

Acquired Rights of Farmers and their Vulnerabilities- A Study

Dr. Diganta Biswas¹

“.....the real heroes of India’s success story are our farmers.”²

I. Introduction:

Agricultural sector is one of the most important sectors of our economy not only because it provides food, clothing and basic needs but also because the number of people engaged in this sector is much higher than any other sectors. The farmers³ through their hard work ensure the food security of the country. Mostly, the farmers⁴ are unorganised, seasonal workers; and are dependent for their livelihood on personal labour. The agriculture in India is characterized by the domination of the small and marginal farmers.⁵ Unfortunately, this section of people taking major role in feeding the country suffer from dire poverty⁶ which shows that the benefits of liberalized economy have not yet percolated to the lowest rung of the agricultural society. **Farmers’ Rights** as discussed in the **International Treaty on Plant Genetic Resources for Food and Agriculture**,

-
- 1 The author, an Assistant Professor, Department of Law, University of North Bengal, Dist. Darjeeling, WB. He is deeply indebted to Prof. Gangotri Chakraborty, Department of Law, University of North Bengal, Dist. Darjeeling, WB. He may be communicated at d78biswa@gmail.com.
 - 2 Pranab Mukharjee, During the presentation of interim budget of India for 2009- 10.
 - 3 The term “FARMER” refers to a person actively engaged in the economic and/or livelihood activity of growing crops and producing other primary agricultural commodities and will include all agricultural operational holders, cultivators, agricultural labourers, sharecroppers, tenants, poultry and livestock rearers, fishers, beekeepers, gardeners, pastoralists, non-corporate planters and planting labourers, as well as persons engaged in various farming related occupations such as sericulture, sericulture, and agro-forestry. The term will also include tribal families / persons engaged in shifting cultivation and in the collection, use and sale of minor and non-timber forest produce. National Policy for Farmers, 2007 at pg.4.
 - 4 Section 2(k), The Plant Varieties and Farmer’s Rights Act, 2001
 - 5 They may be broadly categorised into four types (a) *Landless labourers who are attached to the land lords;* (b) *Landless labourers who are personally independent but who work exclusively for others;* (c) *Petty farmers with tiny bits of land who devote most of their time working for others;* and (d) *Farmers who have economic holdings but who have one or more of their children and dependents working for other prosperous farmers.*
 - 6 People earning less than \$ 1.25 per capita per day. (World Bank definition of poverty)

1986⁷ are basically about enabling farmers to continue their work as stewards and innovators of agricultural biodiversity, and about recognizing and rewarding them for their contribution to the global pool of genetic resources. More specifically, it consists of the customary rights of farmers to save, use, exchange and sell farm-saved seed and propagating material, their rights to be recognized, rewarded and supported for their contribution to the global pool of genetic resources as well as to the development of commercial varieties of plants, and to participate in decision making on issues related to crop genetic resources.⁸ Thus, Farmers' Rights are critical to ensuring the conservation and sustainable use of genetic resources for food and agriculture and consequently for food security – today and in the future. Farmers' Rights are also a central means in the fight against rural poverty in developing countries. Rights of the farmers can be categorised into- *acquired rights, constitutional rights and statutory rights*. Acquired rights or rights by prescription⁹ arise out of practices from immemorial time either through custom, usage or convention. All human beings, as members of a civil society, have equal and similar natural rights, but they differ in regard to acquired rights which depend on their work, accomplishments and participation in the competition of life. Formations of life of human beings are not constituted by nature, nor has nature allotted various jobs and posts to individuals. Different groups have different acquired rights depending upon their nature of engagements.

II. ACQUIRED RIGHTS— A historical backdrop:

For the first time the acquired rights were recognized in the form of the Roman Law.¹⁰ The **Acquired Rights Directive**¹¹ in Europe is another example

7 <http://www.farmersrights.org/> visited on 24th February, 2013 at 7.34 AM

8 <http://www.farmersrights.org/about/index.html>, visited on 25th February, 2013 at 5.46 PM

9 For example, an uninterrupted enjoyment for 20 years is considered to be enough to acquire a right to light and air.

10 **Roman law** is the legal system of ancient Rome, and the legal developments which occurred before the seventh century AD — when the Roman – Byzantine state adopted Greek as the language of government. The development of Roman law comprises more than a thousand years of jurisprudence — from the Twelve Tables (ca. 439 BC) to the *Corpus Juris Civilis* (AD 528–35) ordered by Emperor Justinian I. This Roman law, the Justinian Code, was effective in the Eastern Roman (Byzantine) Empire (331–1453), and also served as a basis for legal practice in continental Europe, as well as in Ethiopia, and most former colonies of European nations, including Latin America. Before the Twelve Tables (754–449 BC), (The tables contained specific provisions designed to change the then-existing customary law.) private law comprised the Roman civil law (*ius civile Quiritium*) that applied only to Roman citizens, and was bonded to religion; undeveloped, with attributes of strict formalism, symbolism, and conservatism, e.g. the ritual practice of mancipatio (a form of sale). (http://en.wikipedia.org/wiki/Roman_law visited on 9th January, 2011 at 10.56 AM).

11 The Acquired Rights Directive provides a Legal framework designed to protect the

to this which was intended *to safeguard the rights of workers by ensuring that workers were entitled to continue working for the transferee employer on the same terms and conditions as those agreed with the transferor employer.* As per the directive, *a transfer cannot constitute grounds for dismissal, whether carried out by the transferor or transferee, unless there is an economic, technical or organizational reason entailing changes in the workforce.* Later on the **European Convention on the Legal Status Of Migrant Workers;** Strasbourg, 24.Xi.1977 under Article 31 recognizing the conservation of acquired rights of the migrant workers, says, *No provision of this Convention may be interpreted as justifying less favourable treatment than that enjoyed by migrant workers under the national legislation of the receiving State or under bilateral and multilateral agreements to which that State is a Contracting Party.* Further, the right to housing grants the holders of any kind of rights to perusal of flats the protection similar to that granted by the right to peaceful enjoyment of possessions discussed in the Article P-1 of the **European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950.** Again, it spoke of the protection of acquired rights of people.¹² In recent times the traditional rights of the fishermen, which of the nature of acquired rights of them have been introduced in the form of a bill in the legislature.

Basis for recognizing an acquired right: - Before recognizing a right of the nature of acquired right generally *First*, we should determine what the nature of a human being is; *Second*, we should determine what the ultimate end of a human being is as far as life on this earth is concerned; *Third*, we need to determine what sorts of human acts promote the achievement of this end and which acts tend to prevent us from achieving it; *Fourth*, what sort of society and political arrangements ought we create or maintain in order to best serve us in achieving the ultimate end which human beings ought to seek.

Philosophical foundations of acquired rights: - The philosophical foundation to justify and rationalize the acquired rights is as under-

Employment Rights of individuals impacted by a transfer of services between companies in Europe. First introduced in Europe in 1977, the ARD has been modified through the years to address specific circumstances. Available at http://www.tpi.net/pdf/webex/20061207_Webex_AcquiredRightsDirective.PDF visited on 12 the January, 2011 at 10.26 AM On 12 March 2011. The EU Directive 2001/23/EC was introduced requiring member states to implement legislation safeguarding employees' rights in the event of "transfers of undertakings". Available at www.whitecase.com/.../article_Brettle_Acqrd_Rights_v3.pdf visited on 12th January, 2011 at 10. 28 AM.

12 Tanja Šare, The right to housing and sitting tenants in Central and Eastern European Countries, available at http://www.feantsa.org/files/freshstart/Working_Groups/Housing_rights/2010/100223_Analysis_TanjaSarec_EN.pdf, visited on 11th January, 2011 at 10.54 AM

Max Weber: According to Max Weber, the feudal association and also the related patrimonial forms¹³ that have a stereotyped status structure constitute a synthesis of purely concrete rights and duties. They amount, as we have pointed out to a constitutional state on the basis of subjective rights not objective law. Instead of a system of abstract rules, compliances with which permits everybody the free use of his economic resources, we find *a categories of acquired rights which impeded the freedom of acquisition and provide opportunities for capitalist acquisition only through the granting of further concrete privileges*, as they were generally the basis of the oldest manufactories. To be sure, in this manner, capitalist accusation gains a support which is a steadier than the personal changeable favors of patriarchal patrimonialism, but the danger that the granted privileges will be disputed persists since older acquired rights remain untouched.¹⁴

Emmanuel Kant: According to Emmanuel Kant, citizens have a legitimate right to realise their own ends in the way they deem best. Neither the state nor other forms of authority may determine happiness for its citizens. They have to find it on their own. He however argues that if human rights are violated, the state has a legitimate right to intervene.¹⁵ After his theory of freedom,

- Law is the a priori precondition of the systematic realization of freedom.
- The Public right provides the concepts through which legal institutions can be understood to be rightful.
- The Idea of the Original Contract¹⁶ carry to a higher level of abstraction which provide a way of conceiving of an ideal form of legal order, against which actual legal systems can be measured.

For him, the test for any law is whether the people could have given it to themselves. The test has two dimensions: *whether each citizen, considered severally could have given the law to themselves, and whether the citizens, considered as a collective law-making body could have done so*. The first

13 **Patrimonialism** is a form of governance in which all power flows directly from the leader. This constitutes essentially the blending of the public and private sector. These regimes are autocratic or oligarchic and exclude the upper and middle classes from power. The leaders of these countries typically enjoy absolute personal power. Usually, the armies of these countries are loyal to the leader, not the nation. Available at <http://en.wikipedia.org/wiki/Patrimonialism> visited on 9th January, 2011 at 2.30 PM

14. Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, Vol. 2, Guenther Roth and Claus Wittich, eds. (Berkeley: University of California Press, 1978) at pg 1099.

15 <http://en.articlesgratuits.com/an-article-about-emmanuel-kant-id5400.php>

16 The contract does not describe a historical event. Instead, it characterizes the ideal case under which law giving can be fully omnilateral. Any positive legislation inconsistent with it is thus defective from the standpoint of the state's lawmaking authority.

asks whether a law is consistent with each person's innate right (which generates rights including security of the person and the presumption of innocence) the second whether a law is consistent with every citizen being an active participant rather than passive resident of the state (which generates rights including freedom of expression and association).¹⁷ Here is the relevance of acquired right of a group of people.

F A Hayek: *Friedrich August von Hayek*, commented,¹⁸ - “There is no reason why in a free society government should not assure to all, protection against severe deprivation in the form of an assured minimum income, or a floor below which nobody need descend. To enter into such an insurance against extreme misfortune may well be in the interest of all; or it may be felt to be a clear moral duty of all to assist, within the organised community, those who cannot help themselves. So long as such a uniform minimum income is provided outside the market to all those who, for any reason, are unable to earn in the market an adequate maintenance, this need not lead to a restriction of freedom, or conflict with the Rule of Law.”

Melanchthon: According to Melanchthon¹⁹, the basis of acquired rights in the command “Thou shalt not steal” and defined liberty as condition in which each is permitted to keep his own and citizens are not compelled to do anything contrary to principles of right and to do what is honorable.²⁰ In other words, to Melanchthon, justice (end of law) requires respect for acquisitions and respect of personality.

Acquired rights of farmers: - The Farmers engage themselves in farming which mainly includes- tilling, sowing, reaping and production of crops and have an inherent right over it as they have continued such works from the time immemorial. Such rights are:

i. Rights over seed: - For farmers the right to seed is a positive right. A farmer is not merely a cultivator but also a conservator of all agricultural gene pool. So, the farmers have the right to control their seed. Controlling the seed supply, they control the food supply. They assert their right to seed through the Community Intellectual Rights (CIRs). Unfortunately, today, at the instance of

17 Arthur Ripstein, Kant's Legal Philosophy, http://ivr-enc.info/index.php?title=Kant's_Legal_Philosophy visited on 11th January, 2011 at 10.35 AMss

18 FA Hayek, 'Law, Legislation and Liberty', Volume 2, (Chicago, 1982) p 87.

19 **Philipp Melanchthon** (February 16, 1497 – April 19, 1560) was a German reformer, collaborator with Martin Luther, the first systematic theologian of the Protestant Reformation, intellectual leader of the Lutheran Reformation, and an influential designer of educational systems.

20 16 Opera (ed. Bretschneider and Bindsell) (1834- 1868), 424 ff. See 1 Hinrichs, Geschichte de Rechts- und Staatsprincipien seit der Reformation (1848) 18- 19.

genetic engineering, the right of farmers over seed is diminishing. "Seed is very dear to the Indian farmer — it's a cultural thing,"²¹ Today, much diversity is being lost by cross pollination and by using herbicides such as Roundup, which is non selective in the plant life. Still, the scientists in the laboratory "are *messing around with something God created; this is morally wrong*"²² for which, people in the long run, may suffer in various forms e.g. *food insecurity, health problems* and such other problems. Hopefully, countries like India always concerns on three areas: *a gene once introduced cannot be recalled, what the health and safety issues are, and how far one can control life forms.* That is why on the issue of introduction of *Bt* brinjal, the Ministry of Environment and Forest has taken a very cautious approach in recent time. Today being a consumer of seeds and other agricultural necessities they have the rights namely, -

- Right to Safety: The right to be protected against goods which are hazardous to life and property.
- Right to Information: The right to be informed about the quality, quantity, purity, price and standards of goods.
- Right to Choose: The right to be assured access to a variety of products at competitive prices, without any pressure to impose a sale, i.e., freedom of choice.
- Right to be Heard: The right to be heard and assured that consumer interests will receive due consideration at appropriate forums.
- Right to Seek Redressal: The right to get relief against unfair trade practice or exploitation.
- Right to Education: The right to be educated about rights of a consumer.

ii. Rights over land: - Agriculture is not possible without land and water. After the invention of agriculture, people started the same initially on the banks of the any river because they used to believe that the land on the bank of river is fertile and there was availability of water. A farmer has the right over land and water as for the purpose of cultivation these are the most fundamental necessity. Land is immovable of property. Peasants develop a very strong bond to the soil or land. The freedom of the individual to hold and enjoy private property is clearly the most subverted of the basic rights of man. Yet without this right, all other freedoms are practically meaningless. Not only is this right of instrumental value to other freedoms but is also indistinguishable from the very notion of individual freedom.²³ According to Professor Alice Tay- "Property is that which a man has

21 Percy Schmeiser, recipient of the India's Mahatma Gandhi Award.

22 Zita Mayer, Schmeiser Receives Mahatma Gandhi Award, available at <http://www.percyschmeiser.com/Gandhiaward.htm>, visited on 13th January, 2010 at 6.41 PM

23 Doctor Mark Cooray, The Basic Human Rights And The Needs Based Human Rights,

a right to use and enjoy without interference: it is what makes him as a person and guarantees his independence and security. These things are seen as his property in early law because they are seen as the verification of his will, as the tangible, physical manifestation of his work and his personality.”²⁴

iii. Rights to water: For the purpose of agriculture, water is one of the primary requirements. Without water cultivation is next to impossible. Today, one can easily notice that there is the fast decline of unutilised irrigation water potential and increased competition for irrigation water from non-agricultural sectors. Many in policy circles believe that irrigation water can be diverted to municipal purposes when needed as if it is their right. This kind of arrogant thinking is resulting into conflict with the government which may aggravate in the future. The existing water policy, both at Central and State levels, does not provide any incentive for ‘voluntary transfer’ of water from low-value use to high-value use. The priority for agriculture needs and the increasing conflict of industry-agriculture and urban-agriculture water needs is not stressed in the draft²⁵. Therefore, the state needs to find out ways to solve this problem swiftly. Water allotted for irrigation should not be diverted for non-irrigation purposes without the consent of the farmers. Desalination, Rain Water Harvesting, Municipal Sewage Treatment can all be employed to provide water solutions for urban India while natural freshwater resources (lakes / dams) are used only for irrigation / agricultural purposes. Further, introduction of incentive-based institutions in the water sector can bring about a ‘win-win’ situation for both farmers and urban consumers.²⁶

iv. Right of Farming:- A farmer has a right to farm the land which he owns or which he is engaged to till. Farming includes-

- **Ploughing:** Agriculture is a highly labour intensive sector. Mechanised ploughing mostly used by farmers with large holdings but small farmer still uses manual power for ploughing. Power tilling has led to a situation where the large farm owner has ceased to employ labour for manual ploughing which adversely affects the livelihood of the small, landless and marginalised farmer.
- **Sowing and other allied activities:** Once the land is prepared, the next task the farmers has, is the sowing of seeds. As the sowing of

available at <http://www.ourcivilisation.com/cooray/rights/chap5.htm> visited on 9th January, 2011 at 2.29 PM

24 Professor Alice Tay; (E Kamenka, R Brown and A Tay (eds) ‘*Law and Society:the Crisis in Legal Ideals*, (Melbourne, 1978) p 10

25 <http://www.downtoearth.org.in/content/national-water-policy-2012-silent-priorities> visited on 25th February, 2012 at 7.43 PM.

26 <http://www.thehindubusinessline.com/opinion/article2430020.ece?homepage=true> visited on 24 the February, 2013 at 7.20 AM.

seed is completed, then another phase of works starts i.e. the looking after the growth of the produce and the adding up of fertilizers, weeding spade or small spud, arranging for water supply, administering of pesticides, and other necessities.

- **Choice of crops:** A farmer has the right to choose his crops. Since the time immemorial he has been enjoying the right to choose the crops which he is to cultivate. Corporatisation of agriculture seems to have encroached upon this right. The corporate bodies entering into the agricultural sector follow the model of contract farming. Under this system, the farmers are contracted to undertake the farming of selective food crops or cash crops like flowers etc. The corporate activities in the field of agriculture, in the present system, definitely limit the choice of farmers regarding farming. Such limitation destroy diversity of crop and adversely affect multi-cropping and the fertility of soil. Further, they need to avoid getting into the contract traps. What has happened in Canada in the last five or six years can happen elsewhere.²⁷
- **Reaping & Harvesting:** Farmers have the rights over the reaping the harvests. After the successful cultivation is over, the farmers' livelihood is managed through the harvest. Poor harvest leads to the plight of poverty. The condition of the small and marginal farmers in such a situation is graver. They even have to starve. Again at many times it is seen that the farmers cannot reap the harvest because of the oppression of the moneylenders.

v. Right to have a decent standard of living: - recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.²⁸ To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resource.²⁹ To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.³⁰ It also includes- the standards of fitness, safety, health and principles of human dignity.

27 Zita Mayer, Percy Schmeiser receives Mahatma Gandhi Award, available at <http://www.percyschmeiser.com/Gandhiaward.htm>, visited on 13th January, 2010 at 6.41 PM.

28 Article 11, ICESCR

29 Article 11(2)(a), ICESCR

30 Art. 14 (h) CEDAW

III. Vulnerabilities of the Farmers:

Indian agriculture is overwhelmingly dependent on the weather. For decades, the small and marginal farmers are suffering the arbitrary, ruthless market mechanism of agricultural commodities. Most of the agriculturists today consider farming as a matter of subsistence. The farmers are exploited by the hands of the land sharks, fertilizer lobby, insecticide lobby, hoarders and wholesalers, Panchayat and political leaders including agricultural officers, officials of Benfed, Nafed and other agricultural set ups. The malnourished, poverty stricken, emaciated farmers are forced to discard their traditional livelihood for comparatively secure urban destinations and are taking up marginal jobs like tailoring, masonry, painting, welding, soil digging, iron making, erecting mobile towers, wiring electric networks, driving, rickshaw pulling etc. The plight of women is dreadful. They receive a raw deal from the powerful state and private machineries with no one to guard them against unscrupulous traders. The labour pattern in the industrially developed states like Punjab, Haryana, Delhi, (where agricultural productivity is good along with the industrial activities) show that there is loss of interests agricultural work and more and more people are taking up non-agricultural activities. So there is paucity of manpower and farmers are dependent on the migrant farm labourers from Bihar, Jharkhand and Uttar Pradesh. Even that supply of migrant labour is now reduced due to the Rural Employment Guarantee Scheme. Due to the above reasons the government is planning to bring down the number of people dependent on agriculture from 60% to 30% in next 20 years. Further, very recently, the government increased the scope of MGNREAS. To add to this is fact that in India agriculture is overwhelmingly dependent on the weather. The agricultural sector in India, is mainly featured with-

- 1. Lack of remunerative prices for their produces:** The farmers due to their lesser bargaining power and the domination of the middlemen are not getting the remunerative prices for their produces.
- 2. Non fixation of support price:** There is a huge risk in agriculture. If there is a high yield the farmers do not get proper price, likewise if the production is low, then again there is loss.
- 3. High Cost of Production:** The cost of production is increasing while there is no significant increase in the price of the agricultural commodities. The highly perishable nature of the produce along with the lack of storage, grading, packaging, transportation and marketing infrastructures have further added their plight.
- 4. Lack of microfinance:** The big farmers are able to get loans from banks, small and marginal farmers still depend on money lenders.
- 5. Lack of interest of the educated youth in farming:** Educated youth

of the farming families are becoming less interested in agriculture. The farmer parents also do not encourage their children in taking up agriculture as livelihood.

6. Acquisition and corporatization³¹ of land and seed: The relationship between land³² and human being is as old as man started cultivation. Today all the state governments are inviting the industrialists to set up their projects in their states. Most unfortunate side of this sine the globalization in last 11 years i.e. from 2004 -11 near about 27 lakhs of acres of land has been acquired in India.³³ Another awakening factor in this regard is the annual report submitted by the Government of India and published by the UN Convention against Desertification which shows nearly 32% of land of the country is on the way of becoming

- 31 Corporatisation of land means and includes the transferring of lands to the corporate houses for the purpose of setting up of their projects.
- 32 In England, the Section 3 of the General Clauses Act, 1845 defines land as '*massuages; lands, tenements, hereditaments, of any tenure*'. The expression land as discussed in the West Bengal Land Reforms Act, 1955 under section 2(7) land means land of every description and includes tank, tank- fishery, homestead, or land used for the purpose of livestock, breeding, poultry farming, dairy or land comprised in tea garden, mill, factory, workshop, orchard, hat, bazaar, ferries, tolls or land having any other sairati interests and other land together with all interests, and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to earth; under the definition, the term homestead shall have the same meaning as in the West Bengal Estate Acquisition Act, 1953. After the Land Acquisition Act, 1894, the under Sec. 3(a) land includes benefits to arise out of land and things attached to the earth or permanently fastened to or anything attached to earth. The definition of the term 'land' in the land acquisition Act, 1894 is not exhaustive. The Act lays down that 'expression land includes benefits arising out of land, and things attached to earth or permanently fastened to earth.' After *Government of Bombay v. Isufali Salebhai* (1910) 34 Bom.618, The word 'includes' indicates that restriction intended to lump together in one single term i.e. land- several things of particulars such as soil, building, on it, in charge on it and other interests in it- which all have separate existence capable of being dealt with either in mass or separately, such exigency of each case arising under the Act may require. Thus, it is clear that definition of land will include superstructure, if any, existing upon it. For the purpose of the Act, therefore, land includes buildings, and also trees and standing crops. (*Province of Sind v. Hari Kishan Dass Gulabari* AIR 1940 Sind 58.) This definition is wider than that of immovable property under the Transfer of Property Act, 1882. Significantly, mines and minerals beneath the land are also included in the definition of land under the Land Acquisition Act, 1894. It has also been observed according to the land Acquisition Act, land doesn't merely mean a firm land but also land covered with water and in calculating market value of land, benefits derived from such water should also be taken into account. (*Nalinakshya Bose v. Secretary of State* (1907) 5 CLJ 62 (N)).
- 33 Chandan Sarkar, available at Ganashakti, dated 24th June, 2011 at pg. 04.

desert.³⁴ Furthermore, the over activism of the land sharks in the absence of states's minimum role in managing the lands for the industrial houses can be noticed.

7. Corporatization of seed: Traditionally the farmers had been involved in producing or collecting seeds after the harvesting is over for the next phase of cultivation. A farmer is not merely a cultivator but also a conservator of all agricultural gene pool. They assert their right to seed through the Community Intellectual Rights (CIRs). As the time advanced, with the growing concern of the people regarding the security against crop failure, diseases and pest attacks, the people started to find out the ways to how the agricultural production can be enhanced and the food security can be achieved. So the concept of GM crops came in. Again, with the tight norms of UPOV; TRIPs and TRIMs under the WTO the framers' right over seed is facing tough challenge against the breeder's right backed by the corporate bodies. This is what is known as the Corporatization of seed.

Moreover, the farmers are exploited by the hands of the fertilizer lobby, insecticide lobby, hoarders and wholesalers, Panchayat and political leaders including agricultural officers, officials of Benfed, Nafed and other agricultural set ups. The malnourished, poverty stricken, emaciated farmers are forced to discard their traditional livelihood for comparatively secure urban destinations and are taking up marginal jobs like tailoring, masonry, painting, welding, soil digging, iron making, erecting mobile towers, wiring electric networks, driving, rickshaw pulling etc. The plight of women in this field is dreadful. They receive a raw deal from the powerful state and private machineries with no one to guard them against unscrupulous traders. Further, the problem of landless labour due to the paucity of agricultural jobs and rural indebtedness is really dreadful. Further, the labour pattern in the industrially developed states like Punjab, Haryana, Delhi, (where agricultural productivity is good along with the industrial activities) show that there is loss of interests agricultural work and more and more people are taking up non-agricultural activities. So there is paucity of manpower and farmers are dependent on the migrant farm labourers from Bihar, Jharkhand and Uttar Pradesh. Even that supply of migrant labour is now reduced due to the Rural Employment Guarantee Scheme. Hence, there needs the adoption of a viable long term solution keeping in mind the empowerment of the small and marginal farmers through providing the education, infrastructure and health.

IV. Conclusion and suggestions:

“Human Rights” is a much used and abused term today. Today, it is evident that certain basic rights are indispensable and instrumental for making possible

34 Ganashakti, dated 23rd June, 2011 at pg. 02.

the enjoyment of all other rights to some sections of people. Today earning the livelihood for the farmers has become increasingly difficult and leads to frequent commission of suicides. Suicide of farmers is the extreme manifestation of the agrarian distress. It may, therefore, be submitted that poverty has inverse relationship with the right to life under Art. 21. One of the most significant parts of which is the small and marginal farmers and it is one of the most important causes of the backwardness of agricultural growth in the country. Hence, to improve the situation in this sector, or to recognize and ensure atleast the acquired rights of the farmers there needs the adoption of a viable long term solution including the followings with utmost priority-

- Institutionalized and participatory or democratic³⁵ agricultural pattern where corporatized agriculture with strong legal control may be an option- where the corporate bodies will empower the farmers especially the small and marginal farmers through providing education, arrange training programmes, develop infrastructure etc.³⁶ and pay adequate attention to ensure and improve health as Health³⁷ is an intrinsic value but also means reliable labour. Adequate attention need to be paid to develop a mechanism for securing just human conditions and for maternity relief³⁸. After all, in corporatized agriculture, companies cannot be expected to make their ways for the poor- or the reverse- if there are no routes to control them. Further, if the agriculture sector is institutionalised, then only it will be possible to achieve;
- There should be proper ‘living wage’³⁹ for all the agricultural workers. The concept of living wage includes in addition to the bare necessities of life, such as food, shelter and clothing, provisions for education of children and insurance etc.;
- The freebies and subsidies need to come as an immediate immediate and interim relief for the small and marginal farmers;
- This can be affected with the proper valuation of the produce insuring

35 The state to take steps, by suitable legislation or in any other way to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry. (Art 43A, the Constitution of India.)

36 The state to promote with special care the education and economic interest of the weaker sections of the people. (Art 46, the Constitution of India.)

37 The state to raise the level of nutrition and the standard of living of its people and the improvement of public health. (Art 47, the Constitution of India.)

38 Article 42

39 The state shall make provision regarding the living wage of the workers to all workers, agricultural, industrial or otherwise, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, (Article 43, the Constitution of India)

crops from draught or other natural calamities on the other. But the farmers on one hand are suffering from lack of proper crop insurance policy and get the proper value of his produce as because of his poor bargaining capacity. Along with this, the farmers must be aware so that they don't sell their produces at a lesser price fixed by the government and the government must monitor the situation with vigil eyes;

- Marketing of agricultural commodities is governed by the state specific Agricultural Produce Market Committee Acts. The government should take initiatives to fix the price and must statutorily impose restrictions so that the middlemen may not buy the farm produces at a price less than the price the government fixes;
- Further, corruption by any means to be stopped in the system otherwise the benefit will not reach to people at large.

In *Gujrat Agriculture University v. Rodhot Labhu Prachar*⁴⁰ the Supreme Court observed that the Government is the guardian of people and is obliged under Article 38 of the Constitution to secure a social order for the promotion of welfare of the people and to eliminate inequality. So, Policies that deliver the above mentioned submissions hopefully will not only alleviate want, but also lay the foundation for a high value economy which ensures the acquired rights of the farming section in India. The implementation of these, in short is expected to reduce the poverty and once operational, will provide a long term solution.