

**BOOK REVIEW**

**SOPHY K. JOSEPH, CUSTOMARY RIGHTS OF FARMERS IN NEO-LIBERAL INDIA: A LEGAL AND POLICY ANALYSIS, OXFORD UNIVERSITY PRESS, NEW DELHI, 2020 [PP. XVII+325], PRICE 1395 INR. ISBN 978-0-19-012100-6**

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*“It was the best of times, it was the worst of times, ... the period was so far like the present period, that some of the noisiest authorities insisted on its being received, for good or for evil, in the superlative degree of comparison only.”*

--- Charles Dickens, A Tale of Two Cities (1859)

While narrating the chronicles of contemporary agrarian reforms in the neoliberal India, economic historians may resort to similar Victorian rhetoric from the English literature mentioned above. It appears more so after three Bills, e.g., the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act of 2020, the Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Act of 2020 and, last yet not least, the Essential Commodities (Amendment) Act of 2020- enacted immediately thereafter- came into force with proclaimed legislative agenda: to market agrarian produces easier than ever before. Indeed, all these statutes went enacted after publication of this book. The author, therefore, could not add value to inaugural edition of her treatise. Like the readership, the reviewer will look forward to her commentaries upon these statutes in the next edition of this book. With her inquiry, however, she has deciphered governmentality of the neoliberal statecraft toward so called ‘liberalization’ (read corporatization) of hitherto protected agrarian economy in India; thereby got her prognosis documented in this treatise. Instead of getting outdated, therefore, the newly initiated agrarian regime proves her foresight; prudent enough to predict the neoliberal governmentality towards common farmers in India beforehand.

Let us glimpse upon the book at a glance. The title has had intent to get its jurisdiction limited to customary rights of farmers in neoliberal India. Thus, the author has specified her research foci with clear and unambiguous nomenclature. Agriculture constitutes one among those fundamental enterprises the civilization initiated with; long before statecraft went introduced and the sovereign secured command over others in the public lifeworld. The customary rights

of farmers, therefore, comprise basic human rights; something not endowed by the law of the land. The author thereby juxtaposes two poles apart regimes to expose how the inclusion of farmer's rights under the private property regime defeats their natural rights vis-à-vis production or reproduction of plant variety for the humanity; followed by far-reaching implications upon food security or sovereignty of the society. Whether and how far these basic rights of plant breeders are secure in neoliberal India appear moot points of the treatise. The author interrogated the neoliberal agrarian regime in India on its rise; thereby advanced her candid position with legal and policy analysis followed by her conclusion against the private property regime in plant variety. Whether and how far her cynicism went objective enough comprise research questions and answers stand divided; with both consent and contest in response to her conclusion respectively. The cynicism has had argumentative castle of its own and the same is apparent on the face of record after the series of farm enactments to bring in neoliberal political economy in agrarian India toward promotion of privatization (read monopoly) in seed and plant variety. Besides, the author demonstrates how the international regime turns aggressive against its national counterpart to penetrate worldwide seed enterprise into India. At the same time, in its jealousy to condemn neoliberal economics, whether and how far the author went out of proportion to get welfare politics fortified- with subsidy politics perpetuated- deserve attention of the veteran readership.

In first chapter, after the conceptual background of agrarian political economy in India went drawn- followed by chronicles of green revolutions- one since 1960s and another on its rise, the author introduces issues and arguments against the backdrop of polemics on political economy of seeds and varieties during the period of transition from planned development to liberalization. International conventions and their impact on the Indian policy regime is explained to analyse the evil influence of international trade lobby in regulating the agrarian sector. The author has had two major observations: (i) conflict between diversified international regimes, e.g., trade and intellectual property regimes to facilitate giant Inc. on one side and human rights regimes to safeguard the vulnerable on the other; (ii) highhandedness extended by these international trade and intellectual property regimes to get the agrarian regimes of otherwise sovereign developing states compromised. Consequently, under the disguise of trade liberalization, the paradigm shift lubricates foreign invasion by giant market player to get non-competitive market player, local/indigenous farmer, expropriated by default. With the passage of time, by courtesy market-driven economics, food price ought to shoot through the roof to gross detriment of food security/sovereignty dwindled; thereby take crop- the most essential

commodity- out of reach for the commoners. With the withdrawal of neoliberal state from the scene in the name of market economy, state of affairs ought to get worsened since neoliberal state drives stoic policy to witness such unholy as bystander. With its people underfed, India ought to get subverted from within.

In second chapter, while problematizing the common concepts, the author has identified agrarian labour as those in the lowest rungs of the economic ladder in terms of wages, employment, skill, and training. The author finds that agricultural workers have been left out of statutory benefits of agrarian policies. With illustration, she has clarified that these peripheral yet critical stakeholders of the peasantry fall short of getting included to the statutory definition of farmers since their activities need not be cultivation of crop itself but making the soil fertile, maintaining the moisture in the soil, increasing water-holding capacity of the soil and such others. She thereby exposes unjust policy to ignore contribution of labour on the soil with the crops since time immemorial; thereby treat them unskilled workers and, therefore, not farmers in technical sense of the term. What she has mentioned resembles the Marxist theory of alienation in practice. In *Economic and Philosophic Manuscripts* (1844), Marx stated estranged labour and its consequence:

“The alienation of the worker in his product means not only that his labor becomes an object, an external existence, but that it exists outside him, independently, as something alien to him, and that it becomes a power on its own confronting him.”

The author thereafter turns to rights discourse to put farmers’ customary rights to place. To her, these rights matter mainly because (i) farmers are the source of genetic diversity and ancillary knowledge about agriculture; (ii) they are the developers of genetically rich plant varieties; (iii) food security highly depends upon the activities of the farmers; and (iv) realization of farmers’ rights is important for well-being of the huge population of our country. With these premises, the corollary conclusion that any policy—whether economic, political, or social—on the ground of economic growth, globalization, productivity increase, should not interfere with activities of the farming community ought to get contested since she herself endorsed interference: “minimum support price should be provided, and market prices should be supervised”, with the intent of interventionism as derivative to this end.

Besides, the territoriality in ‘common heritage of mankind’ principle is extended too far to cover biological diversity against well-established usage of this technical term. Indeed, she cites prior literature where argument to get the common heritage principle extended to

biological diversity- preserved and promoted by plant breeders since time immemorial- was advanced. The adventure, however, falls too short to get well-settled usage of a term; despite getting engineered by the avantgarde arguendo.

In third chapter, the history of agrarian political economy since independence is drawn in vivid details. Minute structural analysis, followed by analysis of the status of farmers, deserves appreciation. In particular, comprehensive overview of the given state of affairs in India and the world, shift in successive policy regimes with the passage of time, e.g., Nehru, Shastri, Mrs. Gandhi before, during and after the third national emergency (after she was back to power), Rajiv Gandhi, last yet not least, after Rajiv Gandhi; while liberalization-privatization-globalization initiated its ordeal in last three decades. Perhaps the best part in her treatise, the chapter presents agrarian history of India in a nutshell with minute details of all major crossroads vis-à-vis shift in the agrarian policy regime India has witnessed so far; till emergence of the market in neoliberal India.

The fourth chapter engages enriched discourse comprising political thoughts on rights-intellectual property rights of the farmers in particular. The author has put her glimpses upon John Locke's labour theory, Jeremy Bentham's utilitarian theory, libertarian theory, and the like, thereby fortified her position that the monopoly under intellectual property rights regime offends distributive justice. She has cited Adam Smith to get her position corroborated that even classical capitalism set aside monopoly rights as it would result in poverty. The poverty of philosophy in an otherwise unproblematic regime vis-à-vis international trade thereby turns apparent; so far as monopoly rights against the farmers are concerned. The author has put plant breeders' rights and farmers' rights to contrast; thereby exposed agrarian diplomacy of the Western Inc. to get the intellectual property promoted by barefoot farmers across the Global South since time immemorial alienated- if not expropriated- from the market. The neoliberal statecraft in India has accelerated aggressive international trade politics to put livelihood of the unorganized local farmers to peril. Here lies reasoning behind upheaval against the neoliberal farm regime in India since the same is pregnant with potential to leave livelihood of the peasantry unsettled. While those with financial stability ought to suffer from the uneven competition ahead, those with financial instability are left with no other option but to struggle for survival. Taken together, farmers appear firm enough to push the corporate farm regime to retreat and the circumstance has placed her treatise to contemporary relevance.

In the same chapter, availability of farming-breeding art in public domain as traditional knowledge practice apart, the author raises her concern against getting agrarian practices customized to a foreign legacy; something for developed and, therefore, dominant states in the West. Instead, with cue from jurisprudence of National Commission for Farmers, she advocates sui generis regime; something befitting to the soil and those appurtenant and, therefore, instrumental to progressive national development. Besides, applicability of intellectual property discourse stands set aside by the author since the same excludes farmers from otherwise legitimate rights upon their farm produces on technical counts. The systemic injustice with impunity constitutes core focus of her treatise and the same stands substantiated with relevant extracts from history, politics, economics, philosophy and the law as another societal institution.

Accordingly, in fifth chapter, the author exposes poverty of jurisprudence in legislations enacted in contemporary India and the neoliberal agrarian politics to drive vested interest to gross detriment of public interest; thereby getting plant genetic resources privatized despite the same fitting into global commons since the same often than not developed by successive generations of barefoot farmers otherwise faraway from formal education. Thus, taken together, the farm acts offend social justice; something otherwise construed as a basic feature under the Constitution of India and, therefore, non-negotiable while these farm acts indulge in compromise of the same. The author raises another arguendo; of equal treatment to unequal players- like corporate plant breeder and barefoot farmer- in conflict with the doctrine of reasonable classification under the Constitution of India. The contrast resembles one between Gulliver and Lilliputians, a classic literary rhetoric drawn by Jonathan Swift in Gulliver's Travels (1726); similar to the contemporary rift between corporate Inc. and the peasant protest. A corollary innuendo may get translated to a concern that these newly enacted farm laws subvert the constitutional governance; something inimical to food security/sovereignty of India. Besides, she attracts attention of her readership toward recent foreign policy vis-à-vis foreign direct investment and free trade agreement. With reasoning of her own, she finds these recent FDIs and FTAs in agricultural products detrimental to national interests of India since the same unsettle vast population (65%) engaged in agriculture. Her study helps the readership understand the background of peasant protest in context.

The following remedies are recommended to safeguard farmers' rights: (i) land reforms (ii) institution of cooperatives (iii) panchayati raj (iv) revival of public sector enterprise in seed research, preservation, distribution and food grain procurement (v) regulations on seed pricing

(vi) innovative limits upon the monopoly over plant genetic resources (vii) community approval on transfer of resources. In her conclusion, the author imports directive principles of state policy, thereby resorts to a restatement that farmers' access to seeds and plant genetic resources is imperative to put core constitutional principles vis-à-vis distribution of material resources and de-control over the means of production to fruition. Public access to agricultural raw materials is indeed sine qua non to attain distributive justice- named 'economic justice' under the Constitution- through harvest. With specific reference of the judgment of the Supreme Court of India in Novartis case, the author demonstrates apposition of judiciary in respect of restriction of laissez faire on the common property resources.

At bottom, the treatise unfolds postcolonial rights advocacy vis-à-vis political economy of agriculture in the neoliberal India with special reference to farmers' customary rights. In regional setting of the South-Asian subcontinent, agrarian economy has had features poles apart to the Occidental parallel. In major village civilizations of the Global South, more than production, farm went perceived as a laboratory with patronage of the nature toward creation of better crops with higher nutritional value and, albeit, by sustainable production practices. No wonder that agriculture was appurtenant to culture. Traditional agrarian economy thereby balanced public access to food and public health with food alike since time immemorial. With their respective regional settings, therefore, farmers in the Global South cannot get equated to workers, nor farmhouse fits into warehouse since they carry diversified genres of civilization. Despite getting blessed with criteria for production, e.g., land, labour, capital of traditional knowledge with plant breeders and social entrepreneurship institutions like panchayats, sui generis agrarian economy deserves different legal and policy regime to fit into regional soil of the subcontinent; something hardly achieved by the experiment with state subsidy.

Behind otherwise unproblematic sarkaari scheme vis-à-vis Minimum Support Price, paid by Agriculture Produce Market Committee, welfare economics suffers setback out of populist politics to gross detriment of state exchequer. Besides, in its spiral effect, subsidy imports dependency syndrome; thereby spoils welfare economics. Thus, farmers may and do fall prey to the boobytraps of economism while they vote for the populist outfits with parochial agenda to release state subsidy and serve vested interest, with little concern for public interest; something unsustainable enough for the farmers themselves. The author avoided the void. Except left-wing approach to the subject, she engages no objective inquiry upon other reasoning behind the paradigm shift to neoliberalism; as if corporate politics is one and only factor behind the shift. She deserves credit elsewhere while, through legal and policy analysis,

she unfolds corporate politics as predominant factor; along with its overarching outreach to influence otherwise sovereign institutions of state apparatus; thereby get the system subverted well within the very democratic governance we are obsessed with.

The neoliberal reforms, however, ought to bring in more harm than help to the farmers. Due to uneven competition between Gulliver and the Lilliputians, as mentioned earlier, systematic impoverishment of otherwise independent farmers within systemic quicksand- followed by spiral rise in farmer suicides after getting trapped to the odious obligations set by unscrupulous players- appears on the wall to gross detriment of the market itself. Moreover, reduction of farmers to workers in the farmhouse ought to bring in alienation from agricultural production; followed by decline in traditional knowledge; instrumental to origin and development of the civilization to date. such a discursive fallacy- followed by odious endgame the neoliberal state indulges in- constitutes the crux of her treatise. More than welfare economic mythology, the treatise deserves credit for her razor-sharp analysis of the neoliberal politics run by corporate predators from behind; with potential to put the food security/sovereignty of India into checkmate. Sooner the statesmen take cognizance is better for the citizenry. The neoliberal polemics against present praxis- that welfare economy has had loopholes of its own- is a point apart and cannot legitimize manholes with potential to cause larger casualty.

After recent development, the Farm Laws Repeal Bill, 2021 is pending for endorsement of the Parliament. The struggle for sustainable farm governance in India cannot end here since larger issues and challenges within the given political economy remain unattended. Indeed, liberal politics fell short of getting its premises acceptable to policymakers. After public (mis)perception, neoliberal politics is but a ploy to put ploughmen to peril; while no third trajectory appears in sight by either side.

In similar occasions, studies comprising analysis of private property rights over seeds and plant varieties from human rights perspective often than not stand vitiated by partisan approach. The author deserves credit since her work has transcended the lapse with jurisprudential reasoning and prior literature in support of arguments advanced by her. She recognizes farmers as keepers of the civilization- much more than mere agrarian workers- thereby reiterates their contribution; something critical to conservation of plant genetic variety since time immemorial and graduation of the same till date. Acknowledgement of credit for adoption of plant and invention of variety- due to umpteen generations of farmers- has elevated the treatise to a newer

height; by courtesy, recognition of traditional farming knowledge and its continuity as tribute to hitherto civilization toward sustainable agrarian development vis-à-vis food security.