

Farm Laws Fiasco Calls for Governance & Judicial Awakening

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PRIME

Minister Narendra Modi's announcement to repeal three central farm laws (CFLs) & call to farmers to make a new beginning should appeal all organs of democracy. It is an opportunity for the Government, Legislature, Judiciary and Media to introspect, correct and perform duties responsibly. More of this later in this editorial.

The repeal decision is as surprising as was the Cabinet decision on 3rd June 2020 to sneak them through ordinance door. The reasons cited for this exceptional route of law initiation included helping farmers fight the Covid-19. The Ordinances were later regularized into laws through passage of relevant bills in Parliament during September 2020.

We need not recall the storm over the manner in which bills were rushed through in Parliament. We all know the chain of avoidable events these laws triggered and how the issue was allowed to linger on and get complicated.

What few would perhaps remember is the fact that the Opposition against Ordinances started right in June-July 2020. Farmers took out tractor rallies in Rajasthan, Haryana and Punjab in July 2020. At least two chief ministers wrote to PM against ordinances.

Modi Government ignored all protests and criticism with the usual contempt and went ahead with turning ordinances into regular enactments. It turned blind eye to the fact that eight States & union territories with state assemblies passed resolution against farm laws.

It is not anyone's demand that there should be no agricultural reforms. The core issue is how the reforms process should be carried out in compliance with the Constitution and established norms. The secondary issue how the conflict, caused by erroneous method of reforms, should be resolved by whom and when.

The bitter and bloody conflict over 3 CFLs has harmed agricultural marketing reforms that were initiated by Vajpayee Government and improved upon by UPA regime. Modi Government rightly carried forward these reforms initially by decoupling Contract farming from Model Agricultural Produce Market Committee (APMC) Act, 2003. It thus drafted two model laws for the States to legislate and adopt: Agricultural Produce and Livestock Marketing (Promotion and Facilitating) Act, 2017 and Model Contract Farming Act, 2018. The Government assured in Parliament that "

at present, there is no proposal under consideration of the Government to bring agricultural marketing into the concurrent or Union List". The Central, State and Concurrent Lists remain un-amended till today.

Even as the States started enacting these model laws, the Centre gave them big shock in form of CFL ordinances. They override all State agricultural laws whenever there is conflict between the central and relevant State laws.

The 3 CFLs are: 1) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, 2020. 2) The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020. 3) The Essential Commodities (Amendment) Act, 2020. The 3rd is an amendment Act and thus does not encroach into State List unlike the first two CFLs.

Unfortunately, Mr. Modi didn't shed any light on these issues while announcing the repeal decision on a holy day - Prakash Purnam of Sri Guru Nanak Dev ji. He devoted his speech to rationalizing and defending 3 CFLs.

He took high moral ground while

"apologizing to the countrymen". He stated: " perhaps there must have been some deficiency in our penance that we could not explain the truth like the light of the lamp to the farmer brothers ".

The PM's Address to the Nation is not the best way to try to draw curtains on a controversy that led to farmers unprecedented protests. A Better way would have been for PM to have a **Chai Pe Charcha**

with agitating farmers. This could have been followed by joint announcement on resolution of all issues. Remember how Mr. Modi had such confabulations over cups of tea with peasants in the run-up to Lok Sabha 2014 polls.

No wonder PM's call to protesters to return to their farms has been ignored by farmers. They want closure of all criminal cases registered against them during the course of protests. They want compensation for kin of farmers who died during the agitation due to varied reasons.

They also want statutory framework for minimum support price (MSP) for crops- an issue that has been on national agenda right from British India era. ([White Paper on MSP: Enact Agricultural Prices Stabilization Act](#))

They have penned their pending demands in an open letter to PM. They are sticking to their pre-repeal schedule of protests with renewed zeal and anticipate much larger participation from villages.

This brings us to the need to avoid governance-caused conflicts or at least nip them in bud in a holistic manner. In case of CFLs, the Government didn't follow pre-legislative consultation policy. It requires the ministry concerned to issue a draft law before it is taken to the Cabinet as draft bill for introduction in Parliament.

The Government did not follow the Parliamentary practice of referring 3 farm law bills to either relevant Parliamentary Standing Committee or specially-constituted Select Committee for detailed vetting and analysis of the bill.

The Government did not consult the States on CFLs, except for general discussion on agricultural marketing reforms at NITI Aayog. Ideally, CFLs proposal should have been discussed at Inter-State Council.

Reports of two NITI committee on agriculture that submitted their respective reports under the convenorship of BJP Chief Ministers were never made public. It would be enlightening to know whether Devendra Fadnavis Committee recommended enactment of 3CFLs. Did it recommend these as substitutes to two model state laws unveiled by the Union Agriculture Ministry in 2017 &2018?

Did Modi Government ever explain to the Nation what was wrong with the two model laws and why state legislatures were not given adequate time to enact them? It is here pertinent to note that some of the eight States, which passed anti-CFLs resolutions in their respective assemblies, enacted their own laws as counter to CFLs. The Governor of States concerned didn't clear the State bills for notifying them as state laws.

It is high time the Hon'ble President sets a timeline for clearance of laws by Governor and by himself if Governor refers the State Law for President's approval.

Did Modi Government explain to farmers how CFLs were better than two model laws in protecting the interest of farmers? Why has government kept under wraps many more documents on agricultural reforms?

Let the public judge PM-articulated **purity**

of Government's decision-making process by allowing access to all documents that led to bulldozing of 3CFLs on farmers.

We urge Modi Government to assure the Nation that it would henceforth follow pre-legislative consultation, parliamentary consultation process on bills. It should also consult States through Inter-State Council route for all proposed laws that impact States.

CFLs are, prima facie, an encroachment by the Centre into State List. The constitutional invalidity of CFLs should have been judged by the Supreme Court. Unfortunately, the apex court didn't take up for hearing PIL challenging the constitutional validity of 3 CFLs. It preferred to play mediator between the Centre and Farmers, marginalizing its primacy as Constitutional Court.

The President of India was also found wanting in performing his duty as guardian of the Constitution and interests of both the Centre and States. Faced with plea from Opposition parties and Opposition-ruled States, he could have referred 3FLs to Supreme Court for speedy clarification on their constitutional status. ([Conflict Avoidance & Resolution Can Open Gateway to New India](#))

Similarly, mainstream media should have done its homework on Centre-State relations, agricultural reforms and long history of official proposals to enact MSP law. Instead of doing that, TV channels vied with one another in running down farmers' protest as handiwork of China & Pakistan, Khalistan votaries, global toolkit plotters keen to defame Mr. Modi & his New India vision. The media must realize that its primary job is to report news impartially. Its editors can take position for or against any issue without mixing views with the news.

We hope CFLs fiasco would ignite introspection in each organ of democracy and avoid incalculable harm to our socio-economic fabric. All of them must strive to avoid actions that hurt economic growth, daily life, businesses, government revenue and countless other woes.

Let bold reforms be subjected to serious debate and public scrutiny rather than being handed over to the nation as fait accompli for clear-cut mandate to any political party. We can't have a New India by short-circuiting democratic procedures and practices.