THEIR VIEW

# Reformist laws for trading in farm output are best enacted by states

*An excellent 2017 model law for states protects farmers from any conceivable abuse of a move towards greater freedom of sale*

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PTI

The repeal of India's central farm laws is seen so widely as gravely negative for prospects of further economic reform that it might be opportune at the start of this New Year to set the record straight. The good news is that farm reform, defined as opening up marketing channels for farm produce, was already well underway before the three central laws were enacted. The bad news is that there is still a great deal of avoidable confusion as to the exact state of play in that process.

The states were the appropriate jurisdiction for legislating on trade in farm produce, since in any case it was state laws enacted 50 years ago that had limited the purchase of farm produce to licensed traders in Agricultural Market Produce Committee (APMC) market yards. A model act for doing away with the APMC-controlled regime was drafted for states in 2017 by the Centre. The 2017 model is an admirably comprehensive and carefully-worded legal provision, protecting farmers as it does from every conceivable abuse of the move towards greater freedom of sale.

In December 2019, the 15th Finance Commission, in its interim report, incentivized states to enact legislation based on the 2017 template, with a promised reward in their final report. Since Ramesh Chand was a member of both the Finance Commission and the Niti Aayog, the Centre quite clearly agreed that states were the appropriate legislating authority. That thinking seems to have changed in 2020, with enactment of three central laws.

How many states had already gone with the 2017 template by 2019? The Union ministry of agriculture, at a conference of state agriculture ministers in July 2019, presented a detailed tabulation showing that 22 states had provided freedom for farmers to sell their produce to private traders, the key element enabled by the 2017 model law. Kerala and Manipur had never enacted an APMC law, and Bihar repealed its APMC law in 2005. That left only three states of the present Indian total of 28 which did not give farmers freedom to sell to private traders: Haryana, Madhya Pradesh and Tamil Nadu.

Sadly, we cannot conclude that the freeing of farmers from the clutches of the APMC monopsony was complete, barring those three states, because in the same July 2019 presentation, only four states are named as having fully followed the 2017 template: Arunachal Pradesh, Uttar Pradesh, Chhattisgarh and Punjab. It could be that the other states had not followed the 2017 template in every detail. Another explanation could be that those states had not followed enactment with a notification of rules. But without notification (the point at which any law is administratively recognized), how could 22 states have been listed as having freed farmers to sell to private traders? The issue remains mired in confusion.

I should explain why I rate the 2017 model act so highly. Many laws at both the Centre and states leave details about procedures to the rules, which can easily be changed by administrative notification, without having to refer back to the legislative body for a change in the law. The 2017 template was exceptional for having inserted procedures for setting market fees, and specifying uses to which the revenue from these fees could be put, right in the law itself without being waved away to the rules.

There was no compulsion on states to enact their own legislation based on the 2017 template. There are prior and very successful instances of states having voluntarily followed a standard template on which to base their own legislation. The Fiscal Responsibility and Budget Management (FRBM) acts, enacted by states starting in 2005, was one such. Another example was the model VAT law offered to states that same year. In the case of farm laws as well, it was only a matter of time before all states would have seen the advantages of enacting (and notifying) laws based on the 2017 template.

The equivalent central law of 2020 is much shorter than the 2017 model, because it does not go into the kind of painstaking detail as the 2017 template does in order to secure the rights of farmers.

There were also two major departures in the 2020 act. One was that it explicitly ruled out the levy of market fees. That was most puzzling, since a lot of initial investment and maintenance is needed for agricultural market yards. If no market fees are levied, investment and maintenance have to be fully borne by either government or private traders. If it's the latter, an agricultural market could easily degenerate into a local monopsony. That possibility was what the 2017 model act guarded against.

The second departure was that the central law required all traders in farm produce, barring farmer organisations, to have a permanent account number (PAN) for income taxation. Quite aside from the merits of that requirement, it should have been in a finance bill rather than a farm bill.

I have dealt only with the marketing law, of the three enacted, for lack of space. The essential point is that the 2017 model is still in place, providing a secure legal basis for opening up markets to farmers in a non-exploitative way.

> **QUICK READ**
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> Our farm laws were repealed but reforms need not suffer, as a 2017 central model act exists that states can adopt to give farmers greater choice while shielding them from exploitation.
>
> The model law is unique for the extent it goes to protect farmer interests, even laying down how market fees should be set as regulatory insurance against a private monopsony taking hold.

MINT CURATOR

# Elizabeth Holmes's trial: Was she held to an unfair standard?

*No, but our image of an ideal woman leader remains straitjacketed*

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Theranos's former CEO was found guilty of fraud in a high-profile trial in the US REUTERS

Elizabeth Holmes, founder of Theranos, commanded headlines and magazine covers as an executive worth billions. Just convicted for financial fraud, she is no less spellbinding in defeat. Hers is the story that launched a thousand articles—as well as several podcasts, books and movies. She's fascinating because we can't decide what to make of her. A manipulative villain? A credulous ingenue? A perpetrator or a victim?

Public opinion may never be settled. But one notion I'd like to see fizzle is that prosecutors held Holmes to an unfair standard because she's a woman. It's true that Silicon Valley has a well-established fake-it-till-you-make-it culture. Some male entrepreneurs do engage in puffery to attract investments for their startups.

But that doesn't make Holmes's conviction for fraud evidence of a gender-based double standard. If anything, it's a reminder that there are justifiable limits to what executives can say—especially in industries such as healthcare.

For another, it's possible that the narrow result of the jury's decision—convicting her on only four of 11 charges—indicates that Holmes still managed to catch a break. Corporate history is littered with male executives who went to jail for wrongdoing, from Jeffrey Skilling to Bernie Madoff to Martin Shkreli. And prosecutors in the Holmes trial presented ample evidence that she knowingly lied about her product.

But Holmes's lawyers—and Holmes herself, on the witness stand—did an impressive job of softening her image and blunting the prosecution's impact. To do this, Holmes and her team played on sympathetic gender stereotypes, portraying her variously as an ingenue who didn't understand the limitations of her company's technology, a victim of sexual and emotional abuse and a young mother. (Holmes's defence lawyers invoked these gender archetypes much more skilfully and subtly than did the legal team of Ghislaine Maxwell, which ham-fistedly compared her to the biblical temptress Eve. It didn't work.)

Of course, human beings are complex, and Holmes may in fact be all of those things. She is also now a former chief executive officer convicted of misleading investors about her company. It is infantilizing to suggest that she didn't know what she was doing, or that she was a corporate figurehead without any real agency or knowledge of the company she founded.

Yes, it's true that women as a group are held to higher standards in business and that their errors are judged more harshly. Several academic studies have shown that women's mistakes incur stronger penalties, especially in male-dominated fields. But that doesn't make Holmes—a specific woman in a specific set of circumstances—an example of the phenomenon. It stretches the definition of euphemism to call Holmes's decade of lies a "mistake".

That's not to say that sexism played no role at all in the Theranos saga. Without the startup world's sexism, Elizabeth Holmes may never have become the darling of magazine covers or the TED stage. In a world where female founders get funded at the rate they deserve, her success would not have been so unusual, and therefore not so newsworthy. In a world where racism and ageism were not rampant, other female founders—those not young, blonde and [Caucasian] and whose products actually, you know, worked—might commandeer more magazine covers. In a more meritocratic world, the kind of tokenism that led to Holmes's meteoric rise, outstripping her product's utility, would not exist.

The lesson to take from her conviction is not that women face a double standard—we already know that—but that the image Holmes managed to convey was a mirage.

It's the old double bind of male-dominated jobs: To seem competent, a woman has to dial down her femininity. But if she wants to be likeable, she has to emphasize that femininity, and to be successful, she must be liked. That creates what's known as the warmth-competence paradox: For a woman to succeed, likability is essential. For men, it's optional.

Holmes mastered that warmth-competence tightrope walk. She created a public persona that was a perfect blend of masculine and feminine, adopting black turtlenecks and a baritone voice, while sporting red lipstick and being publicly vulnerable about her fear of needles. In hindsight, it may look hopelessly contrived. How could anyone have believed it? But the more important question is: Why are so many women still expected to walk this tightrope?

It was wrong to hold up Elizabeth Holmes as an exemplar of female leadership when she was a darling of investors. It would be wrong now to make her an example of how women are held to an unfair standard. Let her story instead remind us that our image of the ideal female leader has all the subtlety of a straitjacket.

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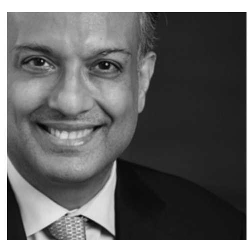
GUEST VIEW

# *It's the year to turbocharge our renewable-energy drive*

SUMANT SINHA



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The year 2021 was a landmark one for climate change and for those working to mitigate its increasing effects. The world saw an intensification of climate disasters, such as forest fires in North America, cyclonic storms in India and the recent Typhoon Rai that wreaked havoc in the Philippines. All of this has propelled climate change to the top of the global agenda like never before. We witnessed world leaders, including Prime Minister Narendra Modi, gather in Glasgow for CoP-26 and saw 29 more national commitments of net-zero by the summit's close, bringing the total to 74 countries, representing 90% of global gross domestic product (GDP).

In 2022, all renewable energy (RE) players will have to double down on the hard work already done to achieve steeper RE targets set at CoP-26, such as India meeting half its overall energy needs from renewables by 2030 and achieving net zero by 2070.

So, if 2021 was a revamped launching pad, then 2022 is the year in which RE growth needs to be catapulted higher to hit the country's stretch climate targets, including cutting the economy's carbon intensity by 45%. The challenge is tangible now that the government has revised its target for 2030 to 500GW of non-fossil-based installed capacity, up from 450GW. The current year will indicate how our accelerated drive towards these stretch goals plays out.

For its part, ReNew Power has been pitching in. We have added 1.5GW of operational RE capacity in 2021-22 to date, taking our total installed capacity to 7.4GW. We're on track to reach our aspirational goal of 18GW by 2025. Yes, this is about meeting business targets, but it is also about being part of an 'all hands on deck' national effort to meet India's climate goals. Clearly, ReNew and its RE industry peers have a mammoth task ahead. In view of this, I would like to suggest a few key measures in 2022 to enable the RE sector to accelerate its capacity expansion and innovate rapidly.

*More auctions*: Given the challenges of intermittency in renewables, grid resilience must improve through more auctions of firm round-the-clock RE projects by Solar Energy Corporation of India (SECI). This will ensure flexible, on-demand power enabled through storage. SECI has done a stellar job so far and the programme it runs should be expanded immediately, as India would need at least 15-20 auctions for at least 30-40GW annually for years to come.

Also, battery storage systems will go a long way in addressing the challenge of intermittency of RE sources and improve the generation profile of renewable energy projects.

Moreover, as the share of renewables in the country's energy mix increases, there will be a need to improve grid flexibility and enhance transmission networks.

*Discoms health check*: The fiscal health of power distribution companies (discoms) needs to be addressed urgently, so that they invest more in grid upgradation for the absorption of 500GW of non-fossil fuel capacity. Delicensing of the sector is a close-to-ideal solution. It would enhance consumer choice, increase RE demand and raise investor confidence. The government has taken some positive steps. The government's reforms-based and results-linked, Revamped Distribution Sector Scheme is expected to improve the operational efficiency of discoms by providing financial incentives tied to performance.

*Protect contracts*: Ensuring contractual sanctity is critical to ensure certain states don't question signed power purchase agreements (PPAs) or inordinately delay payments to RE players. If PPA contracts are not honoured, it impacts the business climate in any sector. While substantive legal precedents exist in the power sector for enforcement of contracts, the Centre can work more closely with states to ensure greater adherence to contracts.

*Taxes and duties*: As RE players need to boost their efforts, rationalization of duties and taxes will certainly help. If import duties are not kept low for the next 3-5 years for battery storage and green hydrogen equipment, it would be challenging to develop a local manufacturing ecosystem. GST on RE should be a maximum of 5%.

*Green light for green hydrogen*: For meeting climate goals, green hydrogen is the exciting new frontier. If developed rapidly, it can slash India's huge reliance on polluting and expensive fossil fuels used in hydrogen production (95% of global hydrogen output till 2020 was grey hydrogen, with green hydrogen a minuscule 0.1%). This will be critical in decarbonizing the hard-to-abate chemical, industrial and transportation sectors.

It's encouraging to see that the Centre has been prescient in spotting the potential of green hydrogen and launched the National Hydrogen Mission last year. But greater investments in electrolyzers, as well as targeted policy interventions such as clear-cut green hydrogen obligations, will help the cause.

In this context, ReNew has partnered with L&T for developing green hydrogen capacity. On a broader level, multi-stakeholder partnerships involving scientists, industry, multilateral institutions and investors will play a key role.

Our RE goals for 2030 are both beckoning and daunting. The coming year will be critical for India's once-in-a-lifetime clean energy transition and in determining whether we reach those life-saving climate goals for the sake of future generations.

> **QUICK READ**
>
> While 2021 saw the world joining hands to mitigate climate risks, 2022 will need a doubling down of our efforts to achieve the renewable energy targets that were recently reset by India.
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> Better technology for battery storage to plug intermittency of power, delicensing to spur investment and tax incentives can help speed up the country's transition to clean energy.