

# LEGALFOXES LAW TIMES

## THE NEW FARMER'S BILL 2020 :

## ERA OF EFFICACY OR FALLACY?

By Vaishnavi Kaushik

### ABSTRACT

*“Agriculture is our wisest pursuit, because it will in the end contribute not to real wealth, good morals, and happiness*

*-THOMAS JEFFERSON*

Thousands of agitated and bewildered farmers have flocked towards the Delhi Capital on November 25-26, fulminating against the recently passed farm reform bills<sup>1</sup> 2020, and demanding its absolute expunge. Forests are turning into agricultural lands and agricultural lands are turning into industries and buildings and with the course of globalisation, urbanisation and industrialisation, we forget that the most important source, the origin, the provider is left behind at once and being exploited at other. From the ancient times farmer has been the backbone of any nation, cultivating, fostering, and harvesting, that is providing the uninterrupted chain with food and fodder and from the primitive times the farmer has been impoverished and subjugated by the superior. From those impecunious and perturbed Indigo growing workers in Champaran<sup>2</sup> to these farm protesting against the farm reform laws are the same, because the backbone of the nation has always seen and treated as subservient and menial and The farmers protest was at first innocuous but with each upcoming day it seems to be more cantankerous, and they are not ready to assimilate the bill and had also questioned its constitutional validity. As soon as the protests

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<sup>1</sup> Farm reform bills 2020 was passed by union government on 27<sup>th</sup> September 2020 aiming to provide multiple benefits to the farmers of our nation. See page no.5

<sup>2</sup> Champaran is an administrative district in the state of Bihar in India.

started across Punjab and Haryana opposition parties became pugnacious trying to bemuse and inflame the protesting farmers on the critical issues about MSP and losing of Mandi system, and uncertainty of contract farming, and farmers being putative had flooded Delhi borders with protests and strikes. Increasing and appreciating privatisation and proliferation has become a way of influencing small scale farmers and workers, causing fallacy inside the clique. The ruling party has been succinct in their consecutive speeches and dialogues about the efficacy of the bills.

KEYWORDS: farmers, farm reform bills, MSP, APMC, mandis, protest.

### **CHRONICLE AGRICULTURAL OF INDIA: NOW AND THEN**

Food, fodder, flowers, seeds, oil, pulses, cloth, medicine, and much more, farmers furnish the entire nation uninterrupted with all of it, hence, the farmer is also known as the provider or the food giver. Farmers are the cornerstone of a nation eliminating inanition and even inertia/unemployment. Agriculture not only in India but is a crucial economic and social sector of almost all the nation and contributes a greater amount in increasing nation's economy as well as fulfilling the people's hunger. The entire nation's agricultural economy (In India it amount to 18% of total GDP and 50.64% of the total employment)<sup>3</sup>, lies within the hands of the farmer and his fields. From 1961 to 2016, studies make it evident that 60.45% of India's land is devoted towards the agricultural sector, but the circumstances now seems to be flabbergasting, when the providers have to leave their fields and are instigated to fight and strike.

#### **1. HISTORY OF AGRICULTURE IN INDIA**

The time period dating back to 7000 BCE – 5500 BCE, in modern city of Quetta in Balochistan in Pakistan, the ancient site Mehrgahr, west to the Indus river valley, is one of the earliest sites

<sup>3</sup> The total GDP and employment rate in India due to agricultural sector by parliament 2018 report: 17-18% of total GDP and 50% of total workforce.

with evidence of agricultural empowerment, like farming, pottery, herding and rearing of domestic animals, where barley was the dominant crop, four types of wheat was also grown, goats and sheep were reared and domesticated, and hence India witnesses a flourished and independent agriculture system, that defines and resembles roots of the nation.

## 1.2

### GREEN REVOLUTION INSIGHTS

During the early periods of 1947-1960, India's drive for economic, social and political independence and development was at its peak of dynamic changes, witnessing globalisation, capitalisation, trading policies, chemicalization and industrialisation in agricultural sector,

though the position of agriculture was substandard and underdeveloped in India, as the use of technology to amend and avail resources was neglected.

Detailing about the commencement of a landmark event in 1966, that was embarking the beginning of Green Revolution following the rooted footmarks of the american agronomist Norman Borlag, who initiated green revolution worldwide, India observed and cherished this under the leadership of the ruling party INC and the renowned agricultural scientist M.S. Swaminathan also known as the father of Green Revolution in India who dedicated his life for the betterment of biodiversity, its conservation, and postulation of sustainability and development of high-yielding wheat. The dawn of Green Revolution brought a substantial change in the agricultural sector instigated the ray of yearning and optimism, as it is rightly said by Brett Brian, that- *farming is a profession of hope.*

## 1.3

### SITUATION FROM 2010- 2019

*“If the farmer is poor so as the nation”*

- AMIT KALANTARI

So, the present scenario communicates the perturbing situation of farmers, not just those who have been protesting from months but also whose voices can't reach the parliament. Though a bitter truth but today's provider has been enthralled by government, its officials, even some private authorities and more. It is not about the ruling party or the opposition, conditions of farmers have been consistently chaotic and disrupted since as early as 1990's. According to a survey by National Crime Records Bureau<sup>4</sup>, 2,96,438 suicides of our farmers have been sadly reported since 1995. Maharashtra, in 2014, alone witnessed more than 60,000 farmers suicide cases, along with Odisha, Telangana, Madhya Pradesh, Andhra Pradesh consecutively being a part of traumatic events. India's 11.2% of total suicide cases were that of our farmers, due to heavy interest, debts, loans, anti-farmers law, corruption, lack of availability of technology, flood, draught, pests, crop failures and more. Cash crop farmers were in major numbers when talking about ending lives, as they would never get the actual selling price of the crops, corruption was a major deeply rooted factor that caused farmers live upside down, by eliminating MSP and buying crops for the least value. It has been noted that in 2019, 10,281 people who work in the farming sector have committed suicide. The states of Punjab, Haryana, Bihar, Karnataka, Uttar Pradesh and Andhra Pradesh have the highest farmer suicide rates in country. Government had released relief packages in various states since 2008, but it has generally been ineffective as they focused on loan and credit rather than income, productivity and farmer prosperity.



## **FARM REFORM BILL 2020, ITS LEGALITIES AND UPSHOTS**

### **2. WHAT ARE FARM BILLS 2020?**

The Farm Reform Bills 2020, known as the three new agricultural bills, that aims to provide farmers with multiple benefits that are inclusive of e-trade/commerce, a new more technologically enhanced framework, freedom to sell to anyone, anywhere of their choice, to bargain or negotiate, to enter contracts with private sectors enterprises, etc. The bill was passed on September 27, 2020 in the parliament when was assented by the president of India, Shree

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<sup>4</sup> The **National Crime Records Bureau**, abbreviated to NCRB, is an Indian government agency responsible for collecting and analysing crime data as defined by the Indian Penal Code (IPC) and Special and Local Laws (SLL).

Ram Nath Kovind, but the enactment and enforcement of these laws have also led to protests, riots, vandalism, strikes and siege by the farmers from Punjab, Haryana, Rajasthan, UP and even MP, over the Delhi capital and its respective borders demanding to repeal all the three laws.

## **2.1 THE FARMER'S PRODUCE AND TRADE AND COMMERCE (PROMOTION AND FACILITATION) BILL 2020**

This bill entitles to provide farmers with a new and special techniques of e-trading or e-commerce, where the farmers are free to sell their produce to anyone of their choice, be it in Mandis regulated by governmental authority (APMC), or to any private enterprise, to any individual trader, within the state or intra-state<sup>5</sup>, through internet applications. It would benefit farmers by increasing their trade area and by making it more conventional and tireless. Earlier, the farmers had to carry their crops on a truck or bus to Mandis and had to spend on heavy transportation fee. This law prohibits the state government from levying market fee and taxes in intra-state trading.

### **2.1 What is APMC?**

APMC (Agricultural produce market committee) is a regulating body/market/organisation that was made to protect farmers from middlemen, where farmers could directly sell their produce on a rate fixed by the market committee, but now the protectors have turned out to be a phantasm, turning coats, As farmers are still oppressed in these markets, where they do not get the desired value of their produce due to involvement of several middlemen. Several Reports says that only 6% of the total farmers sell their produce within Mandis. Currently, there are 2,477 Mandis and 4,843 sub-markets, for farmers to sell their produce.

### **2.2 Why farmers are timorous of losing MSP?**

MSP (minimum support price), this is a functional system where the government fixes the cost of many farm produce/crops like wheat, rice, pulses, even before harvesting. Farmers are

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<sup>5</sup> Intrastate business is business conducted within a particular state. So if a company and customer are in the same state, then you are conducting intrastate business.

apprehensive about losing MSP, because out of nowhere they had a chance of selling their produce without any chaos or distraught.

**Example:** government asked few farmers to grow paddy and government would buy it at ₹25RS/- Kg, so after the harvest, no matter the market price of paddy rises or falls, government has to pay the fixed MSP of ₹25RS/- Kg to the farmers. Though farmers have been fooled and cheated by several corrupted authorities like FCI ( ), a government regulated body, more like a warehouse to keep the purchased farm's produce at MSP, but as soon as the farmer tries to sell their goods at FCI, the authorities pretext of having no space and consequently the farmer had to return to the mandis to sell his goods, where he might get less value than MSP, the indigent farmers have no other option but to sell their produce in order to get money, then FCI<sup>6</sup> buys the produce directly from mandis, at a lower cost than MSP, the entire corrupt system needs to be amended before any other bill. Though the farmers could sell their goods/produce outside the territory to who so ever but they had a constant aguish about inability of proper bargaining and are frightened to be fooled.

### 2.3

### Solutions

- The farmers are needed to be educated about using internet application for e-trading and the benefits of the same.
- Mandis system and MSP should still prevail but government should take strict actions by forming committees for reducing intermediaries and corrupt authorities, and the conditions of Mandis should be improvised by maintenance of facilities of storage, weighing and sorting.
- The government authorities should understand the importance of our nation's food providers and their needs, as the one who fill our stomach should not sleep with an

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<sup>6</sup> The Food Corporation of India is an organization created and run by the Government of India. It is a statutory body under the Ministry of Consumer Affairs, Food and Public Distribution, Government of India, formed by the enactment of Food Corporation Act 1964

empty stomach or had to end his life when he is unable fulfil his family needs and hunger.

### **3. THE FARMERS EMPOWERMENT AND PROTECTION AGREEMENT ON PRICE ASSURANCE AND FARM SERVICES BILL 2020**

It is a beneficiary act provided to the farmers by the government, which details about a legal framework of pre-arranged contracts with private enterprises or companies, agri-business firms with the farmers to purchase the desired produce. The amount of per kg produce would be fixed earlier, that is before harvesting by mutual discussions and negotiations between farmers and the company just like MSP is fixed by the government. No matter the market price rise or fall, the private enterprises have to pay the fixed amount.

In the 1991 reform, globalisation and privatisation was at peak and that resulted in bringing millions of poor citizens out of poverty and hunger, applying contract farming laws is not just about uplifting privatisation<sup>7</sup> but also the condition of many farmers through getting a fixed price of their crops, can avail technological resources with the help of private enterprises and firms for yielding and farming process.

#### **3.1**

#### **Why this act is opposed then?**

- This law is also opposed by the farmers as they are not sure about entering into contracts with large firms and enterprises, as they fear of getting manipulated and fooled by these large firms, due to lack of literacy and understanding of contract law and its legalities.
- The farmers also oppose this because once they enter into the contract, and if the market price rises they cannot sell the produce somewhere else, unlike in mandis where they can.

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<sup>7</sup> The transfer of ownership, property or business from the government to the private sector is termed **privatization**. The government ceases to be the owner of the entity or business. The process in which a publicly-traded company is taken over by a few people is also called **privatization**. India adopted a number of economic restructuring measures such as privatisation, liberalisation, globalisation, etc. Former Prime Minister Rajiv Gandhi was way ahead of his time and his understanding of his nation was excellent.

- Farmers fear that due to increasing of privatisation and interference, Mandis and MSP might be dismantled. In 2006 Bihar, closed APMC, resulted in a huge failure where farmers faced challenges in selling their produce at good price.
- According to the bill, it states that written contracts are not necessary, which is vague and bogus because un written contracts can't be proved in the case of dispute that would make it trouble for the farmers.

### 3.2

### Solutions

- There has to be set-up of intermediary committees that could strictly look over these contracts, and dispute regulations should be strictly managed and farmers should be educated with the following laws and sections and guidelines of a particular contract.
- The fixed amount per kg to be paid should be reasonable and should be equal or more than MSP, and should not be decreased with the fall of market price.

## 4. THE ESSENTIAL COMMODITIES AMENDMENT BILL 2020

*“This bill will create a positive environment not only for farmers but also for farmers but also for consumers and investors”.*

- *Shri Danve Raosaheb Dadarao*

The essential commodities act was passed in 1955 and section 3 of this act empowers the Union government to maintain and regulate the demand, supply, stock of essential items. The ordinance assented by the president and became law, to amend the essential commodities Act of 1955, by introducing a new sub-section 1(A) in section 3 of ECA 1955. The above sub-section 1(A), the supply of such food stuffs including cereals, pulses, potatoes, onions, edible oils and oilseed as the central government may, by notification in the official gazette, specify may be regulated only under extraordinary conditions which may include war, famine, extraordinary price rise and natural calamity of grave nature. At present there are nine commodities in the list- drugs,

fertilizers, edible oil, hank yarn, petroleum, jute, seeds, cattle fodder and vegetables. Face masks and sanitizers were added on the list on March 13, 2020 in the wake of COVID-19 outbreak.

The law prohibits hoarding and black marketing of essential commodities, to curb inflation by allowing centre to fix the stock holding limit of a commodity, if the price rises or falls. Economic survey 2019-2020 highlighted that government intervention under the ECA 1955 often distorted agricultural trade.

#### **4.1** **The Benefits**

- The ECA aims to remove fears of private investors of excessive regulatory interference in their business operations.
- The freedom to produce, hold, move, distribute and supply will lead to harnessing economies of scale and attract private sectors/FDI in agricultural sector.
- Investment in cold storages and modernization of the food supply chain will increase.

#### **4.2** **Issues**

- While India has become surplus in most Agri-commodities, farmers have been unable to get better prices due to lack of investment in storage, warehouses, and modern technological facilities. They will still be unable to take advantages from this particular law.
- Alongwith, it is highly centralized law and will infringe state's power, as they will not be able to interfere in the commodities menace of hoarding.
- This might lead to the increase of black marketing and inflation leading to the suffering of hoi polloi of the nation.

#### **4.3** **Solutions**

- The government should take immediate measures for the farmers by implementing technological facilities, like warehouses or even small storage granaries for storing and stocking purposes.
- Authorities and committees should be set-up for checking and regulating of the act by protection of farmers and citizens from black marketing of essential commodities and high inflation.

## **5. CONSTITUTIONAL VALDITY OF FARM BILLS 2020 AND THE PROTECTED FUNDAMENTAL RIGHTS OF THE FARMERS**

*“If anyone has concerns, then with our heads bowed and hands folded, with humility, we are willing to discuss with them and assuage their fears”*,

Said by, PM Narendra Modi, as an effort to convince farmers to halt the protest and to understand the importance and benefits of the new farm bills and to ensure them about the sustainability of these laws and how they have been misinformed by the opposition parties. The new farm bill was put forward in union cabinet on June 05, 2020 and was passed from Lok Sabha on September 14, 2020 and was given assent by the president on 27<sup>th</sup> September,

ISSN NO: 2582-6034

2020. Though it was passed with the required votes many opposition parties were against the farm bills as marking them as black laws to devastate farmers and their fields.

Early October, and “rooftop” protest started, when number of farmers stood on their rooftops with flags and slogan to object the bill. Farmers of BKU and KKV burned effigies of NDA ally SAD (Shiromani Akali Dal) in Punjab, when sooner MP Harsimrat Kaur Badal left the ministerial berth from NDA cabinet. Thousands of farmers from Punjab and Haryana started marching towards Delhi Capital, demanding to abolish these three farm laws, and blocked rail services, highways and borders from late November, and it became a nation-wide area of

concern when they blocked Delhi-Ambala highways and Singhu-Tikri borders as well in early December.

Sooner, after these bills came into force, petitions were filed in Supreme Court to check constitutional validity of these laws, in which the Supreme Court held not to decide the constitutional validity but to decide regarding the protection of fundamental rights of protesting farmers as well as the other citizens.

### **PROTEST AND FREEDOM OF RIGHT TO PROTEST**

When any group, party, community showcases their disapproval against the policies, laws, schemes of the government, and demands to abolish, scrape off or amend those laws or policy is a protest. Be it Satyagrah , Dandi-March, Swadesh Movement protests in India has a long history dated to British times. In our Indian constitution there are six fundamental rights given to every citizen of India and under Article 19, right to protest peacefully is a guaranteed fundamental right.

#### **ARTICLE 19 (1) (a) and ARTICLE 19(1) (b)**

These articles provide with the guaranteed right of, Right to freedom of Speech and Expression and the Right to Assemble without arms to every citizen of India respectively. But all these fundamental rights are only applicable and are enjoyed under subject of reasonable restrictions under ARTICLE 19 (2) and (3), which are subjected to maintain sovereignty and integrity of India, to prioritise the security of the state, its friendly relations with foreign states etc.

It is said that- *“one can raise his hands to enjoy their fundamental rights until and unless their hands does not reach other one’s nose, and when the other one’s nose begins the former’s right to exercise their fundamental right limits and if they raises their hands a bit more it might violates the other person rights”*.

The Supreme Court decides that farmers can peacefully protest without the use of violence and without causing trouble to the citizens, resulting in violation of their fundamental rights. But the farmers have been protesting now for than three weeks, along with blocking of highways several important borders and even main roads that are causing trouble to several truck drivers carrying

goods and commodities to transport. On December 08, 2020, farmers also came up with the execution of “Bharat Band”.

Supreme Court also decides that Police Forces cannot use violence against the protesting farmers. But it is certain that when farmers in huge numbers when tried to pierce through the forced barriers in Delhi - Ambala borders by throwing barricades down the bridge, causing vandalism then, police forces has to use tear gas and water cannons.

## **6. CONDITION OF FARMERS PROTESTING IN DELHI CAPITAL**

On July 27, 2020, more than twenty-five thousand tractors marched, “the joint tractor march” in Punjab, demanding the scrapping off of the recently passed farm bills. Number of meetings among farmer leaders have been organised by AIKSCC. From September 7-10 “jail bhara” andolan started, in between Section 144 of CrPc was enforced by the Punjab government due to COVID-19 guidelines. Police Force even lathi charged the protesting farmers who were trying to reach Pipli-Haryana borders. After getting SAD’s support Punjab government withdrew all FIRs against some leading farmer leaders. On November 25-26, Thousands of agitated farmers headaway from the state of Punjab and Haryana, towards Delhi capital, the mob went haywire on the Delhi- Ambala borders when violent and ghastly activities occurred from both the sides by farmers and the police force respectively. When the Police Force digged highway and parked sand full of trucks and huge barricades to block the pathway towards Delhi, nevertheless the mob threw the barricades down the hill from the highway, causing vandalism trying to enthrill through the blockage, when in response the Police Force defended by operating tear gas and water cannons.

On November 26-27, 2020, farmer leaders from AIKSCC (All Indian Kisan Sangharsh Coordination Committee), Rashtra Kisan Mahasangh, Sanyukt Kisan Morcha, INC (Indian National Congress), INLD, and other opposition parties have supported the farmers protest again the three farm bills by the slogan- “DELHI CHALO”. An infamous farmer leader Gurnam Singh Chaduni from Haryana has also been charged with criminal charges for indulging violence and disruption of law and order during protest.

On one hand where Punjab government captain Amrinder Singh along with the opposition of the state, Shiromani Akali Dal, Sukhbir Singh Badal have shown immense support towards the farmers, even SAD's MP Harsimrat Kaur Badal resigned from Modi's Cabinet leaving her ministerial berth, on the other hand Haryana government tried hard to convince the farmers but farmers were adamant in their demands, Haryana also imposed Section 144 to avoid assembling and protests, more than 100 farmer leaders were kept in preventive custody. On December 14, farmer leaders sat on hunger strike to protest till their demands are fulfilled by scrapping of the three black laws.

At least 41 farmers are dead and hundreds are injured including one due to suicide, four deaths due to accidents, ten due to heart attacks and one due to cold.

From 2014-2019, Punjab has seen many violent activities, riots, killings, in Jatt Agitation when 30 or more were killed, and when arrest of chief of Dera Sacha Sauda, Gurmeet Raam Rahim was arrested when more than 41 people lost their lives, same happened at the arrest of Godman Rampal, and now these protest against farm bills had initiated which is now in its third week.

## **7. THE KHALISTANI ALLEGATION**

The farmers' issue has dominated social media sites for weeks now, and recently a section of netizens alleging a Khalistani hand in the stir. The Bhartiya Janta Party on Monday alleged that the Khalistanis and the Maoists have stepped into the grab of protestors taking enormous advantage of the disquiet and inflamed farmers. Twitter and facebook had flooded with videos and news about the clique using pro-khalistani slogans and swords, certain videos have been investigated and found to be of the khalistani movement of 80's. Farmers have also protested against these allegations and called out to the government for spreading hoax and inconsiderate flash

## **8. WHAT ARE FARMER'S DEMANDS?**

- Farmers had constant fear of losing MSP, MSP has always been a fixed source of income by a number of farmers and they fear that by increment of private sector interference within the governmental systems of APMC, it will lead to dismantling of Mandi system, and hence MSP will be no more applicable.

- They are agitated because of increasing of privatisation and corporatisation within the curve of agricultural sector, nevertheless thousands of farmers grow the crops like wheat, paddy, sugar, potato, etc, on the desire and authority of huge private enterprises, and that has been a ample amount of earning for many farmers, but many farmers from Punjab Haryana Uttar Pradesh rajasthan fear, that increasing privatisation will lead to losing of MSP as well as may deteriote the lives of many small scale farmers, and can also lead to be exploited by these bigger enterprises.
- Within the scope of the second law of empowerment and protection law, there is no fixed price to be paid to the farmers while making the contract between farmers and private enterprises, whether they would be equal to MSP or less than MSP.

As of 24 December, 2020 the farmers' demands include-

- The Centre should convene a special parliament session to repeal the farm laws and The Centre should no more interfere in state subjects and decentralization in practice.
- They want the Centre to implement Swaminathan Panel Report and peg MSP at least 50% more than weighted average cost of production.
- Releasing of farmers arrested for burning paddy stubble in punjab and withdrawl of all cases and release of all farmer leaders.

## 9.

### CONCLUSION

Over fifty Farmer Unions have been protesting since late september at first from Punjab and Haryana then on Delhi borders and by late december they have entered Delhi Capital to meet PM and to demand for the repealing of the laws, whereas the government also claims that many unions and individual farmers have come out in support of the bills, it is noted that across the nation only 3-4% of total farmers are against the farm reform bills. Government had asked and invited farmer leaders for discussions, conventions and reasonable negotiations. The scheduled meeting between the agitated farmers and the centre had to be on 03 December, but as the protest

intensified and the adamant heat increased the farmers were invited on 01 December, Monday night for discussion and negotiation. The protesting farmers rejected the offer by the centre and started to reach and block Singhu and Tikri borders. PM Narendra Modi defended the legislation, in his disquisition and tried to upskill the farmers about the perquisite of of these three laws and how they will help in achieving long term goals and well being and aid to the farmers as well as nation's economy, and also accused opposition of playing tricks, hoodwinking and manipulating farmers through misinformation.

“Our demands are non-negotiable” – said by Jagmohan Singh, General Secretary of Bhartiya Kisan Union.

At the Tikri borders farmers say- “they are determined to win, no matter what”.

“The government said they will not repeal these laws, but we say we will make them do it” – said by Jagjeet Singh Dallewal.

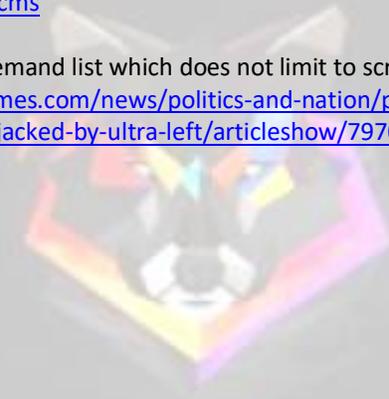
These protests have been intensifying day by day, Centre had conveyed letters, propagandas, meetings and conventions with the farmers for negotiations and to reach a conclusion so that these protests could end but the farmers still seems to be adamant in their approach and demands, they are not ready to see eye to eye for any negotiations and demands absolute scrapping off all the three farm reform bills 2020.

## **10.**

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