villages on foot,²¹⁹ which in turn compounded the problem of surplus rural labor and helped spread the virus in the countryside.²²⁰

But the movement's farmer-worker unity was not borne of interest convergence alone. Nor did it emerge overnight. Rather, it was built on decades of union organizing in southern Punjab against "debt and dispossession and in support of anticaste land struggles."²²¹ That organizing helped forge solidarities between farmers and laborers across class and caste lines. This legwork was essential because for farmers and workers in India, exercising unity based on shared

216. See Shivam Mogha, *'Kisan-Mazdoor Ekta': A Slogan to Unify Farmers and Labourers – and Break Caste Barriers*, JANATA WEEKLY (Jan. 16, 2022), <https://janataweekly.org/kisan-mazdoor-ekta-a-slogan-to-unify-farmers-and-labourers-and-break-caste-barriers/> [<https://perma.cc/E6BY-ZLEL>] (explaining how the slogan came to be and how farmers' unions have become politicized to take on the issue of caste).

217. Vanaik, *supra* note 20 (adding that Punjab has "the highest proportion of Dalits (most of whom are Sikh) in the country").

218. Anwar & Shakeel, *supra* note 36, at 4. Lerche, *supra* note 54, at 1386 (noting that many small farmers and laborers reportedly joined the movement due to economic hardships related to the pandemic lockdown); see also *supra* note 69.

219. Geeta Pandey, *Coronavirus in India: Desperate Migrant Workers Trapped in Lockdown*, BBC NEWS (Apr. 22, 2020), <https://www.bbc.com/news/world-asia-india-52360757> [<https://perma.cc/NX6W-S76N>].

220. Anwar & Shakeel, *supra* note 36, at 4.

221. Singh et al., *supra* note 66, at 1.

grievances involved wrestling with the farmers' own exploitation of agricultural laborers, often on caste-based terms.

Caste is entrenched in India's agrarian political economy, with landed farmers typically belonging to dominant castes and landless agricultural laborers belonging to so-called "lower" castes, including Dalits. In the case of Punjab, dominant-caste landowning Jats have a history of oppressing landless Dalit laborers.²²² As noted above, although Dalits constitute 32% of Punjab's population, only 3.5% own private farmland, making them dependent on farm work and daily wage labor.²²³ Attempts by Dalits to cultivate village common lands can also lead to violent clashes with dominant castes. The past support of some farmers' unions for Dalits demanding their land rights helped ensure Dalit laborers' participation in the current movement, even though it remains a largely farmer-led campaign.²²⁴

2. Decentralized Decision-Making

Several commentators have pointed to the decentralized nature of decision-making in the movement as a key source of strength. Decisions were made collectively, ensuring the participation of the many farmer unions involved. *Trolley Times*²²⁵ described the process as consensus-driven and emanating from collaboration among farmer groups.²²⁶

222. Behl, *supra* note 9, at 1144.

223. See *supra* note 39 and accompanying text.

224. Moudgil, *supra* note 10. See also Lerche, *supra* note 54, at 1386 (noting that BKU-Ekta Ugrahan has long organized in support of Dalit women's struggle for land); Singh et al., *supra* note 66, at 15 (noting that as more Dalits turn to non-farm daily wage labor as a result of mechanization on farms, the "relationship of the rural Dalit landless to landed Jat farmers [can no longer] be assumed to straightforwardly be employee-employer"). Singh explains that "these material changes lie behind the increasing salience of *dignity* and *autonomy* for Punjabi Dalits. It is in this context that new waves of land struggles have emerged." *Id.*

225. See *infra* notes 233–38 and accompanying text.

226. Puroshotam Sharma, *A New Leap of Struggle: The Farmers Siege of Delhi*, TROLLEY TIMES, Dec. 18, 2020, at 3, https://drive.google.com/file/d/17s4_JW3HifsmqoW4MTiLnmzHJ9pl7SyV/view [<https://perma.cc/C34Y-69G9>] ("First, Punjab's 32 organisations meet separately, then these organizations and others meet at a common platform to arrive at a final decision. This final decision taken at the common platform is then implemented willingly and peacefully by all the farmers' organizations.").

Some decisions, such as the dates and forms of specific protests, were posted in *Trolley Times* to coordinate actions.²²⁷ Amarjeet Kaur, General Secretary, All India Trade Union Congress, attributes much of the protest's success to its leadership's ability to, "despite all the differences [and] extreme opinions . . . com[e] out with [a] consensus as a collective" and maintain "transparency in their activities."²²⁸ Farmers also held public meetings to discuss movement strategies. This ensured buy-in from participants, including women and landless laborers, which further incentivized them to commit their energy and time.²²⁹

3. Political Education and Controlling the Narrative

The movement's success can also be attributed to how much time it invested in political education through which stakeholders built a shared analysis of the problem, which in turn helped strengthen broad-based alliances across caste, class, and sectors. Protestors clearly identified the State-corporate nexus as the enemy. Beginning in the summer of 2020, "farmer and laborer unions led education campaigns about the farm laws in rural Punjab and Haryana, and they also came together to demand land and labor reforms."²³⁰ Political education efforts helped ensure that protesting farmers were keenly aware of how the Farm Laws would increase the precarity of their condition.

Equally important was the movement's ability to control its own narrative. As noted above, most media houses in India are now owned by private corporations with close ties to the BJP.²³¹ As such, farmers had to contend with a barrage of media slander that either painted them as "terrorists" and "anti-nationals" or infantilized them

227. See, e.g., TROLLEY TIMES, Dec. 22, 2020, at 2, <https://trolleytimes.com/english-pdfs/> [<https://perma.cc/K4M2-ECZN>].

228. Asia Europe People's Forum, *Webinar - DARE TO WIN: Lessons from Farmers Movement in India*, YOUTUBE (Jan. 24, 2022), <https://www.youtube.com/watch?v=LUUveJLwMvQ> [<https://perma.cc/NKQ8-HQKN>].

229. Behl, *supra* note 9, at 1143–44; Jeevan P, *supra* note 185; Bahl, *supra* note 28.

230. Behl, *supra* note 9, at 1144.

231. See *supra* note 95 and accompanying text (describing one media house's relationship to the BJP).

as ignorant masses under the influence of opposition political parties.²³²

To counter “the endless stream of state and corporate propaganda that sought to defame farmers,” and to provide coverage of the mobilizations, the *Trolley Times* newsletter was born.²³³ Named in homage to the more than 95,000 farmer trollies²³⁴ that lined up outside Delhi's borders to protest the farm laws, *Trolley Times* was founded in support of the Samyukt Kisan Morcha by writers, activists, and artists who also took part in the protests. The newsletter's intention is to “represent peoples' voices,”²³⁵ “bring out under reported stories of the protesters,” and “excavate the heterogeneity and the solidarities in the ongoing movement.”²³⁶ Nearly 2,000 copies of the first edition were printed at a cost of Rs. 12,000 (US\$150) using crowdsourced stories and funding.²³⁷ Within months, circulation more than tripled. The content was also made available online.²³⁸

The farmers no longer needed the national media to serve as an intermediary of their demands. They could frame their own narrative, provide their own coverage, and deliver news from the frontlines of the protests to village communities (which still hold a preference for their news to be delivered via print media). Importantly, *Trolley Times* is published in Gurmukhi (Punjabi) and Hindi, the two languages most spoken and read at protest sites.²³⁹ As noted by co-

232. Jeevan P, *supra* note 185; Bahl, *supra* note 28; *see also* Kusum Arora, *Farmers' Protest: Despite Rightwing Propaganda, 'Khalistani' Angle Finds Little Traction*, THE WIRE (Dec. 2, 2020), <https://thewire.in/agriculture/farmers-protest-despite-rightwing-propaganda-khalistani-angle-finds-little-traction> [<https://perma.cc/DS2G-ZFDE>] (detailing the Indian public's rejection of the BJP's efforts to label protesting farmers “Khalistanis,” meaning those who support the secessionist movement for an independent Sikh state).

233. Narasimhaiah, *supra* note 52, at 520.

234. In Punjabi, tractor trailers are called trollies.

235. *What is Trolley Times*, TROLLEY TIMES, <https://trolleytimes.com/about-2/> [<https://perma.cc/FTH2-TDEQ>].

236. Dagher-Margosian, *supra* note 95.

237. Taran Deol, *'Media Not Portraying Us Well', So Farmers Print Trolley Times — Their Own Newsletter*, THE PRINT (Dec. 18, 2020, 7:34 PM), <https://theprint.in/india/media-not-portraying-us-well-so-farmers-print-trolley-times-their-own-newsletter/569615/> [<https://perma.cc/UDV3-4KXB>].

238. Kainat Sarfaraz, *Fighting Disinformation with Facts, Movies and Social Media*, HINDUSTAN TIMES (Mar. 6, 2021, 3:49 AM), <https://www.hindustantimes.com/cities/others/fighting-disinformation-with-facts-movies-and-social-media-101614966903485.html> [<https://perma.cc/GMW6-KWMT>].

239. *Id.*

founder Gurdeep Dhaliwal, “[i]t was important to . . . consistently inform [participants of] . . . developments of the movement, future vision by leaders and stories within the protest. For such a vast movement, being on the same page is crucial.”²⁴⁰

Other forms of political education included movie screenings called “Trolley Talkies” which featured films on India’s agrarian crisis and people’s struggles, “as well as lending libraries at multiple sites that carried revolutionary literature in multiple languages.”²⁴¹ Farmers also made abundant use of social media platforms to amplify their demands, despite having multiple sites and accounts shut down by the government.²⁴²

4. Mutual Aid

The movement also embodied principles of mutual aid which helped forge a sense of community and common cause among participants. Mutual aid is “the radical act of caring for each other while working to change the world.” Mutual aid helps those in need and “build[s] shared understanding about why people do not have what they need.” These participatory projects help “mobilize people, expand solidarity, and build movements.”²⁴³

Within the farmers’ encampments, all the protesters’ basic needs were met, despite the fact that the government cut off electricity, water, and Internet service at protest sites.²⁴⁴ Dozens of *langars*, or communal kitchens, were set up with the help of residents near protest sites to provide free meals to the protesters and their supporters. The *langars* also served the poor and unhoused. Rooted in the Sikh tradition of serving free communal meals at *gurdwaras* (Sikh temples) to anyone in need—regardless of their religion, caste, gender, or ethnicity—the *langars* helped deepen bonds between the different communities involved in the protests.²⁴⁵

240. Aishwarya Shrivastav, *Trolley Times: The Birth of a Newspaper at Singhu Border*, INDIAN CULTURAL FORUM (Dec. 25, 2020), <https://indianculturalforum.in/2020/12/25/trolley-times-the-birth-of-a-newspaper-at-singhu-border/> [https://perma.cc/NYU5-ZJPD].

241. Narasimhaiah, *supra* note 52, at 520.

242. *See supra* note 198 and accompanying text.

243. DEAN SPADE, *MUTUAL AID: BUILDING SOLIDARITY DURING THIS CRISIS (AND THE NEXT)* 1, 9, 12, 16, and inside cover (2020).

244. Jeevan P, *supra* note 185.

245. Narasimhaiah, *supra* note 52, at 519.

Movement participants set up twenty-four-hour security patrols to ensure the safety of participants, and participants took turns “contribut[ing] supplies and services as per their abilities, from making art and music to providing massages to tired farmers.”²⁴⁶ Villages in Haryana and Punjab sent essential supplies and organized “rotating batches of protestors.” Families “agreed to divide their time between working in the fields and participating in the protest camps.”²⁴⁷ A makeshift school catered to children who were unable to attend school for financial reasons or because of the pandemic. In the winter, social media drives were used to collect blankets. Volunteers set up solar-powered cell phone charging stations and laundry stalls with washing machines, and doctors from local hospitals set up free clinics. Even dental services were provided.²⁴⁸

5. Sustained and Disruptive Mass Mobilization

Perhaps most central to the success of the movement was its ability to deliver and sustain mass mobilization and to do so in a manner that disrupted the daily workings of capital and of the State. One key movement figure—Joginder Singh Ugrahan, leader of the BKU-Ekta Ugrahan—diagnosed the problem and solution as follows:

Governments are not going to save this profession. Only organized people can save themselves . . . Our governments are not addressing the basic reasons behind the agrarian crisis . . . Instead, they are facilitating the intervention of corporates . . . In this scenario struggle is the only way out.²⁴⁹

The “struggle” that Ugrahan is referring to is that of sustained mass mobilization aimed at quelling “ruling class aggression.”²⁵⁰ Scholars who study nonviolence find that the success of nonviolent political campaigns rests on the mechanics of massive disruption and noncooperation with ordered society. A basic withdrawal of public support and cooperation from the very power structures that rely on

246. *Id.* at 519–20; *see also* Jodhka, *supra* note 178 (“Overall, Punjabi singers have composed and recorded more than 100 songs directly relating to the movement, many while sitting at the protest sites.”).

247. Behl, *supra* note 9, at 1144.

248. Jeevan P, *supra* note 185.

249. Int’l Manifesto Group, *Indian Farmers’ Organizations and State Elections*, YOUTUBE (Feb. 1, 2022), <https://www.youtube.com/watch?v=MPKkLk40s1rI> [<https://perma.cc/V2UN-U3D9>].

250. *Id.*

their tacit collaboration can win nonviolent campaigns. In making peaceful demands to remedy an injustice, protesters who fail to cooperate with governments and who disrupt the social order will compel oppressive forces to make a simple choice: to abdicate or to forcefully resist.²⁵¹

When magnified to a scale of mass action, a lack of cooperation, whether unlawful (civil disobedience) or otherwise disruptive (noncooperation), eventually reaches a tipping point in which the movement becomes too unwieldy for governments to control. Prime Minister Modi's jubilation in passing the corporate-friendly Farm Laws ultimately depended on the farmers accepting the new regime. The government likely did not anticipate a mass mobilization of rural India to the outskirts of Delhi for twelve long months.

There is no magic formula dictating how large or how long movements must run to secure their aims. In this case, twelve months is simply how long it took for the government to capitulate. To be clear, there was nothing simple about staying the (often brutal) course, but what distinguished this protest was its size, longevity, and its disruptive capacities, as well as the movement's insistence that it would not retreat until the laws had been repealed.

When farmers began the *Dilli Chalo* campaign, they reportedly packed with them months of rations and vowed not to budge until the Farm Laws were repealed.²⁵² This resolve stands in contrast to one-off protests, which although effective at communicating the dismay of protesters and inspiring additional action, usually do not in and of themselves force the State's hand.

But farmer protesters did much more than camp out on the highways outside Delhi. They engaged in mass nonviolent noncooperation. Farmers blocked roads, rail lines, and toll plazas.²⁵³

251. Jerry M. Tinker, *The Political Power of Non-Violent Resistance*, 24 W. POL. Q. 775, 785 (1971); see also ERICA CHENOWETH & MARIA STEPHAN, WHY CIVIL RESISTANCE WORKS: THE STRATEGIC LOGIC OF NONVIOLENT CONFLICT 10 (2011) (using statistical analysis to conclude that "the moral, physical, informational, and commitment barriers to participation are much lower for nonviolent resistance than for violent insurgency" and adding that "[h]igher levels of participation contribute to a number of mechanisms necessary for success, including . . . expanded civic disruption (thereby raising the costs to the regime of maintaining the status quo)").

252. Zargar, *supra* note 189.

253. *Farmers' Protests Causes Crores Worth of Loss*, ECON. TIMES OF INDIA, (Dec. 16, 2020), <https://economictimes.indiatimes.com/news/politics-and-nation/>

They helped organize a nationwide strike 250 million people strong.²⁵⁴ They disrupted labor markets and supply chains. Food prices, fuel and coal supplies, and export manufacturers across diverse industries all felt the impacts of the farmers' movement.²⁵⁵ And they expressed their dissent at voting booths. Many were arrested, many others were injured, and hundreds died. But the farmers did not leave, nor did they cease their political campaigning. The government, then, was left with few other options, and was eventually forced to back down.

Movements like the farmers' protests also capture public disdain of the injustice facing the nonviolent resistance.²⁵⁶ The State's repressive tactics against unarmed protesters undermined the government's position and intensified the moral legitimacy of the nonviolent campaigners.

6. Global Solidarity and Support

The size, longevity, and moral legitimacy of the farmers' protests helped generate political, material, and ideological support from allies within and outside the country, which in turn helped buoy and steady the movement through periods of volatility. Within the country, student unions and trade unions, among others, extended solidarity to the farmers.²⁵⁷ Externally, the movement drew considerable support from the Sikh diaspora in Britain and North America, from peasants' movements from around the globe, and even from celebrities on Twitter.

The role of the Sikh diaspora in particular bears mentioning. Diaspora communities provided material and political support to the protests by setting up fundraising drives, organizing rallies, and

farmers-protests-causes-crores-worth-of-loss/hurting-local-economies/slideshow/79761544.cms [https://perma.cc/YM47-M6YB].

254. Nitish Pahwa, *India Just Had the Biggest Protest in World History*, SLATE (Dec. 9, 2020), <https://slate.com/news-and-politics/2020/12/india-farmer-protests-modi.html> [https://perma.cc/G83V-ZXDW].

255. Sukhchain Singh and John Packer, *What Was Behind the Indian Farmers' Protests?* CENTRE FOR INTERNATIONAL POLICY STUDIES (Mar. 28, 2022), <https://www.cips-cepi.ca/2022/03/28/what-was-behind-the-indian-farmers-protests/> [https://perma.cc/LV4Q-FQLN]; *Farmers' Protests Causes Crores Worth of Loss*, *supra* note 253.

256. Tinker, *supra* note 251, at 777.

257. Mathew Edassery, *"The Farmers Already Know the Solutions" – Solidarity with Indian Farmers*, SOCIALIST.CA (Dec. 20, 2020), <https://socialist.ca/node/4234> [https://perma.cc/R5AY-XQAT].

protesting in front of Indian embassies, inspiring foreign political intervention and global support for the protesters.²⁵⁸ On December 1, 2020, for example, Canadian Prime Minister Justin Trudeau tweeted his support for the protesting farmers, calling the situation “concerning.”²⁵⁹ Soon after, public figures like singer Rihanna and climate activist Greta Thunberg voiced their support on Twitter, sparking viral attention to the issue.²⁶⁰ Social media support had clearly raised the visibility of the movement, despite the government’s attempts to rein it in.

Peasants’ movements around the globe also lent ideological and moral support to India’s farmer protests, linking the movement to their own ongoing struggles for “food sovereignty.”²⁶¹ For these movements, the victory of the Indian farmers offered renewed hope. While amplifying the hashtag #SalutetoIndiasFarmers, *La Via Campesina*²⁶² referred to the farmers’ movement and victory as “an inspirational account of what peoples’ power can achieve even in the

258. Vanaik, *supra* note 20; Narasimhaiah, *supra* note 52, at 523; Mayank Bhardwaj & Manoj Kumar, *Sikh Diaspora Drums Up Global Support for Farmers’ Protest in India*, REUTERS (Dec. 18, 2020, 3:48 AM), <https://www.reuters.com/article/india-farms-protests-diaspora/sikh-diaspora-drums-up-global-support-for-farmers-protest-in-india-idUSKBN28S0WE> [<https://perma.cc/SW99-ZEZ6>].

259. *We Are Very Worried: Canada PM Trudeau Backs Farmer Protests in India*, THE WEEK (Dec. 1, 2020), <https://www.theweek.in/news/world/2020/12/01/we-are-very-worried---canada-pm-trudeau-backs-farmer-protests-i.html> [<https://perma.cc/FGEG-26NG>].

260. *Farmers’ Protest: Rihanna Tweet Angers Indian Government*, BBC (Feb. 3, 2021), <https://www.bbc.com/news/world-asia-india-55914858> [<https://perma.cc/Q6QT-92J6>]; Rihanna (@rihanna), TWITTER (Feb. 2, 2021, 10:29 AM), <https://twitter.com/rihanna/status/1356625889602199552?lang=en> [<https://perma.cc/3ZYK-A58J>] (tweeting “Why aren’t we talking about this?! #FarmersProtest”). While many welcomed the global attention, members of the Indian government and other public figures referred to the tweets as “propaganda” or uninformed celebrity commentary, while echoing messages calling for Indian unity under the hashtag #IndiaTogether. See Monteiro, *supra* note 198, at 4; *Rihanna Tweet Angers Indian Government*, *supra* note 260; Hannah Ellis-Petersen & Aakash Hassan, *Rihanna angers Indian government with tweet about farmers’ protests*, THE GUARDIAN (Feb. 3, 2021, 9:14 AM), <https://www.theguardian.com/world/2021/feb/03/rihanna-angers-indian-government-with-tweet-about-farmers-protests> [<https://perma.cc/5KPQ-QJE3>].

261. See *infra* Part IV.A for more on the food sovereignty struggle.

262. *La Via Campesina*, which literally means “the peasants’ way” is comprised of 182 organizations in 81 countries and purports to represent around 200 million peasants worldwide. *Who Are We?*, LA VIA CAMPESINA, <https://viacampesina.org/en/who-are-we/> [<https://perma.cc/C9DY-HHPM>]. The use of the word “peasant” is a deliberate reclamation of an identity that often carries pejorative connotations.

most adverse conditions,” adding that the protests in India “resonate[] with every peasant and indigenous community in every corner of the world.”²⁶³

In the end, the farmers' movement's successful repeal of the Farm Laws prevented a dire situation from getting worse, but it did not resolve the underlying issues fueling India's agrarian crisis. Nor did the repeal satisfy the fuller list of farmer demands. The next Part assesses the ameliorative potential of the farmers' key current demand, as well as other proposals for reform.

III. Reform

On November 21, 2021, two days after Modi announced the repeal of the Farm Laws, SKM penned an open letter to the Prime Minister welcoming the move but adding that it came as a “unilateral declaration rather than a bilateral solution.” To that end, SKM articulated six additional demands. Topping the list was a reiteration of its longstanding demand that MSPs be guaranteed as a legal entitlement to all farmers for all agricultural produce.²⁶⁴ This Part

263. *Salute to India's Farmers! Global Social Movements Issue Solidarity as Protest Completes a Year*, LA VIA CAMPESINA (Nov. 26, 2021), <https://viacampesina.org/en/salute-to-indias-farmers-global-social-movements-issue-solidarity-as-protest-completes-a-year> [<https://perma.cc/RF9G-NATV>].

264. *Farmers' Protests: SKM Shoots Open Letter to PM Narendra Modi, These Are the Six Demands*, ZEE NEWS (Nov. 21, 2021, 11:52 PM), <https://zeenews.india.com/india/farmers-protests-skm-shoots-open-letter-to-pm-narendra-modi-these-are-the-six-demands-2412437.html> [<https://perma.cc/FGH4-N3LB>]. SKM additionally demanded a removal of penalties against farmers for stubble burning under the Commission for Air Quality Management in the National Capital Region and Adjoining Areas Act, 2021; the firing and arrest of Union Minister of State for Home Ajay Mishra, whose son was implicated in the violence against protestors in Lakhimpur Kheri; a withdrawal of all cases filed against protestors; compensation and rehabilitation support for the families of farmers who died during the protests; and a withdrawal of the Draft Electricity (Amendment) Bill, 2020, which farmers feared would end subsidized electricity. At this writing, the government had removed penalties for stubble burning and had begun the process of withdrawing cases against farmers in multiple states. Some state governments had also begun to compensate the families of farmers who died during the protest. The remaining demands, however, had not been met. *See id.* (explaining the status of SKM's negotiations with the Indian government); Ani, *Issues of Stubble Burning, Guarding Power Subsidies Sorted: Farmer Leaders*, BUS. STANDARD (Dec. 31, 2020), https://www.business-standard.com/article/current-affairs/issues-of-stubble-burning-guarding-power-subsidies-sorted-farmer-leaders-120123100024_1.html [<https://perma.cc/X9F4-JK9A>] (describing the central government's partial progress in meeting farmer demands, but a failure to reach

examines this key demand. I argue that while the proposed reforms can economically empower farmers in the short to medium term, they do not in and of themselves attend to the issues underpinning the agrarian crisis. This Part concludes with a look at a more comprehensive set of reforms recommended by India's National Commission on Farmers more than a decade and a half ago.

A. Expanding the MSP-Public Procurement System

Farmers' unions have argued that expanding the reach of MSPs and guaranteeing them as a legal right would make farming more profitable as a profession, while incentivizing crop diversification.²⁶⁵ Such a move would also stand in sharp contrast to the neoliberal aims and character of the repealed Farm Laws.

consensus on MSPs); Abishek Dey, *AAP Govt Gives Nod, 17 of 54 Cases Filed Against Farmers for Farm Laws Protest to Be Withdrawn*, THE PRINT (Mar. 1, 2022, 8:00 AM), <https://theprint.in/india/aap-govt-gives-nod-17-of-54-cases-filed-against-farmers-for-farm-laws-protest-to-be-withdrawn/852382/> [<https://perma.cc/54KQ-NGWP>] (the withdrawal of lawsuits against farmers was one of the government's promises made to end the protest); *Electricity (Amendment) Bill-2022 Will Have Far Reaching Impacts On The Finances Of States*, INDIAN PSU (June 30, 2022), <https://indianpsu.com/electricity-amendment-bill-2022-will-have-far-reaching-impacts-on-the-finances-of-states/> [<https://perma.cc/7F6Q-Z6UQ>] (reporting that the government might take up controversial electricity legislation, despite assurances to farmers that it would not proceed without input from farmer groups); *Kin of 41 Farmers Who Died in Kisan Stir Get Compensation*, INDIAN EXPRESS (Aug. 8, 2022, 4:28 AM), <https://indianexpress.com/article/cities/ludhiana/kin-of-41-farmers-who-died-in-kisan-stir-get-compensation-8077142/> [<https://perma.cc/Z9UR-BAAN>] (explaining that 41 families of farmers were issued compensation for the death of their kin who died during the farmer protests); see also *supra* notes 210–11 and accompanying text. For more on the issue of stubble burning, see The Quint, *Punjab Stubble Burning: Why Are Farmers Forced to Do it?*, YouTube (Oct. 22, 2018), https://www.youtube.com/watch?v=Bs5dy_AmCOA [<https://perma.cc/G4N7-SSCR>] (explaining that farmers often resort to stubble burning due to financial, labor, and time pressures, and suggesting alternatives to the practice while calling for greater governmental support).

265. See *infra* notes 274–75 and accompanying text (discussing state incentives for crop diversification); see also, *Legal MSP With Guaranteed Procurement Can Make Farming Profitable: P Sainath*, INDIAN EXPRESS (Nov. 2, 2021, 10:18 AM), <https://indianexpress.com/article/cities/jalandhar/legal-msp-with-guaranteed-procurement-can-make-farming-profitable-sainath-7603546> [<https://perma.cc/6GFC-G9PD>]. As explained in Part I, the MSP-public procurement system is geographically concentrated in a few states and primarily focused on only a few crops.

The fulfillment of this demand could theoretically come in multiple forms. First, MSPs could be guaranteed for all agricultural procurement whether public or private.²⁶⁶ Under this model, the private market acts as its own procurement system, and only prices are guaranteed.²⁶⁷ But the disproportionate domestic and international demand for non-diversified crops would pose a significant challenge to this model and would likely exacerbate environmental harms. In response to the passage of the Farm Laws, schemes like this one were proposed (but have yet to be enacted) in Punjab and Rajasthan where contracts for the purchase of agricultural products below the government's MSP would be nullified and financial or legal penalties would apply to offending buyers.²⁶⁸

Second, the government might legally guarantee MSPs by allowing farmers to sell produce on private markets below the MSP, but then subsidize farmers for the difference between the MSP and sale price of produce.²⁶⁹ Skeptics of this plan raise concerns over possible fiscal deficits, as the government loses control over market prices and is obligated to pay for the difference in cost.²⁷⁰

Third, the government could expand the MSP system to cover more crops and shift its method of procurement to reflect more diversification. Expanding beyond the few crops currently supported by strong MSP procurement is one way, in theory, to support a diversification of crops and to reach more farmers with MSP benefits.²⁷¹ Some even suggest that adopting the MSP across significantly more than the twenty-three existing MSP crops would "help farmers to diversify into crops that are locally suitable without degradation of natural resources"²⁷² and would also attend to public health concerns (for example, by switching from wheat production to the more nutrient-dense millet).²⁷³

266. Kaul, *supra* note 140.

267. *Id.*

268. Tiwari, *supra* note 115.

269. Navpreet Kaur & C Saratchand, *MSP Will Stop Corporate Encroachment in Agriculture, Ensure Domestic Food Security*, NEWSCLICK (Dec. 28, 2021), <https://www.newsclick.in/MSP-Will-Stop-Corporate-Encroachment-Agriculture-Ensure-Domestic-Food-Security> [<https://perma.cc/YLD6-3RYC>].

270. Kaul, *supra* note 140.

271. *Id.*

272. Patil, *supra* note 141 (quoting Kavitha Kuruganti, of the Alliance for Sustainable and Holistic Agriculture).

273. Kaur & Saratchand, *MSP Will Stop Corporate Encroachment in Agriculture*, *supra* note 269; see also K.P. Prabhakaran Nair, *The Minimum*

Farmers, perhaps more than most, are acutely aware of the need to attend to environmental concerns. The long, slow degradation of farmland for the continued production of ecologically unsustainable crops is not in their long-term interests. SKM claims that a key reason why a legally guaranteed universal MSP is one of their central demands is because it incentivizes crop diversification.²⁷⁴ They argue that there can be no crop diversification without an expansion of the MSP system, adding that the current limited MSP policy incentivizes the growth of resource intensive crops.²⁷⁵ Farmers' unions therefore seem to support some hybrid of the second and third model. These would compel the government to procure as much diverse crop as is feasible, while paying deficit payments on those crops sold below MSP on private markets.²⁷⁶

Support Price Conundrum and Indian Farming, DOWNTOEARTH (Jan. 19, 2021), <https://www.downtoearth.org.in/blog/agriculture/the-minimum-support-price-conundrum-and-indian-farming-75115> [<https://perma.cc/P3QE-R5EW>] (arguing that farmers should be disincentivized from growing wheat and paddy and encouraged to grow millets, but also noting that these changes may not satisfy the Indian palate).

274. Anita Joshua, *SKM: Centre Continues to Renege on Promises Made on December 9*, THE TELEGRAPH (Jan. 2, 2022, 1:48 AM), <https://www.telegraphindia.com/india/centre-continues-to-renege-on-promises-made-on-december-9-samyukta-kisan-morcha/cid/1850015> [<https://perma.cc/2PJZ-DTXS>].

275. Priscilla Jebaraj, *Crop Diversification Impossible Without Guaranteed MSP, Say Punjab Farmers*, THE HINDU (Dec. 11, 2021, 6:21 PM), <https://www.thehindu.com/news/national/crop-diversification-impossible-without-guaranteed-msp-say-punjab-farmers/article37933035.ece> [<https://perma.cc/LR2P-PYTT>] (noting that risk-averse farmers are strongly incentivized to grow crops that have a guaranteed market at a guaranteed price, and that the excessive procurement of wheat and paddy leads to over-production of water intensive monocrops rather than more diversified farm operations). Some states have incentivized diversified operations to counteract the resource intensity of wheat and paddy. Tiwari, *supra* note 115 (citing Haryana as an example). In May 2022, the Punjab government announced that it would procure maize, sunflower, moong, and bajra crops at minimum support prices to encourage farmers to switch to less water-consuming crops. *Punjab Govt Will Purchase Maize, Bajra, Other Crops at MSP: CM Bhagwant Mann*, HINDUSTAN TIMES (May 4, 2022, 1:11 AM), <https://www.hindustantimes.com/cities/chandigarh-news/punjab-govt-will-purchase-maize-bajra-other-crops-at-msp-cm-bhagwant-mann-101651606909451.html> [<https://perma.cc/2663-8TDC>]. The National Food Security Act of 2013 also requires central and state governments to progressively diversify commodities distributed through the public distribution system. *Id.*

276. Yogendra Yadav, *MSP Won't Bankrupt India. It's Complex, But So Is Disinvestment*, THE PRINT (Nov. 24, 2021, 3:11 PM), <https://theprint.in/>

On November 19, 2021—the same day he announced the withdrawal of the Farm Laws—Prime Minister Modi announced that the government would form a committee to find ways to make the MSP system more “effective and transparent.”²⁷⁷ A committee was formed in July 2022, but a legally guaranteed MSP was not on its agenda.²⁷⁸ In August 2022, farmers briefly renewed their protests in response to the government’s nonfulfillment of their demands.²⁷⁹

Even if the government’s lack of political will is overcome, the implementation of a system of guaranteed MSPs may face significant obstacles in practice. To begin, the mutually supporting nexus of procurement, storage, transportation, and distribution infrastructure is lacking.²⁸⁰ The costs on government would be significant to provide

opinion/msp-wont-bankrupt-india-its-a-complex-but-necessary-reform-like-disinvestment/771030/ [https://perma.cc/4CDJ-64CH].

277. Modi also announced that the committee would look into promoting zero-budget farming and changing cropping patterns. *Committee to Be Formed to Make MSP More Effective, Promote Zero Budgeting-Based Agriculture: Prime Minister Narendra Modi*, FIRSTPOST (Nov. 19, 2021, 2:26 PM), <https://www.firstpost.com/india/committee-to-be-formed-to-make-msp-more-effective-promote-zero-budgeting-based-agriculture-prime-minister-narendra-modi-10149141.html> [https://perma.cc/CEU9-5LEP]. For more on zero-budget farming see *infra* Part IV.A. In December 2021 and August 2022 private member bills were introduced in Indian Parliament to legally guarantee MSPs. At this writing, these bills had yet to be discussed in Parliament. No private member bill has become law in India since 1970. *MSP Guarantee Act: Varun Gandhi Made Big Bets in Lok Sabha, Created Pressure Through Private Member Bill*, HINDUSTAN NEWS HUB (Dec. 12, 2021), <https://hindustannewshub.com/india-news/msp-guarantee-act-varun-gandhi-made-big-bets-in-lok-sabha-created-pressure-through-private-member-bill/> [https://perma.cc/XXQ9-R4FR]; *AAP's Raghav Chadha Moves Bill to Legalise MSP*, THE HINDU (Aug. 5, 2022), <https://www.thehindu.com/news/national/aaps-raghav-chadha-moves-bill-to-legalise-msp/article65732589.ece> [https://perma.cc/G5SB-3RSZ]; Ruhi Tewari, *Only 14 Pvt Member Bills Out of Thousands Became Laws Since 1952, 2% Discussed in 20 Years*, THE PRINT (Nov. 2, 2018, 4:08 PM), <https://theprint.in/india/governance/only-14-private-member-bills-have-become-laws-since-1952-2-discussed-in-past-20-years/144377/> [https://perma.cc/K7VK-UJ CZ]; see also *infra* note 292, discussing a 2018 private member bill.

278. *Govt Should Reach Out to Farmers to Resolve MSP Impasse*, NEW INDIAN EXPRESS (Aug. 27, 2022, 6:51 AM), <https://www.newindianexpress.com/opinions/editorials/2022/aug/27/govt-shouldreachout-to-farmers-toresolve-msp-impasse-2491923.html> [https://perma.cc/KV4L-DL4J]; Reuters, *Thousands of Indian Farmers Return to New Delhi in Fresh Protests*, CNN (Aug. 23, 2022, 3:44 AM), <https://edition.cnn.com/2022/08/22/india/india-farmers-protests-return-delhi-intl-hnk/index.html> [https://perma.cc/BR9B-YGVF].

279. Reuters, *supra* note 278.

280. Yadav, *supra* note 276.

infrastructure across the entire country, and to effectively guarantee MSP on all crops to all farmers.²⁸¹ Any attempts to expand the MSP system will also likely draw the ire of global agribusinesses and of “developed” countries with agricultural export markets in India, who through the World Trade Organization (WTO) have already opposed the minimum price guarantees that Indian farmers receive for wheat and paddy, claiming that these guarantees distort trade.²⁸²

Although India has successfully defended its MSP policies in response to complaints at the WTO (including from the United States),²⁸³ the legal threats from “developed” countries are unlikely to subside and will likely intensify as significant MSP expansions are contemplated. This is despite the fact that countries like the United States provide subsidies to their farmers that are exponentially greater than what India provides, underscoring the need to reform a highly inequitable international trade regime.²⁸⁴

In the end, the call to expand the MSP-public procurement system is well-placed. If implementation-related obstacles can be overcome, these reforms could economically empower farmers and help promote less ecologically harmful crops. But legally guaranteed MSPs

281. Because paddy and wheat are easily stored for food security purposes, the government’s procurement demand for these crops is also disproportionately high relative to other MSP crops. Paddy and wheat, therefore, tend to have the most well-developed procurement, storage, transportation, and distribution networks. Tiwari, *supra* note 115.

282. Patil, *supra* note 141. Ameya Pratap Singh & Urvi Tembey, *Don’t Get Caught Up in MSP Battle. India Must Move to End Inequality in WTO Laws*, THE PRINT (Dec. 15, 2020, 12:36 PM), <https://theprint.in/opinion/dont-get-caught-up-in-msp-battle-india-must-move-to-end-inequality-in-wto-laws/565240/> [<https://perma.cc/P53S-3CBS>].

283. The U.S. challenged India’s MSP policies, claiming that they were “vastly in excess” of WTO subsidy limits. Shreehari Paliath, *US’ Stand at WTO on India’s MSP to Farmers Erroneous, Says Trade Expert*, BUSINESS STANDARD (Sept. 30, 2018, 1:49 PM), https://www.business-standard.com/article/economy-policy/us-stand-at-wto-on-india-s-msp-to-farmers-erroneous-says-trade-expert-118093000212_1.html [<https://perma.cc/43LT-97WY>]; Singh & Tembey, *supra* note 282 (noting that in 2020, and in defense of its MSPs, India invoked the Bali Peace Clause, “which prevents WTO members from initiating complaints against a developing country member for compliance with certain obligations”).

284. See Gonzalez, *Trade Liberalization*, *supra* note 55, Part III (describing how structural adjustment policies required developing countries to “eliminate agricultural subsidies and to lower tariffs and eliminate non-tariff barriers” but these “policy prescriptions did not apply to industrialized countries,” thereby promoting “a double standard that plagues the agricultural sector to this day: protectionism in wealthy countries; liberalized trade in poor countries”).

are not a panacea. After all, farmers in states with a strong MSP regime are also in crisis. As explored below, the task at hand is far more complex. The next section considers a more comprehensive set of reforms put forward by India's National Commission on Farmers.

B. The National Commission on Farmers' Roadmap for Reform

India's farmers have exposed a structural flaw in the agrarian economy. As former Indian Administrative Service officers Pravesh Sharma and Rashmi Sharma comment,

[T]he farmers' agitation is rooted in an intuitive discernment of the biggest policy misorientation today, i.e., the idea that we do not need to build strong public institutions, and instead, we can simply privatise. Farmers know that such simplistic solutions don't work.²⁸⁵

Indeed, the need of the hour is not disintermediation, deregulation, and privatization, but "substantial and well-directed public investment" in agriculture. But as Mekhala Krishnamurthy cautions, "there is nothing straightforward about redesigning state intervention and support to redress these persistent imbalances" in an agrarian economy where the "agroecological, economic and the political consequences of a conscious Green Revolution strategy of 'betting on the strong' have long been clear."²⁸⁶

Given the desperate state of affairs described in Part I, and given how much of economic, social, and ecological life rests on a well-functioning agrarian system, there is widespread consensus that the Indian agrarian economy is in need of holistic reform. This is not a recent conclusion. In 2004, the Indian government constituted the National Commission on Farmers (NCF) under the chairmanship of Professor M.S. Swaminathan.²⁸⁷ The Commission was mandated to

285. Sharma & Sharma, *supra* note 112.

286. Mekhala Krishnamurthy, *Indian Agriculture and Its Contradictions*, SEMINAR (Jan. 3, 2022), <https://india-seminar.com/2022/749/749-MEKHALA%20KRISHNAMURTHY.htm> [<https://perma.cc/C7X4-PJ9W>].

287. Ironically, M.S. Swaminathan is also considered the "Father of the Green Revolution" for his work to develop high yield variety seeds for wheat, along with Norman Borlaug and other scientists. *Here's Why MS Swaminathan is the Father of Green Revolution in India*, INDIA TODAY (Aug. 7, 2018, 12:02 PM), <https://www.indiatoday.in/education-today/gk-current-affairs/story/ms->

recommend reforms to enhance the “productivity, profitability, and sustainability of the major farming systems of the country,” increase farmers’ access to rural credit, and ensure universal food security, among other issues.²⁸⁸

Between 2004 and 2006, the NCF issued five landmark reports, with the fifth and final report focused on the root causes of agrarian distress and the disturbing rise of farmer suicides in the country.²⁸⁹ The Commission also produced two drafts of a National Policy for Farmers. A key conclusion of the 2006 NCF report was that “farmers need to have assured access [to] and control over basic resources, which include lands, water, bioresources, credit and insurance, technology and knowledge management, and markets.”²⁹⁰

The NCF reports have yet to be discussed in Parliament.²⁹¹ Successive governments have scarcely implemented the Commission’s recommendations, allowing a long-simmering problem to boil over. As discussed in Part I.E., under the guise of “reforms,” the 2020 Farm Laws went in the opposite direction by further withdrawing the hand of the State from agriculture, and with it, the lives of more than half of India’s population whose livelihoods depend on farming.

To assist with the Herculean task of reforms and begin correcting course, the government can look to the NCF reports. The NCF also recommended an expansion of MSPs to crops other than wheat and paddy.²⁹² But the NCF’s recommendations went far beyond

swaminathan-father-of-green-revolution-facts-html-287005-2015-08-07
[<https://perma.cc/NFC6-SUWF>].

288. *Swaminathan Report: National Commission of Farmers*, PRS LEGISLATIVE RESEARCH, <https://prsindia.org/policy/report-summaries/swaminathan-report-national-commission-farmers> [<https://perma.cc/6CZQ-U225>].

289. *Id.*

290. *Swaminathan Report: National Commission of Farmers*, *supra* note 288.

291. *The Swaminathan Commission Reports*, PARI, <https://ruralindiaonline.org/en/articles/all-reports-by-the-swaminathan-commission/> [<https://perma.cc/H5VW-E8W9>].

292. The NCF further recommended that the MSP should be “at least 50 percent more than the weighted average cost of production.” *Swaminathan Report: National Commission of Farmers*, *supra* note 288. SKM has demanded that a legally guaranteed MSP should be set using this NCF formula. *Samyukta Kisan Morcha Press Release: April 17, 2022*, ALL INDIA KISAN SABHA (Apr. 18, 2022), <https://kisansabha.org/0current/samyukta-kisan-morcha-press-release-17-april-2022/> [<https://perma.cc/GJK6-8SZP>]. Farmers have previously mobilized to demand an implementation of NCF recommendations. In March 2018—in what was known as the ‘Kisan Long March’—roughly 50,000 farmers from across the state of Maharashtra marched to the state’s capital city Mumbai demanding land rights,

MSPs. Its Draft National Policy for Farmers proffered detailed recommendations designed to: ensure farmers earn a “minimum net income”; “complete the unfinished agenda in land reforms”; develop a “social security system and support services for farmers”; protect and improve “land, water, biodiversity and climate resources”; “foster community-centered food, water and energy security systems in rural India”; “mainstream the human and gender dimension in all farm policies”; and more.²⁹³

The ameliorative potential of these recommendations is profound. Take, for example, the NCF's recommendation that farmers be assured greater access to rural credit at reasonable interest rates.²⁹⁴ More uniform access to affordable credit, especially for small and marginal farmers, would reduce the power of commission agents who engage in exploitative moneylending practices while preserving the vital services that they provide.²⁹⁵ The NCF has also promoted cooperative farming for small and marginal farmers to provide centralized services and farm equipment and to support small-scale decentralized production.²⁹⁶

On the subject of land, while underscoring that land ownership is highly skewed in India, the NCF notes that its “first and foremost

loan waivers, better compensation for their produce, and implementation of NCF recommendations. *See generally* ASHOK DHAWALE ET AL., THE KISAN MARCH IN MAHARASHTRA (Vijay Prashad ed. 2018), <https://ruralindiaonline.org/en/library/resource/the-kisan-long-march-in-maharashtra/> [<https://perma.cc/D9K6-FA9B>]. The march was organized and led by the All India Kisan Sabha. *Id.* Following the mobilization, a private member bill was introduced in Parliament “to confer a right on every farmer to guaranteed remunerative minimum support prices for agricultural produce with minimum fifty percent profit margin above comprehensive cost of production upon sale of agricultural commodities.” The Farmers' Right to Guaranteed Remunerative Minimum Support Prices for Agricultural Commodities Bill, Bill No. 115 of 2018 (Apr. 6, 2018), <http://164.100.47.4/billtexts/lbilltexts/asintroduced/533%20as.pdf> [<https://perma.cc/S8ME-TYRS>]. At this writing, the bill had yet to be discussed in Parliament. Adeeti Singh, *Why is a Private Member Bill of 2018 Relevant to the Farmers Today?*, CITIZENS FOR JUSTICE & PEACE (Jan. 8, 2021), <https://cjp.org.in/why-is-a-private-member-bill-of-2018-relevant-to-the-farmers-today/> (on file with the *Columbia Human Rights Law Review*).

293. NAT'L COMM'N ON FARMERS (2006), *supra* note 114 at 4.

294. *Id.* at 24.

295. Vanaik, *supra* note 20.

296. NAT'L COMM'N ON FARMERS, SERVING FARMERS AND SAVING FARMING, JAI KISAN: A DRAFT NATIONAL POLICY FOR FARMERS, FOURTH REPORT 24 (2004); NAT'L COMM'N ON FARMERS (2006), *supra* note 114 at 39.

task . . . should be in the area of land reform with particular reference to tenancy laws, land leasing, distribution of ceiling surplus land and wasteland, providing adequate access to common property and wasteland resources, and the consolidation of holdings.” Specific attention is also given to the provision of land to landless households, land rights for women, and support services for women farmers.²⁹⁷

The NCF has also extensively considered reforms to the *mandi* system.²⁹⁸ Here, the tremendous experience and knowledge of states who have long been experimenting with APMC reforms²⁹⁹ will also prove instructive. Given both the complexity and diversity of these markets, and contrary to the centralizing nature of the Farm Laws, states should lead the charge on regulation and reform.³⁰⁰

Although the NCF reports offer a roadmap to provide farmers much needed economic relief, and even address some environmental concerns,³⁰¹ they do not free farmers from their dependency on a highly inequitable and ecologically destructive system that carries great financial risks. Farmers in India are facing a Sisyphean task. Neither government-subsidized commodity farming, nor its deregulated cousin, offer a just and sustainable future for the hundreds of millions of Indian farmers trapped in a cage of uncertainty and debt. Whether the government expands its MSP-public procurement system or central policies like the Farm Laws deregulate the agricultural sector in service of corporate interests, the ecological foundation on which the agricultural system rests will continue to give way, eventually forcing farmers away from high-cost chemical inputs and from monocropping practices.

The Indian agrarian system is decentralized in key respects, but it is also highly centralized by policies that dictate production practices, cropping patterns, and research and knowledge exchange.³⁰²

297. NAT'L COMM'N ON FARMERS (2006), *supra* note 114, at 5–6. *See also supra* note 40 (summarizing India's earlier and unfinished attempts at land reforms).

298. NAT'L COMM'N ON FARMERS (2006), *supra* note 114, at Chapter 5.

299. *See supra* note 136–41 and accompanying text.

300. Krishnamurthy, *supra* note 136.

301. For example, it recommended that farmers be trained in organic farming practices, that subsidies be made available for organic inputs, and that alternative land and water management practices be developed to deal with the ill effects of climate change. NAT'L COMM'N ON FARMERS (2006), *supra* note 114, at 69.

302. *See Singh et al.*, *supra* note 66, at 3 (noting that it is decentralized in relation to farm ownership and to agricultural operations such as processing, storage, and transportation).

It is also hooked on industrial agriculture.³⁰³ As noted by Richa Kumar et al., the Farm Law debates “have remained restricted to the realm of agricultural marketing and the economics of livelihoods. They miss the fundamental reality of today’s times—that the current agrarian impasse reflects the fatigue of dominant approaches to agriculture, which assumes growth is limitless and resources are inexhaustible.”³⁰⁴ Nor do the proposed reforms address caste-based injustices that all but guarantee inequitable access to resources and markets.³⁰⁵

As articulated in the Introduction, it is not enough to simply reform existing systems to mitigate oppressions and harms. Social movements must simultaneously imagine and build alternative systems that are more sustainable, more just, and that ultimately render existing systems obsolete. In short, it is time to move beyond a productivist approach and address the destructive legacy of the Green Revolution. As argued in the next Part, the social and ecological dimensions of the agrarian crisis must finally take center stage.

IV. Reconstruction

The farmers’ victory in India was a significant setback for the neoliberal project.³⁰⁶ It was also a defensive struggle—a struggle to maintain and fortify the status quo. And while farmers should not be scapegoated for trying to hold onto what little they have, in the end, it is not enough to simply tweak or reform a violent, inequitable, and highly unsustainable system.

As explored in this Part, the time is ripe (and long overdue) for a transformative and paradigmatic shift in agriculture to help deliver

303. A comprehensive report by the non-profit Council on Energy, Environment and Water found that sustainable agricultural practices were “far from mainstream” and that barring a few exceptions most of the sustainable practices identified were employed by less than 4% of farmers. For many practices, the number was less than 1%. NITI GUPTA ET AL., SUSTAINABLE AGRICULTURE IN INDIA 2021 4 (2021), <https://www.ceew.in/sites/default/files/CEEW-Sustainable-Agriculture-in-India-2021-May21.pdf> [<https://perma.cc/DHK3-ATGP>].

304. Richa Kumar et al., *Neither Govt nor Protesting Farmers Recognise Challenge of Depleting Natural Resources and Climate Crisis*, NETWORK OF RURAL & AGRARIAN STUD. (Dec. 8, 2020), <http://www.ruralagrarianstudies.org/neither-govt-nor-protesting-farmers-recognise-challenge-of-depleting-natural-resources-and-climate-crisis/> [<https://perma.cc/Z94S-5PQK>].

305. *Id.*

306. See Kaur & Saratchand, *The Struggle Against Corporate Encroachment*, *supra* note 112, at 1 (stating that the repeal of the three farm laws “was the first consequential setback to the neoliberal project in India after 2014.”).

food systems that center the rights of food producers and consumers, are attuned to social and environmental concerns, and are responsive to the climate crisis we face. This, in part, requires investing in diversified agroecological food systems founded on the principles of food sovereignty. It also requires taking on the inequities of caste, the abolition of which can no longer be postponed. Although these demands are not yet on the negotiating table, as explored below, the farmers' movement has opened the door to an imagining of alternative futures.

A. Food Sovereignty and Agroecological Transitions

India's farmer protests are part of a global assertion of peasants' rights. Like India's farmers, peasants around the globe are in a battle for their lives and livelihoods and for the future of food.³⁰⁷ These movements often frame their aspirations using the language of food sovereignty, which is defined by *La Via Campesina* as "[t]he right of people to determine their own food and agricultural systems, and the right to healthy and culturally appropriate food produced through ecologically sound and sustainable methods."³⁰⁸ Food sovereignty is a transformative political project that seeks to decentralize power in the food system, restore ecological balance, and put forward an alternative development paradigm.³⁰⁹

While the global food sovereignty struggle has clearly aligned itself with and drawn inspiration from India's farmers' movement,³¹⁰ the movement itself does not typically express its objectives in food

307. Marc Edelman et al., *Eine Alternative zur Agrarindustrie* [An Alternative to Industrial Agriculture], FRANKFURTER RUNDSCHAU (Ger.), Nov. 19, 2018; see also *supra* note 15.

308. Nyéléni Village, Sélingué, Mal, *The Declaration of Nyéléni*, in NYÉLÉNI 2007: FORUM FOR FOOD SOVEREIGNTY 8, 8–11 (2007), https://nyeleni.org/DOWNLOADS/Nyelni_EN.pdf [<https://perma.cc/W6T2-6ZV2>].

309. See generally PRISCILLA CLAEYS, HUMAN RIGHTS AND THE FOOD SOVEREIGNTY MOVEMENT: RECLAIMING CONTROL (Routledge 2015). As described by *La Via Campesina*, food sovereignty is not "a simple one size fits all solution." Rather, it is a commitment to bringing about systemic change, and about ensuring that "human beings hav[e] direct, democratic control over the most important elements of their society." Eur. Coordination Via Campesina, *Food Sovereignty Now!*, LA VIA CAMPESINA, <https://viacampesina.org/en/wp-content/uploads/sites/2/2018/02/Food-Sovereignty-A-guide-Low-Res-Vresion.pdf> (on file with the *Columbia Human Rights Law Review*).

310. See *supra* Part II.B.6.

sovereignty terms.³¹¹ And although the movement stood up to corporate capital, staving off its expansion in India's countryside, its demands do not center on creating alternative food pathways or freeing farmers from their dependency on a destructive globalized system of industrial agriculture. Should the Indian farmers' movement further align itself with the global food sovereignty struggle, it can look to examples of alternative development models, and center related demands in its platforms.

Food sovereignty struggles the world over are rejecting the increasing commodification of land and natural resources, envisioning new and more localized systems of production, exchange, and consumption, and working with nature to practice low-input agroecological food production methods that protect biodiversity, build long-term soil fertility, and improve climate resilience and adaptation.³¹² Agroecology is a science, a set of principles and practices, and a socio-political movement that stands in sharp contrast to industrial agriculture. As a political framework, agroecology highlights the connections between food sovereignty, locally adapted agricultural systems, and the right to food.³¹³ Agroecology also promotes Indigenous and traditional knowledge.

With proper State supports, these healing alternatives to our industrial food system have the potential to strengthen rural livelihoods, conserve biodiversity, increase carbon sequestration, and support global food production. These proposals for an alternative food future take as their premise the notion that in addition to being able to feed a growing population, food systems must be socially and ecologically viable, support human rights and planetary health, and increasingly, be able to withstand climate-related shocks.

Case studies from around the globe suggest that agroecological transitions are succeeding, at least at the local level.³¹⁴ Within India,

311. See also Cohen, *Supermarkets in India*, *supra* note 50, at 70 (noting in a study that farmers who were resisting the corporate restructuring of food supply chains in West Bengal similarly did not express their desires in terms of food sovereignty or social justice, but spoke "more modestly of preserving their own opportunities for profit and market exchange").

312. Eur. Coordination Via Campesina, *supra* note 309.

313. See Hilal Elver (Special Rapporteur), Rep. on Sustainable Development Goal 2 and the Right to Food, para. 38, U.N. Doc A/74/164 (July 15, 2019).

314. See, e.g., INT'L PANEL OF EXPERTS ON SUSTAINABLE FOOD SYSTEMS, BREAKING AWAY FROM INDUSTRIAL FOOD AND FARMING SYSTEMS (2018), http://www.ipes-food.org/_img/upload/files/CS2_web.pdf [<https://perma.cc/B83R->

alternatives to industrial agriculture are also emerging. The Zero Budget Natural Farming (ZBNF) movement, for example, encourages farmers to use low-cost and locally-sourced inputs (such as cow dung and urine, jaggery, and pulse flour) in place of costly chemical inputs to improve soil health, agrobiodiversity, and climate resilience.³¹⁵ ZBNF aims to “end[] reliance on purchased inputs and loans for farming, [and] position[s] itself as a solution to extreme indebtedness and suicides among Indian farmers.”³¹⁶

With the climate crisis intensifying, there is a clear and increasingly urgent need for India to reorient its policies toward incentivizing a transition to agroecological methods and systems. This, too, is a complicated task. To begin, those who are most engaged in diverse cropping systems and marketing arrangements are also the most under-resourced.³¹⁷ At the same time, for farmers who are dependent on industrial agriculture, too quick a transition can bring unintended consequences.³¹⁸ Critically, agroecology itself has become a contested terrain. As agroecology emerges as both a science and a political movement, there is a risk that it will be “co-opted, . . . stripped of its political content,” and promoted as an additional “tool[] for the toolbox of industrial agriculture,” rather than a “politically mobilizing option for building alternatives to development.”³¹⁹

MA9Z] (presenting case studies showing how communities across the globe have successfully redesigned food systems around agroecological principles).

315. Niti Gupta et al., *supra* note 303, at 14.

316. Ashlesha Khadse et al., *Taking Agroecology to Scale: the Zero Budget Natural Farming Peasant Movement in Karnataka, India*, 45 J. PEASANT STUD. 192 (2018).

317. Krishnamurthy, *supra* note 69 (adding that these small and marginal cultivators often grow food for their own subsistence in remote, rainfed regions).

318. For example, in April 2021, Sri Lanka’s president decided to ban synthetic fertilizer and end decades of subsidies while promoting organic agriculture. In July 2022, the government fell following mass protests and in the midst of a severe economic crisis and food shortages. Although many blamed the transition to organic farming for the country’s downfall, its economic crisis predated the fertilizer ban and may have even inspired it. Still, the government’s decision to institute an abrupt fertilizer ban without the training and time necessary to transition to a new production system was met with severe criticism. Tom Philpott, *Tucker Carlson Says He Knows Why Sri Lanka Fell. Don’t Believe Him*, MOTHER JONES (July 22, 2022), <https://www.motherjones.com/politics/2022/07/tucker-carlson-says-he-knows-why-sri-lanka-fell-dont-believe-him/> [<https://perma.cc/LEZ5-RRGQ>].

319. Omar F. Giraldo & Peter M. Rosset, *Agroecology as a Territory in Dispute: Between Institutional and Social Movements*, 45 J. PEASANT STUD. 11 (2017).

In India, the co-option is taking a nativist turn as “ideas about ‘natural farming’ based on agro-ecological principles have got[ten] wrapped up in exclusionary Hindutva nationalism, yet are celebrated as a food sovereignty success.”³²⁰ Prime Minister Modi himself has been touting Zero Budget Natural Farming, calling for a mass movement while extolling the virtues of serving ‘Gaumata’ (Mother Cow) as the use of cow dung and urine are central to ZBNF practices.³²¹

In addition to concerns around how the centrality of cows in ZBNF will play out in the context of Hindutva politics, if Modi’s plans to expand ZBNF are premised on the model implemented in the state of Andhra Pradesh, it also raises serious questions around whether these policies are truly farmer-centric. The expansion of ZBNF in Andhra Pradesh, which was rolled out by its chief minister with funding from foreign financial institutions, has been criticized as “corporatised, financialised and commodified, based on foreign direct investment and easy transfer of farm information and produce globally, the very thing the farmers have opposed the farm laws for.”³²²

320. IAN SCOONES ET AL., *AUTHORITARIAN POPULISM AND THE RURAL WORLD*, at xix (2021). Hindutva, which is distinct from Hinduism, is a political ideology and movement rooted in the teachings of the founders of the Rashtriya Swayamsevak Sangh (RSS), a Hindu nationalist group that since its founding has advocated for the establishment of a Hindu *rashtra* (nation). The BJP is the political wing of this movement. Kalim Siddiqui, *Hindutva, Neoliberalism and the Reinventing of India*, 4 J. ECON. & SOC. THOUGHT 142, 143 (2017).

321. *PM Modi Pitches for Natural Farming, Says It Will Protect Soil Quality*, THE HINDU (July 10, 2022, 11:47 PM), <https://www.thehindu.com/news/national/pm-modi-pitches-for-natural-farming-says-its-like-serving-mother-earth/article65623024.ece> [<https://perma.cc/GJJ5-4DNM>]; see also Ian Carlos Fitzpatrick et al., *Governing the Soil: Natural Farming and Bionationalism in India*, 39 AGRIC. & HUMAN VALUES (2022) (noting that “ZBNF has also evolved into a state-supported programme in several Indian states, including Himachal Pradesh” and exploring the “use of biology and nativism to strengthen nationalist narratives [] as a justifying rhetoric”); Khadse et al., *supra* note 316, at 21 (pointing out that ZBNF founder Subhash Palekar’s “zealous promotion of the native cow and ‘Indian culture’ . . . is somewhat similar to Hindutva’s discourse. . . and its so-called cow-protection campaign” that has prompted vigilante violence against Muslims and Dalits over rumors that they sold, bought, or killed cows for beef).

322. Leo F. Saldanha & Bhargavi S. Rao, *Will Zero Budget Natural Farming Address India's Complex Farming and Food Demands?*, IMPRI (Dec. 9, 2019), <https://www.impriindia.com/insights/zero-budget-natural-farming/> [<https://perma.cc/FA49-36FQ>]; see also Aritra Bhattacharya, *Farmers or Corporates: Who Benefits from Andhra Pradesh's Natural Farming Project?*, SCROLL.IN (Feb. 14, 2019, 12:30 PM), <https://scroll.in/article/909759/farmers-or>

In the end, successful agroecological transitions are necessarily slow processes that must be accompanied by the building of movements and institutions that “enable small and marginal farmers to take control of the process and reap benefits.”³²³ In other words, calls to shift agricultural technologies cannot be divorced from the need to shift socio-economic power and ensure that food producers are able to define their own food and agricultural systems. As noted by Scoones et al., “[t]he radical potential of these local, rooted alternatives therefore may only be realised when they are connected to a wider debate about political transformation, in rural spaces and beyond.”³²⁴ Agroecology without food sovereignty rings hollow. As such, agroecological transitions must center the human rights of food producers, including their right to food sovereignty.

There is good news on this front. India is a signatory to the 2018 U.N. Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) which was adopted following nearly two decades of mobilization by *La Via Campesina* and its allies. UNDROP fills critical gaps in rights protections, including by affirming peasants’ rights to land, seeds, natural resources, and food sovereignty. It also prescriptively puts a thumb on the scale in favor of more equitable land distribution and agroecological farming practices.³²⁵ Although nonbinding, the Declaration can serve as a guide for agrarian transitions and for embedding food sovereignty in our food systems.

In India at least, ensuring that people have direct, democratic control over the most important elements of their lives, including access to land and other productive resources, necessarily means addressing the stranglehold of caste in the countryside—a project to which neither the government nor the farmers’ unions (by and large) are committed.

corporates-who-benefits-from-andhra-pradeshs-natural-farming-project
[<https://perma.cc/F7FM-DC7Q>].

323. Bhattacharya, *supra* note 322 (citing Ashish Kothari); *see also* Khadse et al., *supra* note 316, at 1, 23 (arguing that “the ZBNF movement has achieved massive scale not only because of effective farming practices, but because of a social movement dynamic” but also cautioning that it is driven by dominant caste/middle class farmers and does not center the leadership of women).

324. AUTHORITARIAN POPULISM, *supra* note 320, at 11.

325. Smita Narula, *Peasants’ Rights and Food Systems Governance*, in THE UNITED NATIONS DECLARATION ON THE PEASANTS’ RIGHTS 151, 155–56 (Routledge 2022).

B. Confronting Caste

As analyzed in Part II, a key factor in the farmers' movement's success was its ability to stitch together a farmer-worker alliance across caste and class lines. In the end, however, it is not enough just to see who was involved, but what was fought for. Even though the farmers' movement has brought many inequities and injustices to light, what is seemingly not on the table are vociferous demands for more equitable land distribution (including for women), higher wages for agricultural workers, or an end to caste-based abuses, including at the hands of farmers themselves. Regrettably, the farmers' unions' reformist demands leave these critical issues off the negotiating table. With some notable exceptions, the farmers' movement is largely silent on caste-based oppression.³²⁶

Jens Lerche comments that while the farmers' movement may have been politically progressive, "there is little space for the radical interests of exploited and oppressed classes and groups who are part of the present movement to shape its future."³²⁷ And Aditya Bahl observes that the repeal of the Farm Laws "will merely serve to restore business as usual, where the Dalit and the landless Jats will, once again, find themselves thrust back into a life of endless exploitation and oppression by the bigger Jat farmers."³²⁸

Other scholars are sometimes analytically reluctant to engage with India's caste dynamics. But analyses that simply view the struggle as one between agrarian movements and global capital paper over an equally important power dynamic—that between Dalit landless laborers and their dominant caste exploiters. The caste system serves to both justify and solidify exploitative economic arrangements and ensure that accumulation under a globalized capitalist system flows into dominant caste hands. Unless and until the roots of exploitation are surfaced and abolished, the structural capacity and architecture for intensely unequal and unjust socio-economic outcomes will not diminish. But in this struggle, as with others, the call for an abolition of caste has once again been postponed. The interests of dominant caste farmers are steering the movement.³²⁹

326. Lerche, *supra* note 54, at 1385; *see also* Singh et al., *supra* note 66 and accompanying text (indicating that the more "radical" BKU Ekta-Ugrahan does take on caste and redistributive issues).

327. Lerche, *supra* note 54, at 1381.

328. Bahl, *supra* note 28.

329. Lerche, *supra* note 54, at 1381–87.

This is unsurprising. Even for marginal farmers, their relative caste privilege offers them social and political capital to hold on to their meager landholdings and ensure that they are not on the bottom of the agro-capitalist food chain. What gets lost in this system of graded inequality is the chance to imagine alternatives where one group's survival is not dependent on another's decimation.³³⁰ Alternatives such as the pooling together of meager landholdings to enable cooperative farming—a model already being followed by Dalit landless workers who in certain Punjabi villages are collectively farming the commons.³³¹ Some commentators have even suggested that the State could assist in the formation of these cooperatives, which would involve collective decision-making around production, exchange, and investment and which would need to be designed so as to “avoid dangerous power imbalances arising from unequal land holdings or incomes.”³³²

The farmers' movement may not have been radical in its demands, but it was radical in its execution. Protesting farmers were able to turn their call to repeal the Farm Laws into a flashpoint for building a mass, solidaristic movement that in its execution upended societal norms. As further explored below, a movement organized around reformist demands has planted the seeds for transformative change.

C. Imagining Alternative Futures

The success of the farmers' movement in India lies not just in its ability to forestall the corporate march into India's countryside but in its offering of a vision of a very different future.³³³ That the

330. India's caste system was described by Dr. B.R. Ambedkar—a Dalit leader and architect of India's Constitution—as one of “graded inequality” that invites people to share in the spoils of iniquity even as they suffer from it. By offering individual castes a rank in a pecking order, it divides the sufferers themselves and keeps the equality revolution at bay. Narula, *Equal by Law, Unequal by Caste*, *supra* note 41, at 260.

331. Bahl, *supra* note 28.

332. Vanaik, *supra* note 20; *see also supra* note 296 and accompanying text (noting that the NCF has also promoted cooperative farming).

333. *See* Narasimhaiah, *supra* note 52, at 512 (“The diversity of tactics employed by the farmers exemplify the principles of mutual aid, direct action, and intersectional and international solidarity, all of which combined to demonstrate the viability of collective life beyond the limits of the state and capital.”); *see also* Amna Akbar, *Toward a Radical Imagination of Law*, 93 NYU L. REV. 405, 478 (2021) (arguing that “social movement visions paint a picture in tension with

movement was able to bring myriad actors together across caste, class, sectors, and regions is itself a victory.³³⁴ But equally revolutionary was the reconfiguration of social relationships within movement spaces. Forged upon farmer-laborer solidarities and defying caste and gender barriers, the farmers' encampments offered a radically egalitarian space and an alternative political imagination for what democracy might look like when freed from the constraints of caste, class, and gender oppression, and the individualistic logic of capitalism.

Prolonged and geographically embedded protest sites can serve as laboratories to experiment with alternative political and socio-economic arrangements.³³⁵ Here, the pains taken to ensure democratic decision-making stood in sharp contrast to the manner in which the laws themselves were ushered in, offering a small antidote to a democracy in decline. As discussed in Part II, movement participants bent and often broke caste, class, and gender barriers. Community kitchens and other forms of mutual aid helped stitch together otherwise fractured and hierarchical communities, suggesting that when one's basic needs are met the need for unity becomes greater than the need for hierarchy.

In a country where the practice of untouchability remains rampant, and where those who engage in inter-caste interactions (particularly between Dalit and non-Dalit castes) can be met with extrajudicial punishment, coming together for a meal is a radical act that, in the moment, erases the purity/pollution line that separates Dalits from dominant castes (wherein Dalits are perceived to be "polluting" and therefore "untouchable"). The encampments also upturned gender norms. Men were more involved in preparing meals, while women rode tractors and led rallies.³³⁶

prevailing stories about law and the state—what it means and does, how it operates, who it benefits—in opposition to how legal institutions commonly tell that story.”).

334. Edassery, *supra* note 257.

335. See, e.g., Jeevan P, *supra* note 185 (comparing mutual aid and consensus decision-making in the Indian farmers' encampments to these same features in the Capitol Hill Autonomous Zone (CHAZ) that was set up by Black Lives Matter protestors in Seattle, Washington after the police murder of George Floyd).

336. Narasimhaiah, *supra* note 52, at 520; Singh et al., *supra* note 66, at 17; Riddhi Dastidar, *I Am Not Afraid Of Arrest, The Govt Can Do Whatever It Wants*, ARTICLE 14 (Mar. 29, 2021), <https://www.article-14.com/post/i-am-not-afraid-of-arrest-the-govt-can-do-whatever-it-wants> [<https://perma.cc/WK7M-HQLG>].

In these seemingly small but significant acts, the movement temporarily dislodged the dominant caste male from his place at the top of the social hierarchy, at least internally.³³⁷ This was a space that challenged casteist and patriarchal mindsets and began to change relationships. Harinder Bindu, a leader of BKU-Ekta Ugrahan's women's wing, put it this way:

All sections of society have been part of this But will this protest solve the problems of caste? No. Will it restore the rights of women? No. Will it make farm labourers the owners of the land they work on? No. But there is one thing. [Over the course of this movement, some relationships have started to change].³³⁸

The changing of relationships, and with it casteist and patriarchal mindsets, is no insignificant feat. Although India's Constitution and its laws abound with anti-discrimination guarantees, they consistently fall short of being implemented in practice. As I have written elsewhere, the Rule of Law in India is subservient to the Rule of Caste. And the spaces for inter-caste sociability remain extremely limited as prohibitions on sociability across the purity/pollution line may be strictly and violently enforced.³³⁹

But while the movement may have strengthened farmer-worker solidarities and the greater involvement of women in political spaces, it remains to be seen whether these emancipatory experiences will find an echo in post-protest life back home or whether the demands of its most oppressed members will meaningfully shape the movement moving forward, which in its essence still caters to male, dominant caste interests. Even during the protests, the participation of Dalit landless laborers was constricted by the fact that they had to return to the fields to earn their daily wages or risk losing their jobs.³⁴⁰

There is, in the end, a tension inherent in working to prop up a failing, inequitable system while seeking transformation. Or put differently, a tension between seeking reform and revolution. This tension can be seen within the movement itself with respect to its tactics and its goals. Joginder Singh Ugrahan, leader of BKU-Ekta Ugrahan, has declared that the repeal of the Farm Laws is not the final objective of the struggle. It is, rather, a stepping-stone for building a

337. See also Behl, *supra* note 9, at 1143 (noting that the movement created "an inclusive environment in which Dalits, Muslims, and women are valued").

338. Singh et al., *supra* note 66, at 18 (citing Dastidar, *supra* note 336).

339. Narula, *Equal by Law, Unequal by Caste*, *supra* note 41, Part II.C.

340. Bahl, *supra* note 28.

new movement to transform the entirety of Punjab's agrarian society.³⁴¹ BKU-Ekta Ugrahan also holds a different view on which tactics will prove most effective moving forward. While some farmer leaders have opted to contest elections, BKU-Ekta Ugrahan decries electoral politics and sees mass mobilization as the key catalyst for change.³⁴²

It is not just the farmers' movement that is negotiating these tensions. In some ways, many movements are working through the simultaneously emancipatory and destructive qualities of late-stage capitalism, while dealing with ecological collapse. At a moment of deepening crises, there is a profound reckoning happening around what we value, around what development and democracy should look like, and around the earth's capacity to withstand more abuse. There is also much uncertainty as we straddle between the "no longer" and the "not yet" worlds to come.³⁴³ The farmers' movement has opened the door to radical imagination around what may yet be possible. Its success has much to teach social movements around the world. And where it goes from here will continue to be watched by many.

CONCLUSION

Food systems in India have been shaped by waves of ecological and economic violence. But food systems also offer pathways for renewal and opportunities to heal from that violence. Across the world, communities are reimagining democracy, dismantling hierarchies, and building climate resilience, all through the vehicle of growing food.³⁴⁴

341. *Id.*

342. Int'l Manifesto Group, *supra* note 249.

343. *Our Bodies at the Borderland*, THE ROOTED GLOBAL VILLAGE, <https://www.rootedandembodied.com/> [<https://perma.cc/8R7G-25CM>].

344. Grassroots practices, named by environmentalist and scholar Ashish Kothari as "radical ecological democracy," are also emerging in India—"plac[ing] the goals of direct democracy, local and bioregional economies, cultural diversity, human well-being, and ecological resilience at the core of [their] vision." Ashish Kothari, *Radical Ecological Democracy: A Path Forward for India and Beyond*, GREAT TRANSITION INITIATIVE (July 2014), <https://greattransition.org/publication/radical-ecological-democracy-a-path-forward-for-india-and-beyond> [<https://perma.cc/9YFB-8E67>]; see generally ASHISH KOTHARI & K. J. JOY, *ALTERNATIVE FUTURES: INDIA UNSHACKLED* (2017) (including a collection of essays that include both future scenarios and present-day initiatives demonstrating the possibility of alternative ecological, political, economic, and socio-cultural futures in India). See also Amna A. Akbar, Sameer M. Ashar & Jocelyn Simonson, *Movement Law*, 73 STAN. L. REV. 821, 844–45 (2021) ("Precisely because law often

The trajectory of India's farmers' movement is still unknown. And like any story that is unfolding, it sits on the precipice of multiple possibilities. Wherever it may lead, the farmers' victory is an inspiring example of the power of mass movements to hold governments accountable, resist State oppression, and navigate our age of intersecting crises.

reproduces hierarchal power relations, it is essential that we pay attention to grassroots struggles for transformation.”).