Policy Brief

THE ONGOING CRISIS IN THE SUGAR INDUSTRY

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EXECUTIVE SUMMARY

This research paper encapsulates all aspects of the sugar industry's operations in Pakistan. As sugar commodity (from sugarcane farming to sugar manufacturing) is vital to the country's economy and, in attempts to safeguard and streamline the sugar industry, the government(s), through the promulgation of various legislations, rules, and regulations, have transformed the industry into a highly regulated, inefficient, and anti-competitive one. A bare perusal of the regulatory framework has highlighted key issues, such as the over-regulation, fixation of crushing dates by the Government, the controversial quality premiums etc, which have curtailed and circumvented both the quantity and quality of the sugar being produced in Pakistan.

This paper charts the evolution of the sugar industry and provides a detailed overview of the pre- and post-partition industrial development, including the enactment of the governing legislations. It further offers insight into the tribulations that continue to plague the industry, such as, sugar hoarding, delayed crushing of sugarcane, artificial and natural shortages of sugar, etc. Moreover, it has outlined the regulatory landscape, the impact of salient judgments, and key findings of different government agencies from 1947-2021. Some of the landmark judgments discussed includes Fauji Sugar Mills v The Province of Punjab, wherein the Lahore High Court held that the imposition of quality premium through S.16-A of the Sugar Factories Control Act 1950 is unconstitutional. Another significant judgment, Army Welfare Sugar Mills v The Government of Sindh is discussed, in which the courts held that they cannot question the existence of quality premium in itself - the only point that can be brought in question is whether the quality premium is commensurate with the revisions to the minimum price of cane set by the Government. Altogether, the researchers have documented 34 legislations and 61 cases.

To obtain comprehensive picture and propose recommendations, interviews with key informants in the sugar supply chain and other experts were conducted and are duly incorporated in this paper. Furthermore, after analyzing and unveiling the adversarial consequences resulting from the existing legislative and regulatory landscape, this paper has proposed recommendations. Primarily, a phased approach to completely deregulate the sugar industry, a model that has been implemented in Australia and that may adequately address the key issues within our existing regulatory regime. To achieve a completely deregulated sugar industry, Pakistan needs to pro-actively amend the law,

overcome the gaps in the legal framework, establish a single regulator, remove unnecessary barriers to entry into the industry, robustly enforce competition and antitrust laws etc.

CONTEXT

Pakistan's sugar industry is marred by anti-competitiveness (cartelization), misuse of political influence by mills,[1] and outdated agricultural practices, leading to a disappointing productivity and yield of sugarcane.[2] The existence of legal gaps, such as, provisions which allow responsible parties to escape liability and controversial price control mechanisms etc, further compound the problem alongside a fragmented and dispersed regulatory framework. This ultimately racks up compliance and enforcement costs. Additionally, lack of meaningful Research & Development (R&D) for the sugar commodity which, coupled with a mostly inactive Extension Department, has caused sugarcane production to fall short of its potential (c.f. other cane-growing countries). As a result of all this, sugar production in Pakistan is costly and vulnerable to massive price fluctuations. Exacerbated by a non-intuitive import/export policy, this means that local consumers are forced to purchase expensive sugar and in the international market, Pakistani sugar remains uncompetitive. This marks an urgent need for comprehensive reform of the industry, not only for economic reasons but in furtherance of the welfare of farmers, consumers and other vulnerable stakeholders.

POLICY RECOMMENDATIONS

Keeping in view the complex systematic challenges alongside immediate-term priorities (generated by political imperatives), deregulation of the industry should be phased out. This will not only "soften the blow" for vulnerable stakeholders such as farmers but also allow the industry time to readjust to change.

Phase I – Consolidation and Accessibility of Laws

The fragmented and complex web of laws, rules and regulations has rendered the present governing system incoherent, opaque, and unreliable. This has led to increased compliance/enforcement costs and opened the doors for the exploitation of vulnerable groups (farmers), such as, the selective enforcement of the Gur Control Order 1948 despite it possessing no legal force.[3]

The following are recommended:

- Formulate a working manual for stakeholders elucidating the processes, rights, roles, and responsibilities of those involved in the industry.
- Focus on comprehensive education and awareness campaigns so that all stakeholders can be brought onto the same page regarding their rights, roles, and responsibilities alongside generating an understanding of threats and opportunities within the industry.
- Redraft, consolidate and make available all relevant governing provisions into a single enactment.

[1] Government of Pakistan. 2020.
[2] See: Inayatullah Khan and Muhammad Jamil. 2003. Muhammad Awais Qureshi and Shahid Afghan. 2020.
[3] Amir Riaz. 2021.

Phase II – Implementation and Enforcement

Lack of consistent enforcement of laws and regulations is the most pervasive criticism of the Pakistani sugar industry. However, enforcement is central to not only identifying true shortfalls in the system but also informing future policy-making efforts.

Consider the following:

- Adopting cooperative enforcement strategies e.g., creating a distinction between hardened offenders and compliance irregularities by well-meaning individuals. The former may be pursued more rigorously and for the latter, a cooperative and less intrusive approach can be taken.[4]

Phase III – Government/ Industry Reviews

To generate momentum for real reform, it is important to bring prevailing issues to the forefront (often repeatedly). To this end, collaborative Government-Industry reviews are strongly recommended. These have proven to play a pivotal role in driving radical reform of industries, as demonstrated by the Indian[5] and Australian[6] sugar industries' examples.

Other avenues to raise general awareness of the sugar industry's issues should also be proactively engaged e.g., media campaigns etc. The implementation of this phase must remain a continuing pursuit even after change is made.

Phase IV – Amendments to Laws and Other Initiatives to Promote Competition

In light of the problems faced by the industry, the following should be considered:

- Amendments to the law with view to overcoming the gaps in the legal framework.
- Establish a Single Regulator (Ministry of National Food Security and Research) as a focal organization dedicated to providing support for sugarcane cultivation, monitoring and managing all dealings pertaining to the production, marketing, import/export of sugar, formulating and implementing strategic development plans for the furtherance of the interests of all stakeholders, and ensuring the long-term sustainability of the industry. The mandate of this body should be focused on providing pre-emptive support such as training programs for farmers and timely enforcement of laws rather than being another vessel for Government intervention in times of crisis.
- Remove unnecessary barriers to entry into the industry such as regulatory prerequisites for the setting up and running of sugar mills. Further study may be required for this.
- Increased focus on the robust enforcement of competition and antitrust laws.
- Revitalization of and increased funding for R&D and Extension programs.

[4] John T Scholz. 1984.
[5] P Asha Priyanka, M Chandrasekaran and E Nandakumar. 2016.
[6] JM Craigie. 2014.

Phase V – Deregulation

Deregulation is the removal or simplification of governments rules and regulations that constrain operation of market forces. However, this does not mean that all regulations need to be abolished– especially those required as a part of services or support to the rural communities such as the setting of food safety standards, natural resource protection, chemical use safety etc. Whenever a government is considering radical deregulation, it is very important to identify the most vulnerable stakeholders and devise strategies to mitigate negative outcomes via timely support and empowerment. Note that deregulation can only be successfully implemented in the existence of certain conditions:

- Significant power imbalances between stakeholders must have been corrected e.g. farmers must have a unified representative association, with a functioning and reliable mode of recourse in case of abuses of power.
- Eradication of monopolistic abuses of mills and effective mechanisms to prevent future cartelization/collusion.
- The process of deregulation must be transparent, and stakeholders must be made aware of what to expect in a deregulated market.
- Availability of appropriate adjustment programs to ameliorate the negative impact of change to those most vulnerable to it.

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