

Identity, Law and Agrarian Economy in India

Past and Present

PRAVEEN VERMA

The colonial quest for a social class which could support their revenue regime stopped at caste identity.

IN SEPTEMBER 2021, the ruling party in India proposed three different Acts related to agriculture and agriculture-related activities.¹ These three Acts were proposed and promoted as unprecedented and revolutionary for farming and the farmers' community. These proposed acts followed the historical trajectory and continued some of the colonial laws which have been in place and amended many times. Additionally, many of these Acts have been vital to agriculture and agriculturists, especially in the regions where agricultural production had been at stake for many reasons. Punjab, the northern state of India, is one of them.

Contrary to the government's claim, the agrarian communities across India found these proposed Acts to be against agriculture and agriculturists' interests. In response, the farmers organized and participated in what was registered as the largest mobilization and longest strike in the history of protests. The successful farmers' movement forced the government to withdraw these three farm bills before they could even be implemented.

Historically, agriculture and agricultural communities have had a high

Praveen Verma

Assistant professor at the Department of History, Sri Venkateswara College, University of Delhi, India.

stake in social and legal developments, from the colonial to the post-colonial period. The debates that emerged around these three repealed agricultural laws were not only about the changing agrarian landscape and its need in contemporary times, but at the same time, they marked a defining moment for the agrarian communities. Substantive portions of these three bills were claimed to be extending the forms and nature of farming activities and their market prospects. However, none of these three farm bills had ensured the farmers' share beyond farming activities. Precisely this made the farming communities perceive a threat to their livelihood and very identity. At stake is the identity of a farmer, which is in transition between agriculture and a newly emerged field, agro-business.

When the Indian Parliament repealed the three proposed Farm Acts at the end of 2021, the primary question that emerged was: Who is a farmer? What defines the identity of a farmer? What constitutes a farmer? Do the legal and social binaries follow the same chart? (the legal status—Farmer, and the social status—*Kisan/Kisani*). Or do they meet somewhere in between? Alternatively, perhaps they even overlap. What historical construction of this identity appeared to be a 'class' kind of identity? Is it as it appears?

Who is a farmer? This debate first surfaced in the colonial period in Punjab when the government decided to give the rights to agriculture to selected communities, 16 to be precise. The legal sanction gave agricultural rights to those selected communities and froze the identity of an agriculturist. Among these castes, the *Jats* held about 70 per cent of the cultivable land, thus securing the exclusivity of their identity.

This question of categorization emerged in colonial Punjab during the late 19th century from the inception of classification debates at that time. The classification was a long and complicated process that took many turns even within the colonial period. Some of these debates also resurfaced during the farmers' movement in recent times.

Law and Claim-Making

AT THE time of the recently concluded farmers' movement, various debates and discourses have taken place, and from different entry points. Furthermore, it was a coincidence that it emerged from a movement labelled as the 'wealthy farmers' movement from Punjab, which the farmers from other states marginally joined. The primary support for the movement came from the Punjab region and Haryana and Uttar Pradesh. However, it is also true that the movement had broader support from all over India and was not confined only to the Punjab farmers.

The stated intention behind the passing of these three Acts was to remove existing constraints on buyers to contract, purchase and stock agricultural commodities. The central government passed these Acts. However, the prerogative to pass these three laws was not only of the central government but also of the state government. The central government's prerogative was the Essential Commodities (Amendment) Act of 2020. The other two are the Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act of 2020, governing contract farming, and the Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act of 2020 (popularly known as APMC² Bypass Act). The latter focused on the public-regulated markets that were previously under the state-level APMC Acts, therefore under the purview of the states and not the central government. The Acts that have severe ramifications for states are usually passed only after serious discussion and consultation with the states and not by the central government.

All three acts need scrutiny as they share the same premises to let private players and non-agricultural entities enter the agricultural supply chain. Further, they strengthen their position instead of the people involved in agriculture. All three Acts relax the terms and conditions that affect the agrarian communities and favor the non-agricultural sector. The First Act relaxes the restrictions regarding the purchase and sale of farm produce. The second one relaxes the terms concerning, for instance, the stocking of agricultural produce.³ The third Act allows contract farming on mutual agreements.⁴

Under the semi-federalist structure, state-specific laws deal with agricultural trade within states. Some of these laws come under the APMC Acts. The APMC mandated some regulated market areas (*mandis*) to purchase 'notified' agrarian commodities within the marketing fees, payment and commission mechanism. One needs to acquire a license to operate in these *mandis*. From its inception in the 1940s and later in the 1960s, some of these Acts were the tools to ensure that farmers had direct access to organized market spaces (*mandis*) for their benefit, which further resolved the problem of intermediaries.

Historically, India's agrarian or agricultural market reforms have been a vexing issue. Sectors like 'agriculture,' 'market and fairs,' and 'trade and commerce within the state' come under state purview. Various Acts, provisions lists and the Seventh Schedule of the Indian Constitution permit that. It makes the agricultural market a state competence. The center used Article 301, which invoked 'free trade' within the country to provide freedom of trade and commerce, to infringe upon the state's legal sphere.

Hence, the passing of these Acts created a fundamental rupture in center-state agri-relations. The APMC Bypass Act restricted any state's regulation to designated physical premises, which are called 'market yards' or *mandis*. After the

Act, the center controlled all other areas than these ‘market yards,’ called ‘trade areas’ in states. Technically the ‘trade areas’ could be any place not defined by the Act. The reason to do so came from the idea formulated by the Economic Survey 2014–2015. The survey aimed to free agricultural trade from the APMCs, which were viewed as a den of intermediaries and exploitative to farmers. The enactment of the APMC Bypass Act particularly hurt the states which predominantly had deregulated systems of buying and selling agricultural products. All deregulated areas within the state will automatically come under the central government’s control, allowing private actors to operate freely in the current deregulated market environment. It absolves any private player from adhering to state law and effectively nullifies the state’s law and control in agricultural marketing.

No systematic evidence suggested a transfer of regulatory authority from the states to the center. Moreover, this was quite visible in some steps the center took. For example, just a few weeks after the ECA was amended, the center imposed restrictions on stocking several agricultural produce, like onions in October 2020 and the range of pulses in July 2021, undermining the purported spirit of the ECA passed by the center.⁵

It was not a coincidence that colonial and post-colonial states claimed to bring these Acts in support of the welfare of the agriculturists/farmers in both periods. Meanwhile, the identity of an agriculturist/farmer changed a lot. The earlier legal developments during the colonial period, such as the Mandi Act, were much debated during the farmers’ protest in 2021. However, this time the participation in the farmers’ movement was not only of the *Jat Zamindars*, whose identity as an agriculturist was established by colonial processes, but others were also present.

The Unionist Party and the *Zamindar* defended the Mandi Act during the colonial period because it established their participation and role in the *Mandis*. However, it created anxiety among the *Sabukars* and the laborers who did not have a good relationship with them. Nevertheless, this time, the agriculturists and the *Arhatis* felt threatened by the passing of the new Act, commonly called the Bypass Mandi Act.⁶ When talking about the Mandi Act, the role and the greatness of Unionist leader Chhotu Ram (1881–1945) was also evoked. It was interesting to see the present evocation through a historical lens, with the Mandi Act primarily intended to make the agriculturist caste an active member of the everyday life of *Mandis*.

The Act was passed in order to keep the agriculturist claim in mind, by creating a monster out of the *Sabukar* or the intermediaries’ image. The Mandi Act of 1939 continued the series of Acts passed during the colonial period. Along with other Acts, especially the PLAA of 1900, it narrowed the definition of farmers/agriculturists or *Zamindars*. It narrowed a class or occupation to a caste

identity. This ‘casteness’ of the class was formalized within the legal framework, which later became a popular term culturally. Recently, one might visit any part of rural Punjab or Haryana and find out that these two terms, *Zamindar* and *Jat*, are synonymous. There is no difference in the social domain. This formation has a colonial past curated formally to achieve the colonial agenda.

Interestingly, one might see that even with the passing of the 2021 Acts, there would not be much change towards the landless labor formed mainly by Dalits and Backward Castes. However, the farmers’ movement tried to widen the definition of farmers and include landless labor into the domain, which was impossible in colonial times. However, this attempt’s success will only be seen in the near or later future.

The identity of an agriculturist/farmer/*Kisan* has taken center stage in the debates around agriculture, whether it is about the agrarian economy or agricultural laws in colonial and post-colonial discourse. However, it happens often that the identity of an ‘agriculturalist’ or ‘farmer’ is taken for granted and goes without much scrutiny. What happens to the constitution of a ‘farmer’ identity and the changes it goes through? The change, shuffle and historical development of the identity of an agriculturalist, which is popularly known as a farmer or *Kisan* in this region, require a close reading. This phenomenon is essential as it interlocks with class and caste identity.

The colonial processes and discourse might have been situated elsewhere, but historically the identity of agriculturists developed as a caste identity instead of a class identity. During the colonial period in Punjab, various push factors introduced, consolidated and strengthened the agriculturists’ identity as a caste identity. Although various discourses and processes were part of identity building, the colonial legal sphere played a significant role.

The colonial quest for a social class which could support their revenue regime stopped at caste identity. Colonial anthropologists also mobilized the discourse where Punjab was seen to be the land of the yeoman class, which corroborated their revenue priorities. The yeoman’s claim was primarily a caste claim in the working. *Jats* and other dominant castes fit in very well in this claim.

At the same time, the Punjab Land Alienation Act of 1900 created an exclusive space where the dominance of certain ‘martial’ castes could be established. It was a unique colonial process that excluded many castes, mostly backwards and former ‘untouchables’ outside this purview, even when these castes were an integral part of the agrarian economy. The legal construction of the agriculturist castes created their dominance, which was further strengthened socially and economically by other laws.

Punjab was mainly a rural state where *Panchayats* were set up by colonial law and had social authority and sanctions cutting across castes and classes. The

agriculturists' caste took over such public spaces at their convenience. In other words, one can say that the dominance of these agriculturist castes, which was established by the colonial legal developments, was carried forward in social spaces quite profoundly.

In keeping with their prior experience in Britain, what the colonial administrators looked for in the agriculturist classes was not exactly found in 'class.' Certain 'castes' were mobilized legally and socially to fit into those categories. The agriculturist identity that emerged and consolidated here was predominantly a caste identity made unbreakable by outside forces. The 'classness of caste' was constructed through colonial processes and made exclusive and impenetrable by other castes. The backward castes and the 'untouchables' bore its burden. Despite being the working 'class' in the agrarian economy, they could not jump over the fence and become the class the colonial state 'wanted.'

Law was the central axis of some of this crucial churning during India's colonial period. While looking at the farmers' identity and its processes as it played out in the colonial period was crucial, looking at the changes in the form of identity assertion in post-colonial India gave an organic picture of the processes that preceded the colonial period.

The colonial state and its legal processes played a significant role in the emergence of caste dominance in the garb of agriculturist identity. In particular, the Punjab Land Alienation Act of 1900 was a path-breaking legal development which paved the way for certain caste/s to become more dominant than other caste/s, especially Dalits, outcastes and village *Kamins*. Only 16 'agriculturist' caste/s were given the rights to buy, sell and even mortgage the land.

Once the colonial discourse started with finding the agricultural classes, something was taken from their experience back home. However, this search ended up placing those desired merits on the institution of caste. B. R. Ambedkar (1891–1956) rightly pointed out the same in his extended critique of the 1900 Act in his pamphlet to the colonial state in 1933. The provincial autonomy in Punjab led to another era of retaining and enhancing the politics of caste dominance.

B. R. Ambedkar's long-drawn pamphlet provided the most important critique of the colonial law (the 1900 Act), which changed the colonial bias in making the landed *zamindar* caste dominant and pushed Dalits/backward castes and village *Kamins* to the margins. While these processes date from the colonial period, they echo the contemporary farmers' movement and their demand to repeal the proposed Act. Thus, we see in many movements the representation of the 'classness of the caste,' as an attempt was made to superimpose a class identity on a caste identity historically built in this region.



Notes

1. In September 2021, three agricultural Acts were passed in the Indian Parliament, namely: Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020; Farmers' (Empowerment and Protection) Agreement of Price Assurance, Farm Services Act, 2020, and the Essential Commodities (Amendment) Act, 2020.
2. APMC stands for Agricultural Produce Marketing Committee.
3. Essential Commodities (Amendment) Act, 2020.
4. Farmers' (Empowerment and Protection) Agreement of Price Assurance, Farm Services Act, 2020.
5. Sudha Narayanan, "The Three Farm Laws Were Never a Solution," *Hindu*, 30 November 2021, accessed 25 February 2024, <https://www.thehindu.com/opinion/lead/the-three-farm-laws-were-never-a-solution/article37760299.ece>.
6. Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020.

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Abstract

Identity, Law and Agrarian Economy in India: Past and Present

The article discusses the contentious issue of agricultural reform in India, particularly focusing on the three Acts proposed by the ruling party in September 2021. These Acts aimed to revolutionize farming practices but faced significant opposition from agrarian communities nationwide, cul-

minating in extensive protests and the eventual withdrawal of the bills. The debate surrounding these Acts delves into questions of agrarian identity and the historical construction of the farmer's role, going back to colonial-era policies and their lasting impact. The article highlights the complex interplay between legal frameworks, social identities, and economic structures, emphasizing the transition of the farmer's identity from a class-based to a caste-based construct. Through historical analysis and contemporary parallels, it explores how colonial legacies continue to shape agrarian politics and the ongoing struggle to define and protect the interests of farmers in India.

Keywords

law, identity, farmer, agriculture, caste