

**THE ONGOING CRISIS IN THE SUGAR INDUSTRY
THE IMPLICATIONS OF LEGISLATION AND A NEED
FOR DEREGULATION**

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ABSTRACT

This paper adopts a multidisciplinary approach to analyse the law governing the sugar industry in Pakistan and its implications. Focusing on the current market operation within Pakistan, the paper critically contrasts this with models implemented within different jurisdictions for the effective market operation of their respective sugar industries. It further highlights the inefficaciousness and longstanding practices of the market players, how these are supported by existing legal structures, and the way they undermine competition. Faced with the apparent lack of success of the allegedly stringent legislative regulation of the sugar industry, this paper focuses on unveiling the adverse implications of these rules and regulations and analyses a more viable model for effective market operation.

PREFACE

The paper's objective is to chart the evolution of the sugar business prior to and after the Indian subcontinent's partition. It examines the repertoire of laws enacted to regulate the sugar industry's operations from 1932 until 2021, and any legal proceedings and actions undertaken thereunder. Informants actively involved in the business and directly affected by the rules and regulations were interviewed to further explore and acquire of the sector's operation. Regulatory models of Australia, India, and the Philippines were also examined to ascertain and propose an optimal regulatory model for Pakistan.

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LIST OF ABBREVIATIONS

CCP	Competition Commission of Pakistan
NAB	National Accountability Bureau
PLD	The All Pakistan Legal Decisions
SCMR	The Supreme Court Monthly Reviews
YLR	Yearly Law Reporter
ALD	Annual Law Digest
MLD	Monthly Law Digest
PLJ	Pakistan Law Journals
GNP	Gross National Product
PIDC	Pakistan Industrial Development Corporation
NWFP	North West Frontier Province
DFI	Development Financial Institutions
RASTA	Research for Social Transformation and Advancement
SROs	Statutory Regulatory Orders
DC	District Commissioner
CBR	Central Board of Revenue
CrPC	Criminal Procedure Code
AG	Attorney General
FIR	First Information Report
SRA	Sugar Regulatory Administration (Philippines)
PDS	Public Distribution System
ECC	Economic Coordination Committee
R&D	Research and Development
API	Agriculture Policy Institute
MSP	Minimum Support Price
CPR	Cane Purchase Receipt
PSMA	Pakistan Sugar Mills Association
MNA	Member of National Assembly
PARC	Pakistan Agriculture Research Council

INTRODUCTION

Sugar as a commodity (from sugarcane farming to sugar manufacturing) is vital to the country's economy. 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 highlights key issues, which curtail and circumvent both the quantity and quality of the sugar being produced in Pakistan.

This paper, firstly, provides a detailed overview of the pre- and post-partition industrial development and enactment of governing legislations. Secondly, it 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.* Most importantly, this paper lays out the regulatory framework and key judgments through the decades (1947-2021), including the outline of the regulatory landscape, salient judgments which have impacted it, and key findings of different government agencies. Analyzing and unveiling the adversarial consequences resulting from the existing legislative and regulatory landscape, this paper proposes potential reforms that may adequately address the key issues within our existing regulatory regime. A brief description of the recent landmark judgment passed by the Competition Commission of Pakistan ("CCP"), relevant National Accountability Bureau ("NAB") inquiries, and the key findings of the Sugar Inquiry Report 2020 are also provided. This paper includes a legal database encapsulating all the relevant reported judgments compiled from The All Pakistan Legal Decisions ("PLD"), The Supreme Court Monthly Reviews ("SCMR"), Yearly Law Reporter ("YLR"), Annual Law Digests ("ALD"), Monthly Law Digest ("MLD"), Pakistan Law Journals ("PLJ"), and Pakistan Law Site.

Finally, for proposing recommendations and obtaining a comprehensive picture, interviews with key informants in the sugar supply chain and other experts were conducted. The prudence, efficiency and adequacy of the proposed recommendations were discussed with them to determine the most viable model for Pakistan.

PRE-PARTITION

From the late 1800s through the early 1930s, sugar was Indies' most important export commodity. The colony's industrialized sugar factories, all of which were located on the major island of Java, lost nearly all contact with metropolitan markets and European consumers. Around the turn of the century, most of the Island's sugar exports went to the United States, where they compensated for a (temporary) shortfall in Caribbean imports caused by the revolution in Cuba and the ensuing Spanish-American war. However, by the end of the first decade of the twentieth century, these exports had faded, and (except for a brief period during the Great War, when it resumed massive exports 'west of Suez,') Java had become the primary supplier of sugar to Asian rather than Western markets, primarily the Indian subcontinent, China, and Japan.¹

Sugar industry's development and maintenance was just as crucial to Indian subcontinent's agriculture as sugar beet cultivation was to Europe. The organized efforts that led to the development of the modern sugar industry may be traced back to the commencement of His Majesty King George III's reign. The antiquity of the Indian sugar industry is a matter of common knowledge and there are many reasons for believing that India was the original home of the sugarcane. Dutch traders shipped Bengal sugar from Masulipatam in 1636, and both fine-grained white sugar and sugar-candy were exported from Surat early in the seventeenth century and from Calcutta in 1659. To bring us to modern times, the report of the House of Commons Select Committee on Sugar and Coffee Planting, published in 1848, shows that India exported 7,184 tons of sugar to England in 1835-36, 26,913 tons in 1839-40, and an average of 59,373 tons from 1839 to 1847. India was said to supply around a quarter of England's entire sugar supply at the time.

In North Bihar, where European planting population existed, and indigo-growing was becoming unprofitable, modern factories began to spring up. With the reorganization of agricultural departments in 1904 and recognizing the economic potential of the cane crop in Northern India, more emphasis was placed on improving cane production.

Table 1: Mean and Coefficient of Variation of the Decadal Values of Sugarcane Area, Production, Yield and Recovery from 1930-1931/1939-1940 to 1940-1941/1949-1950

	Mean	%CV	Mean	%CV	Mean	%CV	Mean	%CV
1930-1931/1939-1940	1.443	15.296	51.288 9	19.759 1	35.362 5	7.7658 2	9.079	3.4262 8
1940-1941/1949-1950	1.4308	10.331 6	49.287 8	10.279 4	34.490 7	5.4112 1	9.95	2.0245 2

Source: A. K. Shrivastava, A. K. Srivastava, S. Solomon, A. Sawnani, S. P. Shukla, "Sugarcane Cultivation and Sugar Industry in India: Historical Perspectives", 2011.

Sir James MacKenna addressing The Royal Society of Arts in 1928, spoke about the future of the Indian sugar business, noting that modern India had consumed the produce of 80,000 acres of sugarcane. In 1930, when the question of fiscal protection for the sugar industry was referred to the Tariff Board, the position was quite similar. The area under cane production in 1929-30 was 2,677,000 acres; wherefrom 21,150 tons of sugar was refined from gur, 89,768 tons of sugar was produced directly from cane processed by modern factories, and some 200,000 tons of sugar was manufactured by the indigenous open-pan or khandsari process, allowing setts for planting and cane for chewing, and 1,837,000 tons of gur were produced for consumption. During the sugar-crushing season of 1934-35, it was estimated that the area under cane production was 3,471,000

¹ G. Roger Knight, "Exogenous Colonialism: Java Sugar between Nippon and Taikoo before and during the Interwar Depression, c. 1920-1940", 2010

acres and the gross production of gur was 5,085,000 tons; production of sugar refined from gur amounted to 40,000 tons; sugar manufactured directly from cane was 580,000 tons; khandsari sugar was 175,000 tons; and gur for direct consumption was 3.5 million tons. By 1935-36, it was estimated that the production of sugar in modern factories would reach 807,000 tons, enabling India to become self-sufficient in supporting its sugar demand. The number of modern factories crushing cane in 1928-29 was 24, in 1930-31 became 29, and a significant uptake was witnessed in the season of 1934-35 when the number of factories crushing cane reached 142.²

Following the establishment of private British and Indian sugar-producing factories in Uttar Pradesh and Bihar, tariffs were imposed in the 1930s. Consequently, even before the Sugar Industry Protection Act was passed, the sugar industry secured tariff protection substantially in excess of the Tariff Board's recommendations. Simultaneously, a fall in cane and gur prices occurred, which was largely due to the general slump in the price of agricultural produce. Meanwhile, world prices for heavy machinery dropped substantially and openings for profitable industrial investment in India were few. This combination of additional stimuli led to an unexpectedly rapid expansion and development.³

By 1930-31, there were 29 sugar factories producing just 100,000 MT of sugar, and they were competing against Japanese sugar, which dominated the Indian market. The industry petitioned the Tariff Board, and the Indian Legislature passed the Sugar Industry Protection Act in 1932. The indigenous sugar industry was given protection under this Act by imposing a 7.25 percent customs duty and a 25% surcharge on sugar imports (**Nikam 2006**). In case, sugar was being imported at prices that rendered the domestic sector ineffective, the Government could impose additional tariff on imports.⁴

The Act's principal goal was to set a price for sugarcane destined for use in sugar factories and ensure that sugarcane growers received a fair price for their crop. The impact of such a safeguard on India's sugar sector was remarkable: by providing protection to the local sugar sector, the Act spurred construction of new sugar mills. The number of sugar mills increased from 31 in 1931-1932 to 111 in 1933-1934 that produced 4.6 lakh metric tons of sugar. By 1935-1936, the number rose to 135 and production increased from 0.161 to 0.934 million tons. Due to the enactment and implementation of this Act, the country had become self-sufficient in sugar production by 1935.⁵The expansion continued until 1939-1940 when sugar production peaked at 1.242 million tons.⁶

However, the All-India Sugar Conference, held in Simla in the summer of 1933, revealed that the progress was at risk of becoming too rapid and fierce internal competition for the Indian sugar market was on the horizon. It was also discovered that sugarcane farmers were not receiving their full portion of the protection advantages. Moreover, booming domestic sugar production caused revenue losses for the government since less custom duty was collected due to fewer imports. In 1934, the Central Government reevaluated the situation and adopted a two-pronged approach:

² B.C. Burt, "*The Indian Sugar Industry*" Royal Society for the Encouragement of Arts, 1935

³ B.C. Burt, "*The Indian Sugar Industry*" Royal Society for the Encouragement of Arts, 1935

⁴Satish Kansal, 'Factors determining Indian sugar production and its comparative advantage' (FAO 1997 Asia Pacific Sugar Conference, Fiji, 29-31 October 1997) <<https://www.fao.org/3/X0513E/x0513e16.htm>>

⁵ Satish Kansal, 'Factors determining Indian sugar production and its comparative advantage' (FAO 1997 Asia Pacific Sugar Conference, Fiji, 29-31 October 1997) <<https://www.fao.org/3/X0513E/x0513e16.htm>>

⁶ A K Srivastava, S Solomon, A Sawhani & S P Shukla, 'Sugarcane Cultivation and Sugar Industry in India: Historical Perspectives' (2001) 13 Sugar Tech 266

- excise duty on factory-produced sugar and a tariff on imported sugar, and
- the Union Government passed legislation allowing provincial governments to impose a minimum cane price on cane growers.

Therefore, early in 1934, two important legislative enactments took place: the Sugar Excise Act, 1934 and the Sugarcane Act, 1934.

The Sugar Excise Act established sugar excise duty for financial reasons: primarily, to account for the money lost owing to the unexpected and drastic fall in sugar imports, and their probable disappearance. By offsetting the customs surcharge, the tariff was set at a level that reduced the quantum of protection to that suggested by the Tariff Board.

Moreover, the Sugarcane Act passed by the Central Legislature was intended "*to govern the price of sugarcane destined for use in sugar plants*". The Act was enabling in nature, and Provincial Governments could decide whether to apply it to the entire province or merely to specific districts. Once the Act was in effect in a province, the minimum sugarcane prices set by the province were to be approved by the Federal Government. Concisely, the Act allowed local governments to set minimum prices for sugarcane ordained for factories, prohibit purchase of cane from anyone other than the grower or a licensed cane-purchasing agent, and establish rules for weighments and other aspects of the sugarcane industry's administration. Furthermore, factories were barred from buying cane from anyone except the grower or a properly licensed cane-purchasing agent, which was known as the "Zoning System". It was anticipated that, by doing so, irresponsible cane contractors plaguing growers and factories alike could be eliminated.

Mr. Noel Deerr, speaking at a Sugar Committee meeting in 1933, stated that:

"With the adoption of a zone system, that is to say, with an area given over to the miller to develop in sympathy with the small holder, there should follow at once an association of agriculture and manufacture for the common benefit of both interests. It will be the object of the mill to reduce the price of the raw material and this can best be done by increasing the production per acre, and with an increment in the yield the net income of the small holder will increase even with a decrease in the rate paid per unit of raw material."⁷

However, every farmer in a specified "command area" had to sell to an associated mill, per a zoning system; these areas were historically set, clearly delineated, and the borders could be deemed arbitrarily assigned. Even though other factors, such as, weather, soil quality, institutions, and so on were constant across the borders, command area boundaries provided a regression discontinuity design because farmers on both sides of the boundary had to sell to mills of different ownership types – cooperative, private, and public. Consequently, any disparities in farmer results would be linked to ownership structure discrepancies directly at the border. The mill's coordination and efficiency affected how much sugar was extracted per ton of crushed cane. To run the facility at full capacity every day, mills had to synchronize cane harvesting. Furthermore, because keeping the rollers rolling was expensive, using the machinery for little amounts of cane was not cost effective. Machinery breakdowns were also exceedingly costly since the factory's cane began to dry out, forcing the harvesting schedule to be rearranged.⁸

⁷ Baru (1990), p 33

⁸ Sendhil Mullainathan and Sandip Sukhtankar, 'Ownership Structure and Economic Outcomes: The Case of Sugarcane Mills in India' (2014) Working Paper <https://scholar.harvard.edu/files/sendhil/files/ownership_structure_and_economic_outcomes.pdf>

POST PARTITION OVERVIEW

Figure 1: Sugar Supply Chain/ Relevant Stakeholders



Note: Federal, Provincial and Local Governments are also key stakeholders.

The British colonization of India drastically affected the power structures in what is now Pakistan. After the 1857 insurgency against the British East India Company, the colonial period was defined by a retreat of market forces and the ascendancy of traditional agrarian nobility. The vast canal irrigation network in Punjab, as well as the land regulations that preceded it, benefitted agrarian landowners while cementing the power of civil and military bureaucratic elites. Apart from inheriting an adverse colonial legacy from British control, the country also faced a huge shock to business development in the form of: (a) competent merchants and business entrepreneurs abandoning the country, and (b) inheriting low industrial and manufacturing capacity at the time of the subcontinent's partition. The non-Muslims who dominated the economy fled to India, having a huge impact on trade growth in Pakistani territories. Although Muslims participated in trade and commerce in British India, the preponderance of trade, industry, and banking was dominated by Hindus, Parsees, Europeans, military officers, and government officials, while landowners tended to be upper-class Muslims.

Prior to partition, non-Muslims owned over 80% of the industrial enterprises in West Pakistan. For example, they owned 167 of the 215 indigenously held firms in Lahore and dominated the whole finance market.^{9 10} Hence, Pakistan only had two sugar mills at the time of partition. However, as a result of the Indian subcontinent's fervid commitment towards the sugar industry and its reform prior to partition, the sugar industry in Pakistan grew to become a major processing sector, second only to textiles in terms of sales volume.

The Government laid the groundwork for the development of the sector in the 1950s, with the establishment of four sugar mills.¹¹ Industrial growth became a major policy goal. The large-scale manufacturing sector in West Pakistan increased at a rate of 34% per year from 1949 to 1950 and 1954 to 1955, resulting in a significant increase in industrial growth; thereby facilitating a significant increase in the rate of capital influx into the country, which rose from around 2.5 percent of GNP in the mid-fifties to around 7 percent in the mid-sixties. The rate of return on industrial investment was so high in the early 1950s that businessmen were able to recover initial investments within a year or two, hence, there was a strong incentive to reinvest. Therefore, the industrial sector saw a relatively high pace of expansion in the early 1950s.¹²

Moreover, with the enactment of The Sugar Factories Control Act, 1950, regulated cane was marketed to mills, and each mill was assigned a zone or area from which it was compelled to purchase a certain amount of cane supplies. However, the percentage varied amongst provinces,

⁹ Until the end of 1955 it is estimated that about 7 million refugees entered West Pakistan, and 1.25 million refugees entered East Pakistan, while 5.6 million Hindu and Sikh refugees left Pakistan for India.

¹⁰ Imran Ali and Adeel Malik, 'The Political Economy of Industrial Development in Pakistan: A Long-Term Perspective' (2009) Lahore Journal of Economics 29

¹¹ Kamil Lodhi, 'The Pakistan Sugar Industry: An Economic and Policy Analysis' (1988) Directorate of Agricultural Policy and Chemonics International Consulting Division for the Economic Analysis Network Project in collaboration with the Ministry of Food, Agriculture, and Cooperatives, Government of Pakistan and the United States Agency for International Development Special Report Series No.8

¹² Imran Ali and Adeel Malik, 'The Political Economy of Industrial Development in Pakistan: A Long-Term Perspective' (2009) Lahore Journal of Economics 29

for instance, in Punjab, it was 80%, in the NWFP, it was 65%, and in Sindh, it was 100%. Mill zone growers were required to sell a similar amount of their cane production to the mill and the Government determined the minimum price at which mills could purchase cane each year. The Act made it illegal for middlemen to be involved in the sale of sugar cane to mills. Moreover, mills were expected to keep a grower register, estimate the amount of cane produced by each grower in their respective zones before the start of each crushing season, guarantee regulated supply to the sugar factories, maintain declaration of areas to be reserved for the supply of cane to a particular factory. To ensure the execution of the Act, the Provincial Cane Commissioner was appointed.¹³

However, the success or failure of any venture was dependent on businessmen's access to official channels, as there was almost no financial infrastructure in place. Projects were limited by the funds accessible to any one family due to the basic nature of the regulated capital market and the willingness of entrepreneurs to pool their interests with other influential families. To fill this funding shortfall, public institutions, such as the Pakistan Industrial Development Corporation (PIDC), were established. These agencies, however, tended to favor larger, more established businesses with a proven track record of profitability and security. Hence, jeopardizing the entire purpose for which they were established.¹⁴

Direct economic controls on imports, new investments and the prices of domestically produced manufactured goods were implemented in the 1950s. These controls were not only ineffective economically, but also a source of corruption. In the 1960s, Pakistan had 8 sugar mills¹⁵ and the Ayub Government removed price limits that were imposed in the 50s and proved to be economically inefficient and source of corruption, liberalized commerce and welcomed new investment. The main source of export encouragement was a 1959 export bonus plan which effectively provided a subsidy for exporters and limited free market for imports.¹⁶

In the 1970s, sugar manufacturing capacity continued to expand as different tariff and non-tariff constraints on sugar imports made domestic sugar production profitable, and twelve additional mills were built. The majority of these were in the public sector, but government policy switched again in the late 1970s, this time in favour of the private sector.¹⁷

Notwithstanding, by 1981, Pakistan had 31 sugar mills,¹⁸ which eventually grew to 45 mills in 1988, with a total refining capacity of 1.26 million tonnes. During that time, with deregulation, as price and distribution controls on refined sugar were lifted, rationing was abolished, imports were replaced by a regulatory duty on sugar imports and the mill zoning system was discontinued, the extent of government intervention decreased and price and distribution limits

¹³ Kamil Lodhi, 'The Pakistan Sugar Industry: An Economic and Policy Analysis' (1988) Directorate of Agricultural Policy and Chemonics International Consulting Division for the Economic Analysis Network Project in collaboration with the Ministry of Food, Agriculture, and Cooperatives, Government of Pakistan and the United States Agency for International Development Special Report Series No.8

¹⁴ Kamil Lodhi, 'The Pakistan Sugar Industry: An Economic and Policy Analysis' (1988) Directorate of Agricultural Policy and Chemonics International Consulting Division for the Economic Analysis Network Project in collaboration with the Ministry of Food, Agriculture, and Cooperatives, Government of Pakistan and the United States Agency for International Development Special Report Series No.8

¹⁵ Muhammad Zulqarnain Safdar and others, 'What Does Matter? Liquidity or Profitability: A Case of Sugar Industry in Pakistan' (2016) 6(3) International Journal of Economics and Financial Issues 144.

¹⁶ Imran Ali and Adeel Malik, 'The Political Economy of Industrial Development in Pakistan: A Long-Term Perspective' (2009) Lahore Journal of Economics 29

¹⁷ Kamil Lodhi, 'The Pakistan Sugar Industry: An Economic and Policy Analysis' (1988) Directorate of Agricultural Policy and Chemonics International Consulting Division for the Economic Analysis Network Project in collaboration with the Ministry of Food, Agriculture, and Cooperatives, Government of Pakistan and the United States Agency for International Development Special Report Series No.8

¹⁸ Muhammad Zulqarnain Safdar and others, 'What Does Matter? Liquidity or Profitability: A Case of Sugar Industry in Pakistan' (2016) 6(3) International Journal of Economics and Financial Issues 144.

on refined sugar were relaxed. Regulatory duty on sugar imports superseded the government's monopoly on imports, and finally, the sugar sector was removed from the list of Specified Industries as government approval was no longer required before any new investment or expansion of existing capacity.¹⁹

The Government further launched a new sugar policy for the country in May 1987, and the decision to officially remove the zoning system, beginning with the 1987 and 1988 crop years, was a crucial component of this policy. Under the new arrangement, farmers were now free to supply cane to any mill that offered the best price and also empowered to convert any amount of cane into gur. At the same time, the policy also entailed that the cane support price was to be maintained at a minimum and mills were allowed to buy cane from outside the designated zones.²⁰

Pakistan has been on a "liberalization" path since 1990.²¹ The sugar industry became a crucial area of state patronage, and politically influenced decision-making resulted in a plethora of underutilized sugar mills.²² Despite this, sugarcane production had greater protection rates in the 1990s than wheat, rice, or cotton, and was thus, disproportionately grown by farmers. Pakistan was the world's fourth largest sugarcane grower in terms of area under production in 1999; however, the same ranked fifteenth in terms of yield per hectare.²³

More recently, Pakistan has become a major sugarcane producer, ranking fifth in terms of sugarcane cultivated area, 60th in yield, and 15th in sugar production. The industry employs more than 100,000 labor force while more than 9 million of the rural population is involved in the production of sugarcane. There were 78 sugar mills from 2003-2004, while the number of mills increased drastically, reaching an overall of 83 sugar mills in 2015; 45 in Punjab, 8 in Khyber Pakhtunkhwa and 30 in Sindh, as per the Pakistan Sugar Mills Association.²⁴

Currently, there are 89 operating sugar mills in Pakistan.²⁵ Pakistan has the ability to develop an area of 13,224 hectares along the main feeder canal from the Indus river in Sindh, utilizing the 34% idle capacity of Pakistani mills which is capable of exporting 50,000 tonnes of sugar to the Arab World in exchange for half a million barrels of crude oil.²⁶ However, due to greater production costs, increased imports, and deteriorating competitiveness of the native sugar sector, the future of this business in Pakistan is mostly linked to production efficiency. The adoption and development of new production technology can boost productivity and efficiency, which is challenging due to restricted incomes and loans available to growers.

¹⁹ Kamil Lodhi, 'The Pakistan Sugar Industry: An Economic and Policy Analysis' (1988) Directorate of Agricultural Policy and Chemonics International Consulting Division for the Economic Analysis Network Project in collaboration with the Ministry of Food, Agriculture, and Cooperatives, Government of Pakistan and the United States Agency for International Development Special Report Series No.8

²⁰ Kamil Lodhi, 'The Pakistan Sugar Industry: An Economic and Policy Analysis' (1988) Directorate of Agricultural Policy and Chemonics International Consulting Division for the Economic Analysis Network Project in collaboration with the Ministry of Food, Agriculture, and Cooperatives, Government of Pakistan and the United States Agency for International Development Special Report Series No.8

²¹ Imran Ali and Adeel Malik, 'The Political Economy of Industrial Development in Pakistan: A Long-Term Perspective' (2009) Lahore Journal of Economics 29

²² Imran Ali and Adeel Malik, 'The Political Economy of Industrial Development in Pakistan: A Long-Term Perspective' (2009) Lahore Journal of Economics 29

²³ Syed Jamil Ahmed Rizvi, 'Sugar Industry in Pakistan - Problems, Potentials' <https://www.icmap.com.pk/downloads/Past-Publications/sipp_%20potentials.pdf>

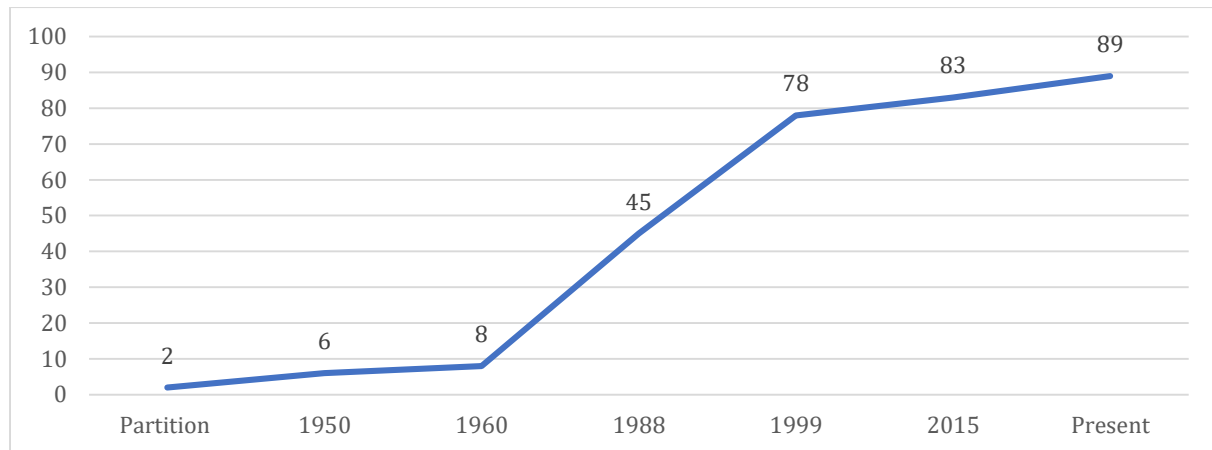
²⁴ Muhammad Zulqarnain Safdar and others, 'What Does Matter? Liquidity or Profitability: A Case of Sugar Industry in Pakistan' (2016) 6(3) International Journal of Economics and Financial Issues 144.

²⁵ Sugar Inquiry Commission, 'Report of Commission of Inquiry Constituted by Ministry of Interior to Probe into the Increase in Sugar Prices', (2020)

²⁶ Syed Jamil Ahmed Rizvi, 'Sugar Industry in Pakistan - Problems, Potentials' <https://www.icmap.com.pk/downloads/Past-Publications/sipp_%20potentials.pdf>

The following graph depicts the gradual increase in the number of sugar mills throughout the decades:

Figure 2: Number of Sugar Mills



Moreover, since the 18th amendment to the Constitution of the Islamic Republic of Pakistan, 1973 was implemented in 2011, agriculture has been devolved to provinces, and sugarcane prices are now controlled by provincial administrations. Sugarcane prices in Pakistan have always been a sensitive issue and it is critical to link sugarcane pricing to its sucrose concentration to improve efficiency in the sugar industry. However, the current pricing system is weight-based, with little respect for the quality of the produce. The sugar sector will continue to be inefficient and uncompetitive, wasting resources, unless provincial governments acquire the competence to solve the myriad difficulties, concerns, and challenges in this setting and balance the conflicting interests of all stakeholders.²⁷

There have been numerous issues influencing the sugar sector through the decades. In Pakistan, a shortage of irrigation water, inadequate fertilizer input, and improper insecticide and pesticide spraying etc has led to lower productivity.²⁸ The sucrose content of sugarcane plays an important role in boosting sugar output and the government may take steps to ensure that cane growers adopt better sugarcane types with high sucrose content which are disease and insect resistance.²⁹

The continuous rise in consumer prices around the world, particularly in emerging nations like Pakistan, has hampered economic growth and reduced the purchasing power of the common man, resulting in a food crisis across the country. Pakistan has experienced sugar shortages on multiple occasions due to a variety of issues, leading to a massive increase in food costs, and severely limiting consumer purchasing power. Another critical problem plaguing Pakistan's sugar industry is its domination by political figures, with the clear majority of sugar mills being built with the assistance of Developmental Financial Institutions (DFIs), which are frequently beset by working capital problems. Therefore, some mills have already closed, and it is expected that additional sick units would close as well; thus, causing a loss of national assets, a decrease in sales tax revenue, and an increase in unemployment.

Furthermore, cultivators pointed out that the sugar crisis is not a natural disaster; rather, it is a result of mill owners' failure to purchase available sugarcane stock from the market. Another ensuing conclusion is that the sugar business is not uncompetitive, and that the problem has simply two causes. The first is to keeping sugarcane prices below the support price, and the

²⁷ Dr Abdul Salam, 'Distortions In Producer Incentives of Cash Crops in Pakistan' (2019) 57(2) Pakistan Economic and Social Review 143

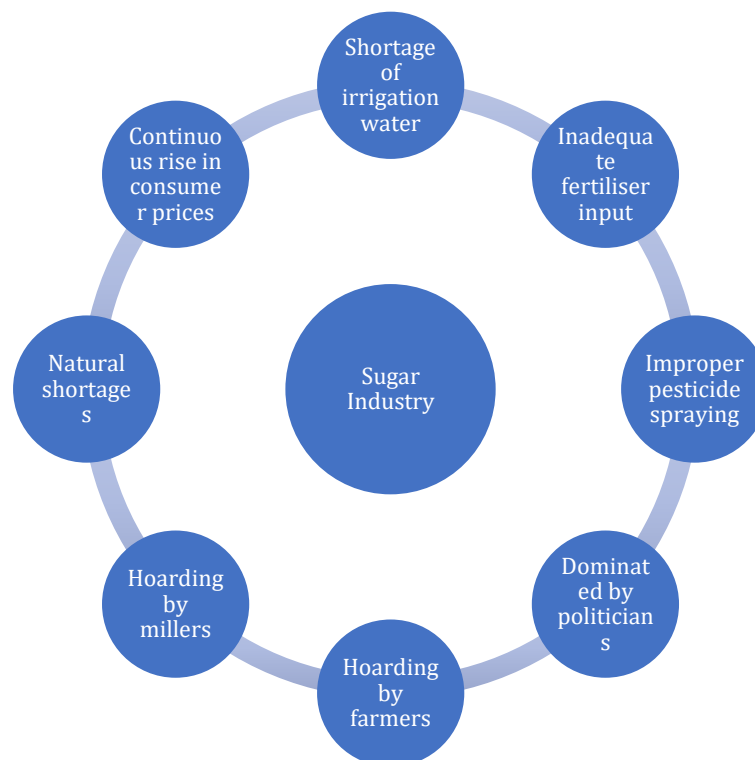
²⁸ Syed Jamil Ahmed Rizvi, 'Sugar Industry in Pakistan - Problems, Potentials' <https://www.icmap.com.pk/downloads/Past-Publications/sipp_%20potentials.pdf>

²⁹ Ibid.

second is sugar mill owners making excessive profits.³⁰ Gupta (1998) made a similar statement and he attempted to explain how big farmers have monopolized governmental institutions that mediate between growers and sugar mills, as well as how landlords and sugar mill owners engage in corrupt tactics to gain access to more profitable marketing channels.³¹ Artificial shortages are caused by deliberate hoarding of items to generate disproportionate profits.³²

However, the shortage could be natural as well. Unfavourable weather conditions, a market structure that reduces supply over time, and changes in government policy that may affect production are all examples of natural shortages. In a report published in 1988, the National Commission on Agriculture acknowledged that the area under sugarcane cultivation was suffering from water stress, and that it would be unrealistic to expect further production growth based solely on area expansion, especially since future irrigation supplies were expected to be limited.³³

Figure 3: Problems Plaguing the Sugar Industry



It is noteworthy that, unfortunately, pricing systems that produce the right incentives necessitate a level of sophistication that is difficult to legislate and is more likely to emerge through cooperative ways.³⁴

³⁰ Imran Umar Chhapra, Asim Mashkoor, Nadeem A Syed, 'Changing Sugar Consumption pattern in Pakistan and Increasing Sugar Industry's Profitability' (2010) 6(2) Journal of Management and Social Sciences 52.

³¹ Ibid.

³² Ibid.

³³ 'A History of Dismal Sugar Policies' (Dawn, 27 February 2006) <https://www.dawn.com/news/180555/a-history-of-dismal-sugar-policies>

³⁴ Donald F Larson and Brent Borrell, 'Sugar and Policy Reform' (2011) Policy Research Working Paper No. 2602 <<https://openknowledge.worldbank.org/handle/10986/19660>>

LEGAL REVIEW

This paper will aim to lay out the regulatory structure in place to control the sugar industry across the decades (1947-2021), as well as the documented case law relevant to those enactments. The detailed legal review has been appended to “**Appendix A**”. The enabling provisions within each document, the legislative intent behind their drafting, which key stakeholders they affect or regulate, any SROs drafted thereunder, the enforcement mechanism put in place as per the legislative document, the imposition of penalties, and the document's relevance in today's time are listed therein, while examining each legislation. A brief explanation of the Competition Commission of Pakistan's (the “**CCP**”) recent landmark judgement, the National Accountability Bureau's (the “**NAB**”) inquiries into the sugar business, and the important conclusions of the Sugar Inquiry Report delivered to the Prime Minister in 2020 are also provided therein. It is worth noting that this paper only includes an in-depth analysis of the regulatory environment, major decisions that have influenced the regulatory system, and key results from various government agencies. Within the current regulatory regime, the adversarial implications emerging from the present legislative and regulatory landscape were examined and potential revisions that might appropriately address the primary issues. The total number of legislations covered in this paper are 34.

LEGAL DATABASE

The final paper includes a legal database which is appended to “**Appendix B**” along with this report. It encapsulates all the reported cases pertaining to the legislation compiled from The All Pakistan Legal Decisions (“**PLD**”), The Supreme Court Monthly Reviews (“**SCMR**”), Yearly Law Reporter (“**YLR**”), Annual Law Digests (“**ALD**”), Monthly Law Digest (“**MLD**”), Pakistan Law Journals (“**PLJ**”), and Pakistan Law Site. With the help of the resources provided to us by the Office of the Cane Commissioner, it was made possible to also gained access to some of the unreported cases, such as, JS Bank v Brother Sugar Mills and M/s Tandlianwala Sugar Mills Ltd v Province of Punjab & others, which have also been covered in the legal database. Some of the landmark judgements have also been covered including 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. Also, as per the Army Welfare Sugar Mills v The Government of Sindh, 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. The total number of cases included are 61.

KEY INFORMANT INTERVIEWS

Interviewees:

1. Seerat Asghar, Former Secretary, Ministry of National Food Security and Research.
2. Mian Muhammad Umair Masood, President, Pakistan Kissan Ittehad.
3. Mohammad Amin, Chief of Sugar Cane, Agriculture Policy Institute.
4. Masood Ajmal Dullu, Cane Grower.
5. Mohammad Zaman Wattoo, Cane Commissioner, Food Department of Punjab.
6. Dr. Hassan Iqbal, Secretary General, Pakistan Sugar Mills Association.
7. Syed Mahmood ul Haque Bukhari, President, All Pakistan Farmer's Association.
8. Maqsood Malhi, Legal Head, JDW Sugar Mills.

Findings: There are eleven (11) key themes surrounding the sugar industry in Pakistan:

- The current status of zoning systems
- The preferred regulatory model
- The reality and impact of quality premium and minimum price
- Government intervention in the sugar industry
- The influence of mills in the sugar industry
- The trainings/awareness campaigns by the government
- The issues affecting the farmer community
- Sugar a preferred commodity over Gur
- The lack of implementation of governing laws
- The existence of legal loopholes in the sugar industry

The Current Status of Zoning System

The current situation of the zoning system, according to the informants, is that it has been abolished as a result of the Sugar Policy 1987-88. Farmers are free to sell their produce to whoever offers them a fair price. Mr. Hassan Iqbal, on the other hand, believes that this has harmed the relationship between farmers and millers because mills provide loans and technical advice to farmers in exchange for raw materials, but with the law having been repealed, farmers sell their produce to whoever they find suitable, wasting the mill's investment. Mr. Maqsood Malhi agreed, adding that the price mechanism established by the 1950 Act is outmoded because all the requirements are premised on the existence of a zoning system that no longer exists.

Preferred Regulatory Model

Informants were asked what they thought of the current regulatory model and what changes they would like to see. Specifically, their perspectives on the potential deregulation were sought – whether and how such change could be beneficial for the future of the industry.

On this topic, Dr Hassan Iqbal from PSMA and Mr. Maqsood Malhi responded positively to the idea of deregulating the industry (however, Mr. Malhi felt that only partial deregulation was needed), stating that sugar ought to be traded freely and that the sugar industry was just like any other business. Therefore, it made no sense for it to be governed by a different set of rules. According to Dr Iqbal, this was already accepted by a Federal Minister, but this is yet to be implemented.

Mr. Malhi went further and described the changes he would like to see in the regulatory framework. First, he stated, the laws ought to be re-drafted and consolidated to rid the system of any ambiguities. For this exercise, all relevant stakeholders including farmers, millers and the government should be brought to the table to achieve a consensus. There should be an overarching committee acting as an advisory body to the Government and law departments to inform policy-making efforts. He also emphasized that the Government must be barred from price fixations and instead focus on making timely imports before any crisis arises. He found it odd that the FIA only acted once prices had already risen - the problem, in his opinion, was that the Government was more focused on backward looking practices of trying to reverse engineer a crisis instead of taking proper measures to prevent it from arising in the first place.

Mr. Seerat Asghar felt that, while deregulation in general was a good idea, such as, the removal of excessive import duties for sugar, there needed to be more effective regulation in areas where it is direly needed e.g. irrigation.

On the other hand, farmers and the Cane Commissioner asserted that the current condition of Pakistan's sugar industry was not ideal for deregulation due to the obvious power imbalances. Mr. Wattoo added that complete deregulation is only possible where a market has achieved perfectly competitive conditions. As this is not the case for Pakistan, it was felt that deregulation would leave farmers open to the monopolistic abuses of mills. Mr. Umair Masood was of the opinion that such change would only be fair once farmers were adequately empowered e.g. they had their own representative chamber to protect their interests. Furthermore, another key informant felt that the problem was not the regulatory framework but rather its poor implementation. One way to fix this, according to Mr. Mohammad Amin, was the simplification of certain processes, e.g., applications for subsidies, which tend to be so complicated that some farmers do not avail them altogether.

Minimum Price and Quality Premium

Key informant interviews explained how the minimum support price ("**MSP**"), now known as the indicative price, is determined. Mr. Mohammad Amin informed that the minimum support price was previously announced with the Cabinet's assistance. A policy of roughly 100 pages would be created by the API and the Assistant Cane Commissioner would then give his or her permission, after which the MSP would be announced. Following the repeal of the MSP, the API is consulted regarding an appropriate price. However, the Provincial Governments are responsible for announcing an indicative price which is then monitored by the Office of the Cane Commissioner.

Mr. Mian Muhammad Umair Masood, was of the considered opinion that the MSP is a valuable policy that only exists for two crops in Pakistan: wheat and sugarcane, but that it should be extended to other crops as well to compensate for market differences. Furthermore, he added that quality premiums should also exist. However, he believed that only those individuals who have appropriate knowledge or contacts within the government actually receive these quality premiums.

Quality premium, according to Mr. Syed Mahmood ul Haque Bukhari, is a means of ripping farmers off, and instead, the minimum amount for their expenses should be set at Rs.330/-. Mr. Seerat Asghar similarly felt that the minimum price for sugarcane existed solely to benefit mills, who exploit it to trick farmers into feeling that they are getting a decent return on their investment, causing them to continue cultivating for the mills.

According to the Cane Commissioner, Muhammad Zaman Wattoo, the Sugarcane Control Board has had numerous meetings concerning the quality premium, but little has been done to address the issue. He also believed that to make paying quality premium a common practice, core samplers needed to be established.

Regarding the millers' perspective, the Secretary General of the PSMA stated that the government sets the price of sugarcane, and it is always the minimum price that is fixed, never the maximum

price; yet, the government sets a maximum price for sugar, and in addition to that, mills also have to bear federal and provincial taxation.

He stated that,

“According to last year's statistics, sugarcane was sold at a cost of Rs.375/- per 40 kg, with a basic minimum price of Rs.200/-, and the price of sugar was then set by the Government. The government claimed credit for the farmers' recovery, but where were they when sugarcane was being sold for Rs.375/-? Sugarcane accounts for 80% of the content in sugar, thus if sugarcane prices rise, sugar will rise as well. The price of sugar is currently Rs.225/-, but the miller has to pay Rs.250/- or more and that is the quality premium.”

Moreover, Mr. Maqsood Malhi deemed quality premiums to not be fair and an outdated/obsolete concept. He explained that at the time when Quality Premium was introduced, recovery level was at 6.7-7%, therefore, quality premium was awarded at achieving a recovery level of 8.5% but after 2000s, the base level was nearly 9% so it was unfair that they should continue giving quality premiums at 8.5% recovery. Since, they purchased cane in bulk, and there was no way for them to determine what the recovery level from each source is as it is all mixed in.

Government intervention in the sugar industry

Interviewees were also questioned regarding their thoughts on government intervention and whether they were prepared to deal with it. On this matter, Mr. Mian Muhammad Umair Masood felt that, even though, the Government's enforcement of the minimum price for cane was lacking, only the government could monitor prices as farmers themselves do not possess the resources to do so. Mr. Masood Ajmal Dullu and Mr. Syed Mahmood ul Haque emphasized that, in the past, the government would provide seed and fertilizer subsidies but these are no longer available to farmers.

In contrast, mill representatives feel that the government intervenes excessively in the sugar industry. Mr. Hassan Iqbal pointed out that 70% of sugar was used for commercial purposes, such as, beverages, industrial use, sweets, and medications. The remaining 30% was the reason why the government over-regulated the industry; in his opinion, no other industry is as regulated as sugar.

He further added that the international marketing mechanism for sugar was designed in such a manner that companies promoted increasing sugar prices to reduce demand, but the government wanted to make it cheaper and promote its use. If the government wished, they could buy the 30% stocks from mills and sell it themselves. He expressed that mills should have the ability to sell the remainder to commercial establishments at their preferred rates and export/import sugar freely per market demands. Mr. Maqsood Malhi added that excessive interference had a detrimental impact on recovery since the government set crushing dates when the crop was too immature to be harvested, resulting in lower recovery.

Influence of Mills

There were two diverging views regarding the extent of influence exercised by mills and whether a power imbalance existed between farmers and millers.

Some informants pointed out that the laws were being made by the same people who owned the mills, referring to the fact that some mills were owned by politicians and government officeholders, like, the mills owned by the Sharif Group and JDW mills owned by ex-MNA, Jahangir Tareen. Accordingly, it was felt that laws and regulations tended to favor millers. An example of this, as indicated by one of the informants, was the promulgation of the pro-miller Sugar Factories Control Amendment Act, 2021, which was passed under dubious circumstances and reportedly without any debate in the Legislature. Mr. Masood Ajmal Dullu gave the example of how the Cane Purchase Receipt (CPR) had no legal enforceability of its own and suggested that it should have been given the status of a cheque instead. He also felt that the Cane Commissioner was powerless against millers, and the only reason why late payments had been less of a problem recently was

due to reduced cane cultivation, and thus, millers could not afford delaying payments. Additionally, the Cane Commissioner stated that the influence of the mills was reflected by how toothless the present regime was, e.g., the definition of 'occupier of factory' allowing factory owners to escape liability, the inability of the Cane Commissioner to take any action against inappropriate mill closures, and how mills utilize farmers' cane based on deferred payments of up to 15 days (this is unheard of anywhere else in the world), etc. Mr. Seerat Asghar went further, stating that the sugarcane crop was being kept alive artificially via regulations due to the strong political influence of the sugar lobby.

On the contrary, informants from PSMA and JDW mills presented a completely different picture. Both informants clarified that late payments were an exception and not the rule, with delays of up to 2-3 years being largely a thing of the past. Mr. Maqsood Malhi asserted that, as of March 2022, 96% of payments had already been made to the farmers, with most of them receiving their money within 2-3 days via bank transfer. Dr. Hassan Iqbal conceded that, while there may be a difference in bargaining power between farmers and millers, this was no more than what is standard in every business. He admitted that when there was an excess of sugarcane, millers did possess an advantage, however, whenever there was a shortage, farmers had the advantage. He asserted that this was part of a 5-year cycle, wherein for a period of 2-3 years the farmer's supply was depressed due to low recovery and vice versa. Dr. Iqbal pointed to incidents where farmers themselves would not collect their payments deliberately to exercise pressure on mills by holding press conferences and claiming that mills were not paying them. He felt that, apart from some defaulters whose cases ended up going to the Supreme Court, it was actually in the millers' interests to make timely payments since they would want to continue their operations for the next season as well.

Trainings/ Awareness Campaigns

Informants were questioned about whether the government had been proactive in implementing trainings and awareness campaigns for stakeholders to improve the quality and management of their produce. Mr. Mohammad Amin clarified that the Agriculture Extension Department worked on this issue every season and their workers' primary responsibility was implementation. Although, there are certain research institutes working on making, producing, and selling better quality seeds of sugarcane, such as, the Ayub Research Institute in Punjab, and another one in Thatta (PARC), there is little awareness. Farmers Association representatives, on the other hand, were of the opposite perspective, as Mr. Syed Mahmood ul Haque Bukhari asserted that they did not have access to adequate information or technology. Similarly, Mr. Mian Umair Masood, opined that they had never conducted any trainings or public awareness initiatives. It seems unlikely that the Government Extension Department would even know their way to the farms; they might even visit a few farms, ask for some names, and report that they were meeting with farmers. If this department is improved, and the availability of suitable trainings, seeds, and other resources is ensured, the agricultural sector will thrive.

The Issues Affecting the Farmer Community

"We have no rights, no voice, and no law on our side," Mr. Umair Masood reported while detailing the difficulties the farming community faces. Farmers in India have their own little sugar mills whereas farmers in Pakistan are prohibited by law from establishing their own setups to produce Gur. He further highlighted that, at times, sugarcane was grown in areas where it should not be grown due to insufficient water. So, farmers were forced to dig additional tube wells to water the crop with ground water. Shifting the crop can also be a challenge as farmers are illiterate and lack the resources to do so.

He felt that, unfortunately, the agricultural sector in Pakistan had not been given equal standing to other industries. He averred that:

"Unless sugarcane is made profitable, our children will gradually leave the industry; a farmer's child will prefer a job over this, and farming will eventually be phased out."

In Mr. Umair's district, one of the local mills had withheld farmers' payments for up to two years, forcing farmer to stage several protests, and block roads and highways for three days before the government agreed to sell its sugar inventories. The sugar was auctioned and sold for roughly 5.5 crores, which was used to compensate farmers.

Highlighting another issue, he conveyed that farmers were being provided with flawed seeds, upon which significant money, time and resources were spent only for all of it to get wasted. He conceded that, in this regard, farmers could approach the relevant Seed Office but the procedure for obtaining any recompense was lengthy and cumbersome. When he had approached the Punjab Chief Secretary, Additional Chief Secretary, and Secretary Agriculture regarding this, they revealed that they were helpless to take any action, despite being responsible for seed licensing.

Furthermore, Mr. Masood Ajmal Dullu warned that DAP fertilizer has become quite expensive, and if the government wanted this to succeed in the long run, subsidies had to be provided. Secondly, farmers require high-quality seeds, which could be provided by the government or sugar mills, but these seeds should be given to growers for free. Thirdly, the road tax subsidized by the sugar mills should be abolished as neither the government nor the sugar mills had actually provided growers with a separate road for transport. Previously, highways were built using cash raised from sugarcane, and the construction of these roads has now come to an end.

The Cane Commissioner believed that there were two primary difficulties negatively affecting farmers: (1) late crushing, and (2) mills' undue deductions. Previously, mills could start crushing whenever they thought appropriate between October 1 and November 30. The motivation for a later date was a ripe crop with more sucrose, resulting in more sugar production. However, this led to delayed sowing of wheat and thus, a shortage. To counter this, the Sugar Factories Control (Amendment) Ordinance, 2020 was passed, granting the government the authority to set the start date. This caused an outcry from the mills, which reported a 300,000 metric ton shortfall in sugar production but the Cane Commissioner deemed this to be an exaggeration as very meticulous calculations were undertaken to prevent any significant losses. Nevertheless, the Sugar Factories Control (Amendment) Act, 2021 was enacted, allowing mills to push the date back up to 30 June.

Mr. Hassan Iqbal, on the other hand, described the connection between farmers and millers as "harmonious." Farmers, being the raw material producers, are treated with love and affection, since if the quality of the crop was greater, the recovery would be better, and mills would benefit as a result. Mr. Maqsood Malhi felt that the farmers were doing well since their crop recovery had accelerated in recent years. He further found the farmer's community to be well-organized, with various organizations representing their interests, and a proclivity to influence laws and millers.

Sugar a Preferred Commodity over Gur

Interviewees were inquired as to why manufacturing of sugar is prioritized over that of gur. Mr. Umair Masood accorded this to mills belonging to individuals in power, who enacted laws to suit their whims, and hence, did not allow Gur to thrive. They even succeeded in enacting this into law, and now, building units to make Gur is illegal. Syed Mahmood ul Haque Bukhari was likewise of the opinion that sugar promotion has been the government's only focus. Mohammad Amin shed some light on the legal side of the matter, disclosing that there was an ongoing litigation in the Peshawar High Court over whether the Sugar Factories Control Act, 1950 should bind and govern the Gur Control Order, 1948. The earlier decision had held that the Gur Control Order and its clauses should be overturned, being ultra vires. It was further determined, therein, that the court lacked jurisdiction to regulate sugar pricing since it went beyond the scope of the statute.

The Cane Commissioner, on the other hand, opined that sugar was not given priority over Gur by the government, and that the government's current goal was to promote Gur. The concern was that the Gur Control Order of 1948 has survived due to mill influence, despite lacking legal standing. He had made recommendations to the government regarding the installation of jaggery plants, namely, that NOCs for jaggery plants should not be required if they were located in a sugar mill district.

The Lack of Implementation of Governing Laws

The implementation of sugar-related legislation was another important question put to the informants. According to Mr. Mohammad Amin, the factory had to follow the Sugar Factories Control Act, 1950, and the Cane Commissioners were in charge of overseeing implementation. Growers complained that mills delay their payments, despite excess production. Each location charged farmers a different fee, and this occurred despite the presence of committees comprised of farmers and local government officials to inspect weighing-bridges. Mr. Masood Ajmal Dullu, on the other hand, believed that, while laws existed for nearly every circumstance, they were not being implemented, which is why the law appeared inadequate. Similarly, Mr. Muhammad Zaman Wattoo attributed the lack of implementation is due to mill influence and ineffective government functionaries. Mr. Hassan Iqbal affirmed that this was a consistent issue in Pakistan if one looked at how all other laws were implemented. He asserted the need for according importance to the context in which the law was being applied and determining how applicable the law actually was. When he was serving as the DC of Bahawalpur, the price of cotton hit rock bottom. He had proposed to the government that an intermediary should be established who could buy cotton from farmers to support them. Having done so, the intermediary bought cotton from the farmers at an economic rate, which rescued them. He suggested a similar approach be taken by the regulators of the sugar industry.

The Existence of Legal Loopholes in the Sugar Industry

Mr. Mohammad Zaman Wattoo pointed out some of the legal loopholes in the sugar sector. Mills frequently misuse Section 2(k) of the Sugar Factories Control Act, 1950, which defines an occupier of a factory. By citing "management agents" as occupiers of the factory in legal proceedings, factory owners remained shielded from legal obligation. Furthermore, he believed that, due to the power imbalance, the Cane Commissioner lacked adequate capacity/authority to bring complaints against millers. He further stated that the Sugar Factories Control (Amendment) Act, 2021 is pro-millers because the offences are non-cognizable or bailable, making this provision obsolete. Mr. Maqsood Malhi further stated that the Sugar Factories Control (Amendment) Ordinance, 2020's setting of the crushing season in October was unjust because the crop is too immature to be harvested at that time.

Other Valuable Insights

Sugar is not an appropriate crop for Pakistan, according to Mr. Seerat Asghar, because Pakistan is a water scarce country, particularly, in areas where there is no sea, such as Punjab, and there is no appropriate regulatory framework to assure efficient irrigation. Mr. Hassan Iqbal specified that the sugar industry is the only industry where any offense is considered a criminal offense. If payment is not made within 15 days, an FIR is filed against the mill, despite it being a civil matter. The payment schedule could have been an agreement between the two parties, and they might have agreed to late payment; it was a business matter and not any crime according to him.

Discussion

It is apparent from the above breakdown that there are two distinct narratives: the farmers' and the millers'. In general, farmers feel that there is an insurmountable power imbalance in the industry, which has led to numerous injustices against them with limited – if any at all – recourse. They feel excluded and victimized by a system overrun by the influence of a formidable sugar lobby possessing direct links in the government, which is responsible for protecting the rights of growers. While it was accepted that the situation in terms of delay of payments has improved lately, this was attributed to a shortfall in cane production. Nevertheless, there is an overall perception that whenever mills can, they exploit their dominant position by making undue deductions, delaying payments and using loopholes to their advantage. Additionally, it was reported that R&D was insufficient with extension programs being nearly non-existent on-ground. There is also a prevailing perception that the current legal/regulatory regime is framed in favor of the mills, such as, the non-enforceable CPR, the provision for a 15-day credit cycle, and

the helplessness of the Office of the Cane Commissioner in the face of manipulations by mill owners. It is emphasized that this is because several major mills are owned by politicians and, therefore, the government remains bound to the status quo despite its obvious shortfalls. For this reason, there is strong contention against deregulation as it is felt that it would leave growers vulnerable to the whims of the mills.

From the mills' perspectives, the above claims by the farmers' community are largely exaggerated in that there is no widespread mala fide in the way mills conduct their business. Any "power imbalance" that may exist, is no more than what is normal in the course of any business. It was also strongly felt that the industry is unusually over-regulated without any good justification and that sugar ought to be traded just like any other commodity. The contention was that mills are pinched on both ends by Government regulation in that minimum price is set for the raw material i.e., cane and then a maximum price is also determined for sugar. Supposedly, any alleged malpractices, such as, grossly delayed payments and undue deductions were regarded as exceptional and not standard practice. Mills' representatives generally felt that the system was outdated with an unproductive, backward-looking approach to regulation and, as such, there was much need for deregulation.

From this discussion, it is apparent that there are two diverging perspectives prevailing in the industry with little common ground beyond the fact that the current system needs to change. While there are obvious biases on either end, any effective change that is to be undertaken must endeavor to address these concerns as far as it is possible. Overall, the findings through these Key Informant Interviews are also concurrent with the literature reviewed, for instance, the fact that there has been severely deficient Research, Development and Extension work (Raza et al. 2021, Inayatullah et al. 2003), and the unsustainable price control mechanisms.³⁵ Other points raised also reflected in pre-existing literature include the existence of challenges, such as, scarcity of water and improper irrigation,³⁶ and the dominance of political figures as millers.³⁷

³⁵See: Nasir Jamal, *A knee-jerk reaction of price controls*, Dawn, 2021 <<https://www.dawn.com/news/1646136/a-knee-jerk-reaction-of-price-controls>>

³⁶ Syed Jamil Ahmed Rizvi, 'Sugar Industry in Pakistan - Problems, Potentials' <https://www.icmap.com.pk/downloads/Past-Publications/sipp_%20potentials.pdf>

³⁷ See: Imran Umar Chhapra, Asim Mashkooor, Nadeem A Syed, 'Changing Sugar Consumption pattern in Pakistan and Increasing Sugar Industry's Profitability' (2010) 6(2) Journal of Management and Social Sciences 52.

PROPOSED RECOMMENDATIONS

7.1 Phased-Out Plan for Implementation of Reforms

While issues like water security, politicization, lacking innovation, etc have certainly caused the sugar industry to fall short from reaching its full potential, they cannot be the end-all be-all determinant of the industry's failure in the face of a crisis. Success or failure is rather determined by the governing institutions, the policies and incentives in place, and the effective strategic management of the challenges faced. In Daron Acemoglu and James A Robinson's seminal book, 'Why Nations Fail', a similar argument was set out to explain why some nations 'succeed'. On a smaller scale, the same can perhaps also be extended to the success or failure of industries. As such, if we intend to track the origins of the current sugar crisis, it is critical to look beyond agronomic factors and peer into the realm of the industry's regulatory framework.

Generally, the idea that the governing framework of the sugar industry requires reform is a point of consensus across nearly all stakeholders. However, between vested interests and short-term fixes, there seems to be little effort in the way of establishing a sustainable solution. This is problematic given the significance of the sugar industry in Pakistan and the obvious involvement of political bigwigs. It is understood that any change, whether in favour of millers or growers, at this point will not be politically easy due to the entrenched nature of industry practices and the inevitable costs involved in bringing about such reform, however, the historical recurrence of the sugar crisis necessitates systemic change. To achieve this, three industry models have been considered: Partial Deregulation (as implemented in India), the Single Regulatory Model (as in the Philippines) and Complete Deregulation (as implemented in Australia).

7.2 The Indian Model – Partial Deregulation

Prior to deregulation, the defining feature of the Indian Sugar Industry was the concept of 'Levy Sugar' and a monthly release mechanism.³⁸ Levy sugar represented the proportion of sugar produced that mills were obligated to supply to the government at a cheaper rate for sale through the Public Distribution System (PDS), the remainder of which could then be sold in the open market (subject to controls by the government in case of excessive fluctuation). The idea was that this would allow the government to ensure that sugar could be made available at a grassroots level at an affordable price.³⁹ Furthermore, the monthly release mechanism was established to guarantee a consistent and uninterrupted supply of sugar in the market by controlling the quantities sold in the market on a monthly basis.⁴⁰

Parallels between the Indian and Pakistani sugar industries can be drawn in that the industry is highly politicised with the government extending its control over a multitude of aspects concerning sugar, including, licensing, capacity, cane area, procurement, sugar pricing, distribution, imports, and exports.⁴¹ Generally, since 1967-68, the Indian government adopted a policy of 'partial decontrol', interspaced with two short periods of 'complete decontrol' in the 1970s.⁴² There were also several committees throughout the years, like, the Mahajan Committee, Tuteja Committee, Thorat Committee and Nanda Kumar's Committee that continued to

³⁸ Randhawa, G. and Gupta, A. (2017), "Key Indicators of Sugar Industry: A Comparative Study of Punjab", Pravara Management Review, Vol. 16, No.1, pp. 54-61

³⁹ P Asha Priyanka, M Chandrasekaran and E Nandakumar, Review of Committee Reports on Indian Sugar Industry and Partial Decontrol

⁴⁰ Randhawa, G. and Gupta, A. (2017), "Key Indicators of Sugar Industry: A Comparative Study of Punjab", Pravara Management Review, Vol. 16, No.1, pp. 54-61

⁴¹ Randhawa, G. and Gupta, A. (2017), "Key Indicators of Sugar Industry: A Comparative Study of Punjab", Pravara Management Review, Vol. 16, No.1, pp. 54-61

⁴² P Asha Priyanka, M Chandrasekaran and E Nandakumar, Review of Committee Reports on Indian Sugar Industry and Partial Decontrol

emphasize partial decontrol, only for their recommendations to be shelved. Then, with the publication of the Rangarajan Committee's report in 2012, the government finally relented to partial decontrol in April 2013. This meant that while restrictions pertaining to levy sugar and the monthly release system were uplifted, the industry remained subject to certain production controls by State Governments e.g., licensing, cane procurement areas, and cane pricing.⁴³

Despite this progress, it was generally regarded as unsatisfactory⁴⁴ with some suggesting that the government needs to further and implement complete deregulation instead.⁴⁵ Others remain unconvinced, arguing that complete deregulation would leave stakeholders vulnerable. It is argued, for example, that if the Cane Area Reservation system were done away with, then that would mean that mills would have to face uncertainty in the supply of cane leading to the uneconomic operation of the mill. Furthermore, lack of regulation would mean that sugar pricing and availability would be subject to supply and demand conditions in domestic and international markets, and there would be no means of protecting consumers from massive price fluctuations. Farmers would also suffer in that cane being a highly perishable good would mean their ability to negotiate a good deal would be restricted.⁴⁶

7.3 The Filipino Model – Single Regulator

Philippine's Sugar Regulatory Administration (SRA) was established on 28 May 1986 via Executive Order No. 18. This was the focal regulatory body for the sugar industry, responsible for establishing an orderly system for sugarcane cultivation for the purpose of ensuring a stable, sufficient and balanced sugar production, and carrying out relevant research as may be necessary for the formulation of policies and the planning and implementation of programs.⁴⁷ It consists of a Sugar Board tasked with the formulation of policies, rules and regulations for the promotion of growth and development of the industry. The administrative wings of the SRA are then charged with overseeing and enforcing the governing laws, policies, procedures, systems, rules, and regulations. The SRA also consists of an internal auditing department to determine the degree of compliance to the SRA's mandate.⁴⁸

7.4 The Australian Model – Complete Deregulation

Australia is regarded as among the most prominent producers of sugar in the international market and this success is largely attributable to its adoption of a free market approach for its sugar industry. Contrary to its present appearance, the Australian sugar industry was also once marked by excessive government intervention, however, successive reviews of the industry paved the way for its complete deregulation in 2006. While it was conceded that there were tangible benefits to regulation in how it insulated growers and millers from competitive pressures, providing a degree of stability, this came at a cost to the industry as producers were impeded from responding progressively to market conditions.⁴⁹

⁴³ P Asha Priyanka, M Chandrasekaran and E Nandakumar, Review of Committee Reports on Indian Sugar Industry and Partial Decontrol

⁴⁴ BT Lavanya, 'Sugar Sector: Speed up process of Deregulation' (Deccan Herald, 27 January 2019) < <https://www.deccanherald.com/opinion/panorama/sugar-sector-speed-process-715239.html?msclkid=35f7cd74b70c11ecb542adc1b498cbba>> accessed 9 April 2022.

⁴⁵ Gaurav Kalra, STUDY ON INDIAN SUGAR INDUSTRY & ESTIMATION OF THE PRODUCTION OF SUGARCANE & WHITE SUGAR IN THE COUNTRY USING SPSS THROUGH COBB DOUGLAS MODEL

⁴⁶ The Indian Sugar Industry Roadmap 2017.

⁴⁷ Annette M Tobias, Initiatives and Implications of Philippine Sugar Liberalisation (FFTC Agricultural Policy Platform, 23 March 2020) < <https://ap.ffc.org.tw/article/1841>> accessed 11 April 2022.

⁴⁸ 'Functional Statements of Sugar Regulatory Administration' (Sugar Regulatory Administration, September 2019)

⁴⁹ JM Craigie, Regulation and Reform of the Queensland Sugar Industry (ASMC 2014).

Consequently, when deregulation was effective, it allowed growers and mills to set their own cane prices and abolish 'assigned areas' so that growers could have more freedom to contract.⁵⁰ The result of this was that there was increased innovation and a significant improvement in the trade prospectus across all industry processes i.e. growing, milling, marketing, etc.⁵¹

There was, eventually, a step back to regulation in 2015 due to farmers' fears that their interests would not be sufficiently protected. Nevertheless, this move was heavily criticized as there was no market failure to justify reregulation.⁵²

With the aforementioned models in mind, the goal of these proposed recommendations is to set the stage for Pakistan's sugar industry to achieve free and competitive market conditions via complete deregulation as the economic benefit of such conditions cannot be understated. At the same time, it is, nevertheless, understood that this may not be possible at once given the present nature of the industry. For this reason, a five-stage plan is proposed to enable the weaning-off of excessive government intervention and the establishment of a coherent and progressive framework to support the industry in reaching its full potential.

PHASE I – Consolidation & Accessibility of Laws

Significant hurdles were present in researching and accessing relevant legislative instruments. Most laws seemed to be unavailable even on major legal databases, such as, the Pakistan Law site, the website for the National Assembly, and the library of the Law Ministry. Interestingly, most of our Key Informants, who are experts and key players in the industry, also lacked knowledge regarding what the present regulatory framework looked like. Such fragmented understanding of the mechanics of the industry not only increases compliance costs, but also opens the door for exploitation of more vulnerable stakeholders. An example of this can be seen in how the provisions of the Gur Control Order, 1948 were reportedly used to restrict farmers from producing Gur despite the fact that there was never any legal force behind the Order since the promulgation of the Sugar Factories Control Act, 1950. This fact was not made apparent until 2021 when a Lahore High Court judgment by Justice Shahid Jameel Khan declared the Order ultra vires.

The following actions are recommended:

- Formulate a working manual (to be made available in local languages) for stakeholders, elucidating the processes, rights, roles, and responsibilities of those involved in the industry.
- Initiate comprehensive education and awareness campaigns with improved availability and access to relevant laws, rules, and regulations 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 and consolidate all relevant governing provisions into a single enactment. This should then be made readily accessible in local languages.

PHASE II – Implementation and Enforcement

Despite the existence of obvious legal lacunae, one of the most pervasive complaints across nearly all key informants was the lack of sincere implementation and enforcement of the protectionist measures already in place. The reasons for this mainly revolve around the dominant influence of mills and the lack of political will to challenge the status quo. However, no progress can be made

⁵⁰ *Regulation Overload: Review of Government Regulations Impacting the Australian Sugar Industry and their Implications for Industry Revitalisation and Long-Term Sustainability* (ASMC 2020).

⁵¹ Sheetal and Rajiv Kumar, 'Rethinking on growth mechanism of Indian sugar industry' (2019) *Journal of Asia Business Studies* 13(3) 412.

⁵² Queensland Productivity Commission, *Decision Regulatory Impact Statement: Sugar Industry (Real Choice in Marketing) Bill 2015* (November 2015)

without genuine enforcement of laws, rules, and regulations. Emphasis is placed on the execution of this phase as it would lay bare the vulnerabilities of the existing system, which would in turn inform effective policy-making efforts in the future whilst also addressing market inequalities, to a certain extent.

To this end, it may prove useful to formulate strategies to encourage cooperative enforcement. For example, enforcement agents, such as, the Cane Commissioner's Office should identify key problem areas (e.g. delay of payments to growers) and consider distinguishing between violations by hardened offenders and the compliance irregularities of individuals. For the latter, a more cooperative and less intrusive approach can be adopted, whereby such groups are subject only to reasonable enforcement with the extension of the benefit of doubt wherever possible. The former, on the other hand, may need to be pursued more rigorously and be faced with harsher enforcement. Such a distinctive approach carries the benefit of not only better allocation of resources and reduced enforcement costs but may also serve as an incentive for voluntary compliance as there would be an added utility to compliance.⁵³

PHASE III – Review

One of the key driving forces behind the deregulation in both India and Australia have been consistent reviews of the industry in their respective jurisdictions. In India, there were a series of Committees, like, the Mahajan Committee, Tuteja Committee, Thorat Committee, Nanda Kumar's Committee, and finally the Rangarajan Committee which, through persistent insistence on decontrol, culminated in the eventual partial deregulation of the industry in 2013. Similarly, in Australia, it took several Federal Government reviews and government/industry task force reviews starting from the 1980s to finally convince the Queensland Government to deregulate the sugar industry in 2006.⁵⁴

This demonstrates the importance of conducting industry reviews of market conditions in effecting radical change within an industry. Even though, based on political readiness, recommendations often end up being disregarded but they contribute materially in driving impetus for change. Additionally, it develops a sense of surveillance among producers, encouraging better commercial practices overall. In light of this, it is strongly encouraged to set up a collaborative task force or committee consisting of both government officials and industry representatives to conduct comprehensive reviews of the industry from time to time to objectively identify impediments to progression and advocate for appropriate reform.

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

As evidenced by the results of the Inquiry Commission Report 2020 and the recent CCP judgment, cartelisation and political influence of mills has been an enduring problem for the industry. Furthermore, there have been repeated calls by the academia pushing for Research and Development initiatives by the Government to combat productivity and yield inefficiencies to boost industry competitiveness.⁵⁵

There are also several concerning gaps already apparent in the existing framework that may be well worth amending at this stage. Obvious shortfalls, among others,, include: the unsatisfactory definition of the "Occupier of the Factory" per Section 2(k) of the Sugar Factories Control Act, 1950 that allows the actual owners of sugar mills to evade responsibility for violations by pinning the liability onto 'managing agents' who are often not much more than simple employees at the factory; Cane Purchase Receipts, which are not directly legally enforceable; price fixation provisions that cause more problems than they solve in the long term; and criminal violations

⁵³ John T Scholz, 'Voluntary Compliance and Regulatory Enforcement' (1984) Law & Policy 385.

⁵⁴ JM Craigie, Regulation and Reform of the Queensland Sugar Industry (ASMC 2014).

⁵⁵ See: Inayatullah Khan and Muhammad Jamil, 'Sugar Crops and Sugar Policy of Pakistan' (2003), Muhammad Awais Qureshi and Shahid Afghan, 'The Pakistan Sugar Industry, its Current Status and Future Needs' (2020)

under the 1950 Act that are non-cognizable and bailable, allowing opportunities to escape proceedings.

Additionally, the management of various aspects of the sugar industry is spread out across several departments and ministries, such as, the Office of the Cane Commissioner under the provincial Food Departments, separate Extension Departments responsible for agricultural R&D and training programs, the Agricultural Policy Institute under the Ministry of National Food Security and Research, the Sugar Advisory Board and Controller-General under the Ministry of Industries & Production and the CCP dealing with competition laws and accountability. Such dispersion of functions comes at the cost of coherence in the system, racking up compliance costs for stakeholders and inefficiencies in the running of the regulatory machinery. Consolidation of this network can potentially make all the difference for the Pakistani sugar sector, given the obvious power imbalances and exploitation that exists at various stages.

Finally, there is the problem of outdated agricultural practises, which have prevented sugarcane farmers from overcoming production constraints. This is largely due to the fact that most farmers tend to be illiterate and lack the knowledge and funds necessary to adopt more scientific cultivation practices. This is reflected in a disappointing yield of 50-57 tonnes per hectare and recovery of 9-10% compared to the potential for 150-250 tonnes per hectare yield along with 10-12% recovery.⁵⁶ To counter this, Pakistan does have several research institutions, including some mills dedicated to R&D for cane, however, these have been unable to produce results due to poor management and insufficient funding. Reportedly, the Federal Government, via the ECC, decided that 15% of the provincial sugarcane development funds were to be allocated for R&D but failed to follow through with its implementation.⁵⁷ Even the performance of the Provincial Extension departments has been considered lacklustre with the under-utilisation of the cess fund that was originally envisioned to, among other objectives, generate funds for sugarcane research.⁵⁸ Consequently, there has been a great deal of emphasis in literature on the need for quality R&D and Extension programs dedicated solely to sugarcane research, and designed to help farmers adopt modern agronomic practices.⁵⁹

The following recommendations are made:

- Amendments to the law with a view of overcoming the gaps in the legal framework.
- Establish Ministry of Food Security & Research as a focal organisation, with representation from all Provincial Governments and key stakeholders, dedicated to providing support for sugarcane cultivation, and monitoring and managing all dealings pertaining to the production, marketing, import/export of sugar as well as formulating and implementing strategic development plans for the furtherance of the interests of all stakeholders, 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.

⁵⁶ Hafiz Ali Raza, Muhammad Amir, 'Analysis of Sugarcane Production in Punjab, Pakistan: Constraints and Yield Nexus' (2021) 9 (3) Humanities & Social Sciences Review 350.

⁵⁷ Inayatullah Khan and Muhammad Jamil, 'Sugar Crops and Sugar Policy of Pakistan' (2003) ResearchGate <https://www.researchgate.net/publication/233979862_SUGAR_CROPS_AND_SUGAR_POLICY_OF_PAKISTAN>

⁵⁸ Muhammad Awais Qureshi and Shahid Afghan, 'The Pakistan Sugar Industry, its Current Status and Future Needs' (2020) ResearchGate <https://www.researchgate.net/publication/348918351_THE_PAKISTAN_SUGAR_INDUSTRY_ITS_CURRENT_STATUS_AND_FUTURE_NEEDS>

⁵⁹ Muhammad Aamir Iqbal, 'Sugarcane Production, Economics and Industry in Pakistan' (2014) 12(14) American-Eurasian J. Agric. & Environ. Sci 1470.

- 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.
- Revitalisation of and increased funding for R&D and Extension programs.

PHASE V – Deregulation

In order to understand what deregulation looks like and how it can be successfully implemented, there are many lessons to be learned by the Australian experience. As already stated, the Australian sugar industry was also heavily regulated with price controls, marketing restrictions and assigned areas. Successive reviews continued to push for an economic rationalist argument favouring deregulation but fears that this would leave farmers vulnerable to the monopolistic abuses of mills caused the government to remain hesitant. However, it was deregulation that allowed the industry to become one of the most prominent sugar producers in the world. Nevertheless, it is important to understand that this success was neither achieved overnight nor in a vacuum of other considerations.

Deregulation is the removal or simplification of government rules and regulations that constrain operation of market forces. Yet, 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, for instance, 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 provide proactive adjustment support and risk management tools to counter the negative impacts of such change. The Australian example shows that, with the right support, farmers and other stakeholders can prove to be more resilient than expected and what is needed is the generation of a paradigm shift from viewing as a ‘special’ industry that would be unable to sustain itself without intervention, to viewing agriculture same as any other industry and its farm operations the same as any other business. Ultimately, it is important to reflect on the fact regulations inevitably lead to lower efficiency in agriculture as it disincentivises risk taking and innovation that would allow the industry to achieve its full potential⁶⁰, resulting in an overall loss of national welfare.⁶¹

To ensure successful deregulation, the following considerations must be taken into account:

- Significant power imbalances between stakeholders must have been correct, 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 cartelisation/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.

⁶⁰ David Boies, ‘Deregulation in Practice’ (1986) 55(1) Antitrust Law Journal 185.

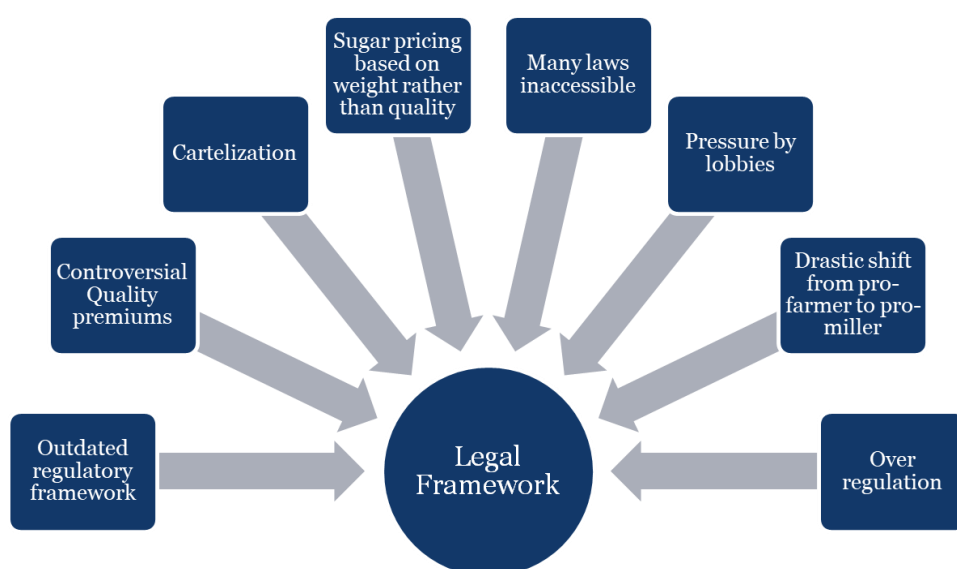
⁶¹ Zhang-Yue Zhou, Developing Successful Agriculture: An Australian Case Study (CABI 2013).

APPENDIX A

Legal Review

A plethora of regulations have been enacted throughout the decades to govern the industry and address its inadequacies. The total number of laws, rules, orders and ordinances promulgated from 1947 to 2021 are 34 with 59 reported cases filed and decided under them. This section of the report aims to set out their enabling provisions, legislative intent, relevant stakeholders, the enforcement mechanism within it along with the enlisted penalties and the relevance of the respective legislative instrument.

Figure 4: Shortfalls of the Legal Framework Regulating the Sugar Industry



1940's

- **Sugar (Temporary Excise Duty) Act 1947:** This Act levies an excise duty on sugar mills, which consequently results in a price increase for the wholesaler, retailer and lastly, the consumers.
- **Sugar and Sugar Products Control Order 1948:** It specifies that no producer may sell or distribute sugar unless it is to or through a certified dealer or a person specially authorized in this role by the Controller⁴⁴ to purchase sugar on behalf of the Pakistani government, provincial government, or a state. It also addressed the issue of maximum price fixation, stating that no ex-factory price or maximum price should be exceeded, and that no person shall sell, purchase, or agree to sell or purchase the commodity at a price higher than the fixed price. [Reported case:](#) 1963 PLD 551 DHAKA-HIGH-COURT
- **The Gur Control Order 1948:** The Order was issued by the Government of Pakistan's Ministry of Food, Agriculture, and Health, and it applies to all of Pakistan's provinces. With the prior consent of the Federal Government, this Order empowered the Controller⁴⁵ to allot quotas of Gur for the requirements of any specified province or area in any specified market, fix the maximum price at which Gur may be sold or delivered, and fix different rates of prices for different areas or different types or

grades of Gur. Every producer or dealer is under a liability to comply with the directions of the Controller. Moreover, no Gur shall be transported, offered, or accepted for transportation, whether by rail, road, or water, or by a railway servant, common carrier, or other person, from a location within a province of Pakistan to a location outside the province, unless the Controller has issued a permit. The purpose of this Order, as enacted by the legislature, is to control the production of Gur and its transportation.

Over the years, the Order has drawn a lot of criticism. In fact, as recently as June 2006, farmers and civil society activists were reported to be demanding the repeal of the Order. Their contention was that due to the unchecked rise in the price of various agricultural inputs, they were already under considerable pressure. As a result, the banning of transportation of gur to neighboring countries under the order has only served to strengthen the sugar industry's monopoly over gur and other sweeteners. It was further asserted that the Government ought to announce incentives to support small farmers (involved in gur-making) and not yield to the pressure from the formidable sugar lobby.⁴⁶

On the other hand, sugar millers were seen to be insisting that instead, the Government ought to seriously enforce the Order and additionally, impose a 15% regulatory duty on the export of gur. Nevertheless, it is averred that this would only protect the interests of the millers at the cost of curtailing the operation and limiting the market for farmers and gur producers. Furthermore, according to a source for *Dawn News*, since the abolishment of the sugarcane Zoning System in 1972, the Order had lost force however, millers (allegedly) collude with officials to circumvent this loophole⁴⁷

Of crucial importance to the Order is a judgment passed by the Honorable Lahore High Court on 3rd October 2021. There were two main rulings laid out in this judgment:

- ☐ Sugar pricing was not the concern of the courts and the matter of sugar mills potentially manipulating the price of sugar had already been referred to the appropriate appellate authority under the law. However, emphasis was laid on the importance of maintaining a balanced approach to imposing price controls.
- ☐ The Gur Control Order 1948 is *ultra vires* and is therefore, set aside.
According to the Petitioners, they had been barred from producing gur for their consumption and are forced to supply cane to factories under the guise of the Order. Moreover, they contended that even when they did make gur, they were often harassed by provincial administration using the Order as an excuse.

On this matter, it was noted that the Order had no existing force of law behind it. Furthermore, Justice Shahid Jameel Khan added that, "*Even if exists, it appears to be in violation of Article 18 of the Constitution, particularly when no support price is fixed for purchase of sugarcane by the government to protect the growers interest. The Order of 1948 is held ultra vires hence void, being in violation of fundamental rights guaranteed by the Constitution.*"

Accordingly, the court ordered that all enforcement agencies be henceforth restrained from taking action against farmers on the matter of the manufacture of gur.⁴⁸

1950's

- ☐ **Sugar Factories Control Act 1950:** Pakistan inherited a total of 2 sugar mills from the sub-continent, which attracted imports to meet the demand. The main policy concern at the time was promoting the industry and attracting all involved stakeholders towards a safe investment, foremostly, the agriculturalists. To accommodate the fact that the sugar industry is functional only through a limited period and the consumption needs to be met throughout the year and to ensure timely payments to the growers, the government was buying entire stocks of sugar and making it available to consumers at subsidized rates.⁴⁹ The main purpose of this Act was to ensure a regulated supply to the sugar factories, at a price at which it may be purchased. This objective is met through establishing a Sugarcane Control Board and a Cane Commissioner who may: require the occupier of any factory to submit to him an estimate of the quantity of cane required during the crushing season, declare areas to be reserved or assigned area for the supply of cane to a particular factory, and binding cane growers to particular factories etc.

Markedly, under s. 13 and 14, the Cane Commissioner is to allocate specific growing areas to specific sugar manufacturers to ensure a constant supply for the mills. S. 13 delegates reserved areas; these areas are completely reserved for the sole manufacturer and other purchasing units are forbidden from purchasing the cane from that area. Assigned areas under s. 14 provide for more flexibility; in the event of failure to supply the requisite amount of cane to the factory, the factory may purchase the balance from an outside assigned area.

Concerning price regulation, the Act grants the Provincial Government the power to determine a minimum price to procure sugar cane, to protect growers from manipulation.

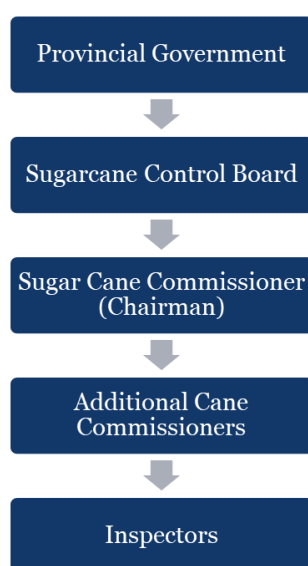
To guarantee cane price fairness by ensuring that the growers get paid price based on the sucrose content, and not just the sole ornamental factor of weight, a quality premium⁵⁰ was introduced in the early 1980s, via a series of amendments,⁵¹ to encourage farmers to use better quality cane varieties to increase the sucrose content of their crops. Sugar mills of Sindh and south Punjab are recovering up to 11.5-12 pc sucrose against the base level content of 8.7pc.⁵²

This requirement, arguably, still goes against the profit interests of millers who have consistently fought against having to pay such premiums. From their perspective, they are having to pay for the same stock twice⁵³ when in reality, the premiums provide an incentive for growers to invest in growing varieties with higher sucrose content allowing these millers to make a lot more sugar than competitors who are recovering base level content.⁵⁴ Perhaps instead, the better argument to be made is of the absurdity that Pakistan remains the only country to have sugarcane pricing that is not based on recovery and the inefficiency of this model is demonstrated by Pakistan's low sugarcane productivity of 54.6 tonnes per acre compared to Egypt's 120 tonnes per acre.⁵⁵ After all, if the intention is to encourage farmers to cultivate better sugarcane, then the pricing model should allow for proportionate compensation and more regular reviews of the minimum support price ought to be undertaken to this end.

Other accusations leveled against the provisions of this Act by millers include that this allows the Provincial Governments to 'arbitrarily' or 'unilaterally' set the minimum procurement price for cane⁵⁶ however, the process for determining the minimum support price has always been fairly comprehensive and inclusive; it starts with the Agricultural Policy Institute (API) sending the Provincial governments non-binding recommendations regarding the support price after using an elaborate system of calculation for its

determination. Then, the Sugarcane Control Board is established in each province (under the 1950 Act) which includes representatives of all stakeholders to determine the final support price.⁵⁷ Furthermore, mill owners point out that in the regulation of this minimum support price, the Government tends to increase it while the price of sugar, largely unregulated, remains the same.⁵⁸ In contrast, according to the Inquiry Commission's report, the support price has remained constant from 2015 to 2019 despite outcry from farmers associations that this did not take into account the substantial increase, since 2015, in the cost of real inputs such as fertilizer, labor etc.⁵⁹ Admittedly, however, it appears that in recent times millers themselves conceded that there should be a 10 pc increase in the minimum price for 2021-22 and apparently, both growers and millers seemed to finally be coming onto the same page as opposed to locking horns as usual.⁶⁰

Figure 5: Establishment and Composition of Sugarcane Control Board⁶¹



Nevertheless, it should not also be forgotten that despite all these restrictions, the Sindh Abadgar Board notes that millers appear to consistently make profits and sugar mills remain a lucrative business - something that cannot be said of cane farming.⁶² In fact, a sugar commission report shed light on the grave reality of how the sugar lobby has not only continuously coerced governments - past and present - to line its own pockets but also violated the Sugar Factories Control Act with impunity. It was shown, through a forensic analysis of the sugar mills, that the actual sugar output had been largely under-reported⁶³ and consequently, there have been accounts of massive income tax evasion that go entirely unchecked by the Federal Board of Revenue⁶⁴. **Reported Cases:** 2018 SCMR 727 SUPREME-COURT, 1993 M L D 650, 1987 C L C 1647, 2018 CLD 626 LAHORE-HIGH-COURT-LAHORE, 2003 M L D 1940 KARACHI-HIGH-COURT-SINDH, 1987 MLD 2417 KARACHI-HIGH-COURT-SINDH, 1986 MLD 649 LAHORE-HIGH-COURT-LAHORE, 1984 CLC 1943 LAHORE-HIGH-COURT-LAHORE, 1980 CLC 804 KARACHI-HIGH-COURT-SINDH, 1993 SCMR 920 SUPREME-COURT, 2013 PLD 81 LAHORE-HIGH-COURT-LAHORE, 2006 YLR 2271 LAHORE-HIGH-COURT-LAHORE, 2005 YLR 2127 KARACHI-HIGH-COURT-SINDH, 2002 CLD 1183 LAHORE-HIGH-COURT-LAHORE, 2016 PLD 85 LAHORE-HIGH-COURT-LAHORE.

Despite the importance of quality premiums, in 1996 CLC 592 LAHORE-HIGH COURT-LAHORE, *Fauji Sugar Mills Vs Province of the Punjab*, the court held that the imposition of a quality premium is unconstitutional, an invalid piece of legislation and not a 'reasonable

restriction'⁶⁵ as per Art 18⁶⁶ of the Constitution of Pakistan 1973. However, it is noteworthy that in spite this judgement, no amendments were made to the Act itself.

- ❑ **Sugar Factories Control Rules 1950:** As per the rules, the Cane Commissioner was to facilitate the mills in the supply of sugarcane by receiving an estimation of the cane which is required by the miller. Moreover, the Commissioner had to consult the Board in relation to the areas reserved for factories, analysing the relevant particulars such as the distance between the reserved area and the manufacturing unit, transport facilities etc. The Rules also stipulate the clauses pertaining to arbitration and its subject.
- ❑ **Punjab Factories Rules 1950:** These Rules laid down a manner and form requirement for the quantity estimation notification and renewals of purchasing against licenses. **Reported Case:** 2021 MLD 77 LAHORE-HIGH-COURT-LAHORE.
- ❑ **NWFP Sugar Factories Control Act 1950:** The purpose of this Act's formulation was to regulate the supply of sugarcane to industries and the price at which it is purchased. Furthermore, the enactment also stipulates the powers granted to the Cane Commissioner and empowers the Provincial Government to set a minimum price for cane thereby mandating and accordingly binding the millers or purchasing agents to pay a prefixed price for the cane. Moreover, they are also empowered to direct the millers to pay a quality premium at the conclusion of the crushing season at a specified rate. Hence, this Act essentially establishes a set of rules for the Millers, Wholesalers, and Distributors in their dealings with the cane growers. **Reported Cases:** 2021 MLD 77 LAHORE-HIGH-COURT-LAHORE, 1989 PLD 449 SUPREME-COURT, 1983 PLD 1 KARACHI-HIGH-COURT-SINDH, 2012 CLD 1405 LAHORE-HIGH-COURT-LAHORE, 1987 PLD 225 KARACHI-HIGH-COURT-SINDH, 1993 PLD 1 KARACHI-HIGH-COURT-SINDH.
- ❑ **Sindh Sugar Factories Control Act 1950:** This Act primarily focused on the language complexities of law, and it redefined terms such as "inspector," and "occupier of the factory" and "purchasing agent,". Furthermore, this Act established the slicing season, which begins on April 15th and ends on July 31st. **Reported Case:** 2020 CLC 232 KARACHI-HIGH-COURT-SINDH.
- ❑ **The West Pakistan Foodstuffs (Control) Act 1958:** The legislative intent behind the enactment of this Act was to ensure that authorities control the supply, distribution, trade and commerce in foodstuffs. This Act vested with the government the jurisdiction to regulate or prohibit the holding, storage, transportation, transit, supply distribution, disposal, acquisition, use, or consumption of any foodstuff, as well as trade and commerce, by issuing a notified order.
- ❑ **The Punjab Foodstuff (Control) Act 1958:** The legislative intent behind the enactment of this Act was to ensure that authorities control the supply, distribution, trade and commerce in foodstuffs. It applied to the entire province of Punjab, with the exception of tribal territories. To ensure the efficacy of this Act, tribunals have been established which are vested with the exclusive jurisdiction to try matters falling within the ambit of this Act. Moreover, the offenses under this Act are cognizable and nonbailable. This Act establishes a legal and regulatory framework for the sugar industry's entire supply chain, including farmers, millers, wholesalers/distributors, retailers, and, lastly, the customers.
- ❑ **The Sindh Foodstuff (Control) Act 1958:** (The West Pakistan Foodstuffs (Control) (Sindh Amendment) Act 1973): This Act inserted a new Section 9-A to the parent Act, which stated that, the sentence of imprisonment for violations connected to ration documents shall not be less than one month. **Reported Cases:** 1984 CLC 2687 KARACHI-HIGH-COURT-SINDH

1960's

- ❑ **Sugar Distribution Order 1960:** The Act is aimed at retail distributors, none are authorized to hold any sugar storage without a ration document; each document entails

a certain quantity limit, and no more than one document is issued under a name for the purposes of distribution of sugar.

- ② **West Pakistan Sugarcane Control Act 1963:** [Reported case:](#) 1998 SCMR 2492
- ② **Sugarcane Control Order 1961:** The Governor of the province redefined the term "sugar" in this order, stating that no person shall export sugarcane from, or manufacture sugar from sugarcane from, any area designated as a reserved area under section 10 of the Sugar Factories Control Act, 1950, unless the Cane Commissioner or any Officer authorised by him in this regard has previously granted permission in writing.

- ② **Punjab Sugarcane (Development) Cess Rules 1964:** According to these Rules the portion of Cess payable by the seller shall be worked out on the basis of actual weighment made at the weighbridge, maintained or used at the premises of the Sugar Mills or its purchasing centres and shall be recovered by the Mills Management from the Seller by deducting the same from his bill for the cane supplied by him. The Sugarcane Development Fund, managed by the District Coordination Officer and whose proceeds are to be used for the improvement, maintenance, and development of roads and bridges in the district, as well as sugarcane research and development, was established by these Rules for each District.
- ② **West Pakistan Sugarcane (Development) Cess Rules 1964:** Devised under the Finance Act 1964. The food department of the Provincial Government collects cess, which is contributed equally by growers and millers. The deduction is meant to cover the expenditure incurred on the development of the sugar-cane crop and provision of infrastructure like the construction of farm to market roads and bridges. The amount is also meant to be spent on research so that better sugar-cane varieties are developed, with high yield of cane and sucrose content.

The cess is shared by both the seller and purchaser of sugarcane. Irrespective of the recovery by the seller of his share, millers are obligated to pay the cess, fortnightly, and unpaid dues are recovered as land revenue. A copy of the receipted challan along with a return is forwarded to the Cane Commissioner within seven days of the date of deposit of the cess. Each mill is obligated to maintain a register recording specifics such as; the amount of cess recoverable from each seller, date of recovery of the amount, the quantity supplied etc.

If a sugar mill does not deposit by the prescribed date, the Cane Commissioner in pursuance of s. 14 of the Act can impose on the management a penalty not exceeding the amount of the tax, provided that the penalty shall not be imposed without giving the mill management an opportunity of being heard.

At present the industry pays 11 different taxes, five from federal and six from provincial government which comes to about Rs. 3,500/ tonne. The two levies, i.e. market committee fee and sugarcane/road cess are highly undesirable. The very purpose of collecting these taxes has been exhausted over the years. The amounts collected in the past were spent on 'unknown' heads of expenditure.⁶⁷

Unfortunately, the whole collected fund does not reach the treasury and is often held by the sugar mills. This happens due to the procedural flaws in the collection process, which requires sugar mills to deposit the amount of the fund with the provincial government. They hardly do so voluntarily. The absence of efficient audit further aggravates the problem. ⁶⁸ [Reported Cases:](#) 2008 SCMR 178 SUPREME-COURT, 2006 YLR 1169 LAHORE-HIGH-COURT-LAHORE, 2005 PLD 571 LAHORE-HIGH-COURT-LAHORE, 1998 CLC 1912 LAHORE-HIGH-COURT-LAHORE.

- ❑ **Excise Duty on Production Capacity (Sugar) Rules 1966:** [Reported Cases:](#) 1971 PLD 210 PESHAWAR-HIGH-COURT
- ❑ **West Pakistan Wheat, Wheat Atta, Maize, Rice and Sugar Distribution Order 1967:** [Reported Cases:](#) 1984 CLC 1453 LAHORE-HIGH-COURT-LAHORE, 1982 CLC 538 LAHORE-HIGH-COURT-LAHORE, 1979 CLC 486 LAHORE-HIGH-COURT-LAHORE, 1978 PLD 76 LAHORE-HIGH-COURT-LAHORE, 1976 PLD 919 LAHORE-HIGH-COURT-LAHORE, 1975 PLD 25 KARACHI-HIGH-COURT-SINDH.

Under 1977 PLD 212 LAHORE-HIGH COURT- LAHORE, Ishaque Hussain Vs Shahzad Hassan Pervaiz Additional District Commissioner (General) Rawalpindi, it was held that the power to revoke the license to distribute wheat, wheat atta, maize, rice and sugar vests only with the District Magistrate and not Additional District Magistrate.

1970's

- ❑ **Sugar Export Subsidy Fund Ordinance 1970:** The Ordinance established a fund called the Sugar Export Subsidy Fund, a collection of sales tax from the sugar cane sellers plus an excise on the mills. The fund would be utilised to subsidise the export of sugar as and when directed by the Federal Government. Any person on behalf of the Federal Government or by the Central Board of Revenue may, at all reasonable times, enter any sugar factory or premises where sugar is manufactured, stored, or kept for sale and may require the production for his inspection of any paper kept therein and ask for any information relating to the crushing of sugarcane and production of sugar. An infringement of the Act can impose imprisonment of upto 3 years. In case where a company is being held liable, every member is subject to the penalty.
- ❑ **Excise Duty of Production Capacity (Sugar Rules) 1972:** The legislative objective behind these laws was to impose and collect a duty on the output capacity of sugar factory plants and machinery. According to these Rules, duty shall be levied at the rate of Rs. 14 per hundred tons on annual production capacity and for a financial year. The yearly amount of duty imposed shall be paid in eight equal monthly instalments. Moreover, the rules also stipulate the time of payment and the percentage of the payment due. The previous document, The Excise Duty on Production Capacity 1972, was repealed by these Rules. [Reported Cases:](#) 1992 S C M R 986, 1991 C L C 1167, 1990 CLC 752, 1988 PLD 344, 1987 MLD 505, 1982 PLD 1, 1981 PLD 357, 1978 SCMR 428, 1978 PLD 864, 1976 PLD 370
- ❑ **Price Control and Prevention of Profiteering and Hoarding Act 1977:** This Act came into force on 25 May 1977 for the purpose of controlling the prices and preventing the profiteering and hoarding of specific 'essential commodities'. An exhaustive list of these has been provided in the Schedule to this Act. Crucially, 'white sugar' and 'gur' have also been listed here (though a number of other commodities have also been listed) so the provisions of this Act, and any legal principles that flow from it, are relevant for present purposes. Provisions of note include; s.3, which empowers the Federal Government (or any authority delegated by it⁶⁹) to control/regulate, through notification, prices, production, movement, supply etc. of any essential commodity for the purpose of ensuring equitable distribution and fair prices. Under s. 6, no person shall dispose of an essential commodity at a price higher than the maximum price as fixed by the Controller-General of Prices and Supplies (as appointed by the Federal Government) and s. 7 makes it a criminal offence to contravene any order made under ss. 3 and 6. To date, this Act has remained extremely relevant for legal purposes; as recently as this year, the Price Control and Prevention of Profiteering and Hoarding Order 2021 (under the 1977 Act) came into force. This has been subject to much public criticism for simply being an attempt to put a band-aid over the pervasive issue of surging prices due to

inflation and shortages.⁷⁰ It has been argued that such knee-jerk measures unnaturally disrupt the supply-demand equilibrium causing shortages and other widespread adverse effects for the consumers – the very group such provisions are enacted to protect. Furthermore, according to experts, price controls provide incentives for hoarding, black marketing, production cuts etc., causing consumers to eventually pay a lot more than they would have otherwise.⁷¹ **Reported Cases:** 1985 PCRLJ 1828 KARACHI-HIGH-COURT-SINDH, 1979 PCRLJ 912 LAHORE-HIGH-COURT-LAHORE, 1983 CLC 464 KARACHI-HIGH-COURT-SINDH, 1983 CLC 26 LAHORE-HIGH-COURT-LAHORE, 1985 MLD 576 KARACHI-HIGH-COURT-SINDH, 1985 CLC 2026 LAHORE-HIGH-COURT-LAHORE, 1994 PLD 101 QUETTA-HIGH-COURT-BALUCHISTAN 1980 PCRLJ, 2007 YLR 268 LAHORE-HIGH-COURT-LAHORE, 1982 PCRLJ 228 KARACHI-HIGH-COURT-SINDH

- ☐ **Central Excise Duty on Sugar (Validation) Ordinance 1979:** The purpose of this Ordinance was to legitimise the charge and collection of excise duty on enhanced rate sugar stocks held by sugar mills. **Reported Case:** 2005 PTD 1928 KARACHI-HIGH-COURT-SINDH

1980's

- ☐ **Sugar Factories Control (Sindh Amendment) Ordinance 1985:** It introduced subsection (v) to section 16 of the Sugar Factories Control Act 1950, which gave the Provincial Government the authority to direct the Factories to pay a quality premium at the end of the crushing season.
- ☐ **Sugar Policy for 1987-1988:** In conclusion to a summary submitted by the Ministry, the Cabinet held a meeting on 20th May 1987 and came to a decision stating several terms. The first objective was with regards to the zoning system and its modifications. This consisted of various details; the removal of restriction on making Gur in mills, removal of the restriction on sugarcane growers of supplying sugarcane within their zone and approval of the grower's free will of selling sugarcane to any mill, the enforcement of the said support price as the minimum support price followed by more cost details of buying and selling sugarcane, encouraging the mills and growers to enter into voluntary contracts benefitting both parties, mills required to articulate and instigate development programs for cane production in its specified zone and the amendment of the Sugar Factories Control Act 1950 followed by observing its implementation. Furthermore, regular reviewing of the import price of sugar by the ECC was to be instituted. Awareness by the Provincial Government towards the sugarcane growers of forming cooperatives for raising productivity and marketing for their products. Continuation of existing policies in the NWFP to be upheld. It also included the confinement of the crushing period to be left at the discretion of the Provincial Government, the implementation of the non-price measures followed by mobilization of the existing supervisory mechanism to a higher level of efficiency.

1990's

- ☐ **Sugar Factories Control (Sindh Amendment) Ordinance 1993:** The amendment aims to eliminate the role of purchasing agents who act on behalf of millers making the system more linear, with a cane grower serving as the single vendor of his product to a factory's sole occupant. Furthermore, the Ordinance concentrates on linguistic adjustments to the Sugar Factories Control Act 1950, noting that factory occupiers can engage into agreements with farmers in relation to cane amount, the terms and conditions for cane delivery from regions reserved.
- ☐ **Sugar Factories Control (Sindh Amendment) Ordinance 1995:** Every factory is required by the Ordinance to install a core sampler that meets the specifications and is

installed in the manner specified. A Core Sampler is deployed to take representative samples of cane from the cane load which is delivered to the sugar mill, in order to assess the sucrose recovery levels, which are the most important determining factor in the procurement price and quality premium.

2000's

- ☐ **Sugar Factories Control (Amendment) Ordinance 2001:** The purpose of this Ordinance was to make linguistic amendments to the Sugar Factories Control Act, 1950 as applicable in Punjab.
- ☐ **Sugar Factories Control (Sindh Amendment) Ordinance 2002:** This Ordinance was enacted for the purpose of bringing linguistic amendments to the Sugar Factories Control Act 1950 as applicable to Sindh. It substitutes the word "Collector" with "Executive District Officer" (Agriculture) throughout the 1950 Act.
- ☐ **Punjab Sugarcane (Development) Cess (Amendment) Rules 2004:** The amendment of 2004 addressed linguistic changes in the 1964 Rules and established a Provincial Sugarcane (Development) cess Committee to oversee the sub-apportionment of Sugarcane (Development) cess among the districts, its release, and the selection and implementation of development programmes. The suggestions of the District Committee must be submitted to the Provincial Committee for final approval.
- ☐ **Sugar Factories Control (Sindh Amendment) Act 2009:** This Act was enacted to amend the Sugar Factories Control Act 1950, in its application to Sindh. It substitutes various provisions of the 1950 Act, namely, section 6-A, section 14-A, section 15, section 16, section 17-A and section 22 (iii).

2010's

- ☐ **Punjab Registration of Godowns Act 2014:** An Act to ensure expeditious registration of godowns in Punjab. It is necessary to register godowns in order to establish a comprehensive system for consistent supply and availability of essential items. The Act stipulates that essential commodities must be stored in a godown that has been registered under the Act. It establishes the requirements for registering a godown with the Registration Authority.

2020's

Punjab Prevention of Hoarding Act 2020: This was enacted 11 August 2021 as a response to the Corona virus outbreak to prevent the hoarding of scheduled articles since, "Events of hoarding contribute to adversities, in geometric progression, to the people at large, especially in circumstances of partial or complete lock-down." Scheduled articles include white sugar and gur.

Foremost, it establishes the offence of hoarding of any of the articles listed in the Schedule for which, a person found guilty could be imprisoned upto 3 years plus fined upto 50 pc the value of the articles hoarded. For effective enforcement, it empowers any officer with reasonable suspicion of the violation of the provisions of this Act, to enter and search premises of the dealer and seize the articles possessed in contravention. To further expedite the whole process, (given the Act was brought into force to deal with an emergent situation) there is also a thirty-day time limit set for the conclusion of any trial brought under this Act. It then goes even further to establish a provision for rewarding informers who shall be entitled to upto 10 pc the value of the amount released to the Government Exchequer.

Recently, the Prime Minister, presiding over a meeting on price control, ordered the implementation of this Act (among others including the Sugar Factories Control (Amendment) Act 2021) and strongly called upon relevant authorities to take action against the sugar mafia and hoarders.⁷²

- ☐ **Price Control and Prevention of Profiteering and Hoarding Order 2021:** This Order was promulgated on 24 August 2021 under the Price Control and Prevention of Profiteering and Hoarding Act 1977. It establishes the office of Controller-General of Prices and Supplies. Per the order, a Secretary of the Division which is allocated the business of that commodity, may act as the Controller-General for the purposes this Order. Examples of the powers and functions the Controller-General possesses for the exercise of the provisions of the 1977 Act and this Order include the authority to seek the record of timely reports from producers/dealers/importers, search the premises of a registered trade associations etc.⁷³

Of special note is the power to fix the price of an essential commodity *suo moto* in case of a “national emergency” i.e., a ‘situation of uncontrolled price hike with average increase of not less than thirty-three per cent in price from the immediately preceding year and also includes a situation of war, famine or natural calamity’. This equation of a price hike with situations of war, famine or a natural calamity has been criticized as an attempt to justify sudden price curbs when and if imposed.⁷⁴

The idea behind giving the executive such powers to flexibly impose price caps is to provide immediate subsidies for consumers. However, it is asserted that it not only removes incentives for farmers but adversely impacts them, leading to suppressed supplies, inferior quality product, artificial shortages etc., culminating in higher prices eventually.⁷⁵

Despite this, producers of sugar are expected to thrive as the vague policies and the employment of a ‘cost-plus’ method of determining the prices to be fixed means that the higher costs of doing business can simply be passed on to the consumer. It appears that there is now incentive to inflate costs unnecessarily as producers can simply demand higher prices while their margins stay constant.⁷⁶

Essentially, the argument is that free market prices are indicators of scarcity which can only be resolved once it is identified however, such artificial distortions can confuse market forces precipitating more serious problems in the long-term.⁷⁷

Note also: SRO 1065(I)/2021 was simultaneously brought into force to substitute the Schedule to the 1977 Act. This adds 13 new ‘essential commodities’ to the Schedule such as face masks, oxygen cylinders, hand sanitizers, and wheat etc.

- ☐ **The Sugar Factories (Control) (Amendment) Ordinance 2020:** The amendment of this Act was necessary to ensure payments to the Cane-growers in a timely and transparent manner and to make provisions for the ancillary matters. Due to the existing circumstances, Governor of the Punjab rendered it necessary to take immediate action by exercising the powers conferred under (1) of Article 128 of the Constitution and promulgate the following Ordinance. Firstly, the Ordinance was to be cited as the *Sugar Factories (Control) (Amendment) Ordinance 2020* and came into force at once. An addition of clause (ff) after clause (f) in section 2 signified the meaning of Cane Purchase Receipt (CPR). Subsection (2) of S.13 of the Act was amended stating that an occupier of a factory shall purchase cane from a cane-grower or cane-grower’s co-operative society at the rate notified under S.16 and payment shall be made directly into the bank account to the Cane-grower through a bank whereas subsection (5) was to be omitted. Moving on, there was

an insertion of section 13-A which included powers of the cane commissioner to determine liability of the Occupier of a factory for payment of cane price. S.14 clause (ii) included the purchase process authorized by the cane commissioner and clause (iii) substituted the agreement terms between an occupier of a factory and a purchasing agent for cane purchases. Furthermore, the amendment of S.21 focused on the violation of any said provision stating the imprisonment term along with the fine charged while clause (b) substituted that the offences under this Act would be cognizable and non-bailable. Clauses (i) and (ii) were omitted under S.22 whereas the expression 'Magistrate S.30' shall be substituted under clause (iii).

- ☐ **Sugar Supply Chain Management Order 2021:** As per this Order, an occupier of a factory, a broker, a dealer or a wholesaler shall apply to the Deputy Commissioner⁷⁸ for registration of a godown. In case of rejection, an appeal can be filed before the Cane Commissioner. This Order limited the amount of sugar stored to two and half metric ton. In the event of storage exceeding the limit, the Deputy Commissioner must be notified. As per the Order, a miller shall sell sugar only to a registered wholesaler or broker. This Order moved on to laying down powers of the Cane commissioners and Deputy Cane Commissioners. They can direct the millers or brokers or wholesalers regarding the maintenance of stocks, storage including inter-provincial movement, sale, disposal of sugar and in the event of shortage of sugar in the market, they can either issue directions to sell a specified quantity of sugar at a notified ex-mill price or they may take possession of the stored sugar and sell as they may deem necessary. They also possess the right to inspect documents or stocks of sugar belonging to a miller, broker, dealer, wholesaler or bulk consumer.

The Sugar Supply-Chain Management Order 2021, according to Dr. Karim Khan, Assistant Professor at the Pakistan Institute of Developmental Economics, was put in place to prohibit mills and other entities involved in the supply of sugar from hoarding sugar. Sugarcane growers would be able to figure out their alternate options if the market was deregulated. Sugar producers would also be enticed to improve their productive, technical, and allocative efficiencies if sugar prices were competitive.⁷⁹

The Sugar Supply Chain Management Order 2021 and the Prevention of Speculation in Essential Commodities Ordinance 2021, according to Chief Minister Usman Buzdar, are key initiatives made by the government to provide assistance to the people. Furthermore, he stated that the regulation will prohibit price increases in edible commodities.⁸⁰

Moreover, after manufacturers refused to reduce the price of sugar, the Punjab Government, acting on the said Order, seized stock from sugar mills to sell in the market at notified rates. The seized stock will be sold through dealers at a maximum of Rs85 per kg, down from the previous high rate of Rs115 per kg.⁸¹

- ☐ **Sugar Factories Control (Amendment) Act 2021:** Originally, when the sugar crisis hit Punjab in the preceding year, the Sugar Factories Control (Amendment) Ordinance 2020 was promulgated in September 2020 to quickly respond to the situation because bringing a whole Act into force would be a time-consuming task.⁸² This Ordinance was largely pro-farmer and included provisions such as; giving the Government the authority to decide the date for crushing, making the delay of payment of dues to growers or any illegal deduction punishable upto 3 years imprisonment and a fine of Rs. 5 million, delay in the start of crushing was made similarly punishable, mill owners were required to present formal receipts and if dues to farmers were not paid then the mill owner could be arrested and the mill could be forfeited.⁸³ This was a welcome change as it allowed the Punjab Government to get the crushing started by early November, force the compliance of millers and ensure payments to farmers.⁸⁴

Later, following the expiry of the Ordinance, the Sugar Factories Control (Amendment) Act 2021 was brought into force, however, this unusually took a complete U-turn by reversing all the pro-farmer provisions of the preceding year. This Act took away the power of the Government to decide the date of commencement for the crushing season, resuming the relaxation of commencing it at any time before November 30⁸⁵. Critically, the millers were previously receiving cane on a 15-day credit but this Act extends this to an 8-month credit cycle by fixing the deadline for payment as June 30, following the crushing season.

This immediately drew the condemnation of nearly all stakeholders involved except, of course, the millers. The Act has been described as “a black law which legalizes exploitation and is designed to hurt farmers” and all farmers’ bodies are now threatening protests and sit-ins.⁸⁶

APPENDIX B

Legal Database

1940s

Sugar and Sugar Products Control Order 1948

#	Citation	Name	Summary	Judgement
1	1963 PLD 551 DHAKA-HIGH-COURT	ABDUR RASHID BHUIYA VS E. A. HASHIM, SPECIAL MAGISTRATE AND ANOTHER	<p>The Petitioner was a sugar candy manufacturer that acquired a one hundred maunds of sugar per month per order from the Subdivisional Controller of Food. A FIR was filed by an Assistant Inspector of Police alleging that the Petitioner had illegally sold some sugar for which he had not gotten the aforementioned authorisation. The Petitioner's office was investigated, and it was discovered that the Petitioner did not keep accurate records of the sugar candy sold, as required by the order. The Petitioner was tried under s.6 East Pakistan Control of Essential Commodities Act 1956 for contravening clause 5 of the 1948 Order.</p> <p>The Petitioner contended that the violation of the order had been accidental however, the argument was rejected.</p> <p>In the present case, the Petitioner asserted that they cannot be convicted under s.6 for contravention of clause 5 as there is no nexus between s.6 and clause 5 of the Order.</p>	<p>Petition dismissed.</p> <p>The Petitioner's argument lacked substance as the Order was enacted under ss. 3 and 4 of the Essential Supplies (Temporary Powers) Act, 1946 (Act XXIV of 1946) and the Order had subsequently been kept alive by later Ordinances and Enactments including East Pakistan Control of Essential Commodities Act 1956 (by virtue of s.3 of the Act)</p>

1950s

Sugar Factories Control Act 1950

#	Citation	Name	Summary	Judgment
1.	2018 SCMR 727 SUPREME-COURT	ARMY WELFARE SUGAR MILLS VS GOVERNMENT OF SINDH	<p>The appellants were appealing against the judgement issued by the Sindh High Court, dated 27 Mar 2003 involving the Section 16(v) of the Sugar Factories Control Act 1950 which protected the right of quality premium owed to the growers, statutorily. Per this provision, if farmers produced crop with a higher sucrose content than the base level (8.7% for Sindh), then they are entitled to a premium.</p>	<p>Appeal dismissed. The only situation which would put quality premium in question would be if the increase in the rate of the premium did not commensurate with the revision in the minimum procurement price, there is no reason to deny growers of their due share in facilitating the mills to secure higher than the base</p>

			The appellants contended that the base content level should be variable rather than fixed at 8.7%.	sucrose level, which in turn increases them in higher sugar production. The judgment further imposed on the Provincial Government, the duty of resuming the practice of issuing notification of the quality premium along with that of fixation of minimum procurement price two months prior to crushing season.
2.	1996 CLC 592 LAHORE-HIGH-COURT-LAHORE	FAUJI SUGAR MILLS VS PROVINCE OF THE PUNJAB	Concerned the insertion of s. 16-A by Sugar Factories Control (Punjab Amendment) Act 1991 (II of 1991). The Petitioners were served notifications, dated 14 Jan 1986 and 6 Aug 1991, on behalf of the Governor that asked for the millers to pay the growers a quality premium that they owed. The Petitioners contested; the former is void and without jurisdiction as it was issued before the Amendment came into force, and; the latter is unconstitutional. The Petitioners were of the view that s. 16, on its own, lacks the concept of quality premium altogether. The Petitioners stated that the price for the procurement of sugarcane has been paid as per s. 16(1) and a quality premium would act as if the same stock was paid for twice. Therefore, claimed that the notification was an attack upon their constitutional right enlisted in Art.18 which rendered the demand to be arbitrary, illegal, and unconstitutional.	Petition accepted. While s. 16(iv) empowers the Government to ask Petitioners to pay an additional price in case of a special variety of cane, a notification of the nature of the one presently in question was not envisaged by s. 16(iv). Referring to Taxing legislation, it is a rule that no tax can be levied twice on the same goods – this is strictly applicable to the present case so Petitioners cannot be asked to pay the extra price. The Amendment inserting s. 16-A is unconstitutional and invalid piece of legislation. The impugned amendment directing the petitioners to pay extra illegal demand is in the nature of a clog on their business activity and cannot be regarded as a ‘reasonable restriction’ ⁶² per the exception laid out for Art 18 of Constitution of Pakistan 1973 as it requires the Petitioners to pay for the cane at two separate stages; when they had purchased the cane and then, when they had obtained higher sucrose levels.

⁶² ‘Reasonable restriction’ refers to legislation which does not arbitrarily or excessively invade the rights unless it strikes a proper balance. A law or order which confers arbitrary and uncontrolled power upon an executive in the matter of regulating trade or business in normally available commodities cannot be held to be reasonable.

3.	1993 M L D 650	BAWANY SUGAR MILLS LTD. VS THE CANE COMMISSIONER AND DIRECTOR OF AGRICULTURE, EXTENSION, HYDERABAD SINDH and another	<p>The Petitioner was bringing an action against an order passed by the Cane Commissioner (Respondent 1), dated 20 Sep 1983, which entitled the Respondent 2 to a grievance of Rs.77,500 under Rule no.17 of the Sugar Factories Control Rules 1950. Respondent 2's area of cultivation was reserved for the Petitioner. However, on 23 Oct 1982 an order was passed by the Respondent 1 which made certain modifications to the current setting, Respondent 2's area continued to stay reserved for the Petitioner. By March 1983 a hundred of the Respondent 2's trucks remained unlifted so they filed a prayer for compensation. Respondent 1 decided in favour of Respondent 2, relying on Messrs Mirpurkhas Sugar Mills -A Limited v Consolidated Sugar Mills Ltd PLD 1987 Kar 225. The Petitioner contended that since the crushing season begins from the 1st of October, the order circulated by Respondent 1 on the 23rd of October is void. Secondly, they contended that as per Rule 17 of the Sugar Factories Control Act 1950, no agreement was decided by the parties, thus no arbitration can take place. Thirdly, the Petitioner complained that he was denied the right of hearing, going against natural justice. On every date that the Petitioner attended the office of the Respondent 1, the case was adjourned.</p>	<p>The petition was accepted, and the Respondent 1 is required for a decision afresh after affording both the parties an opportunity of hearing. The court contrasted with the first 2 contentions. They laid that the notification fell well within the ambit of ss. 10 and 14 of the Sugar Factories Control Act 1950, in conjunction with Rules 7(1)(2) and 10(1). The impugned order derives its authority from Rule 17(1) and 9(6). Secondly, post notification the area of Respondent 2 continued to be "reserved", not merely "assigned" for the Petitioner, thus the need for agreement relied upon by the Petitioner falls within the scope of Rule 9(2) which requires an agreement of the quantity of cane that is to be sold, since the area was reserved for the Petitioner, the argument stays unimpressive. As the Petitioner was offered no right of defence, the notice of 20 Sep 1983 was quashed.</p>
4.	1987 C L C 1647	SHAKARGANJ SUGAR MILLS LTD. JHANG VS CANE COMMISSIONER, PUNJAB, LAHORE and another	<p>The meeting held by Sugarcane Control Board concluded, on the recommendation of the Petitioner, that area 28 Chaks to be eliminated from free zone and added to the reserved area for the Petitioner. The Cane Commissioner took no such step. Aggrieved, the Petitioner contests on 2 grounds; first, on a linguistic drift that the word "may" ought to be read as "shall" in s. 10 and 14 of the Sugar Factories Control Act 1950 i.e., relating to the Cane Commissioner's responsibility in adhering to the advice by the</p>	<p>Petition dismissed. The courts found that since the word "may" has been used in conjunction with the word "consulting" as to the role of the Board's suggestions, the Board's capacity is merely recommendatory. The words "may" and "shall" are not interchangeable. Secondly, the court found that there was no need to add the area in question to the reserved area since while the crushing capacity of the mill remained the</p>

			<p>Board. While one characterises a consultative role for the Board the other imposes an obligation on the Commissioner.</p> <p>Secondly, on the facts, the Petitioner's area had been reduced in terms of acreage and so, 28 Chaks should have been reserved for the Petitioner.</p>	<p>same, the amount of cane crushed has increased from 250,000 to 640,000 maunds in a decade i.e., the yield of crop per year had escalated. This demonstrated that the petitioner was in fact, not being underfed as the determining factor is not acreage but the yield and quantum of cane available and crushed.</p>
5.	2018 CLD 626 LAHORE-HIGH-COURT-LAHORE	AL-BARAKA BANK (PAKISTAN)LTD.VS PROVINCE OF PUNJAB through Secretary Food	<p>Petitioners; cane growers and Banks</p> <p>Respondents; Cane Commissioner, Punjab and 3 sugar mills.</p> <p>There were 2 broad issues; priorities of rights between the statutory rights of cane growers and contractual rights of the Bank, and; the role of the Cane Commissioner i.e. whether they had the authority to sell bags of sugar which were pledged to Banks, for the cane growers, upon the default of sugar mills.</p> <p>The banks had lent financial assistance to the sugar mills to pay for the sugar cane procured, in turn the banks had taken constructive possession of the sugar bags. While the banks were defending a contractual right and argued that secured creditors are prioritised over unsecured creditors and government dues, the cane growers were protected by a statutory right as per the Act, to receive the price of the sugar cane within 15 days, the issuance of CPR⁶³ acknowledges it. The cane growers were also seeking recovery as the owners of the property, as they retained the title in the sugar cane until the payment was made.</p>	<p>Petition for cane growers allowed; petition for banks dismissed.</p> <p>The court held that while the security interests of the banks were intact, the right of the cane growers was superior to all other rights. The Cane Commissioner was held the relevant competent authority to recover the dues for the cane growers.</p>
6.	2003 M L D 1940 KARACHI-HIGH-COURT-SINDH	Messrs AL-NOOR SUGAR MILLS LTD. VS PROVINCE OF SINDH and others	<p>The Petitioner assailed the notification circulated determining the crushing season and minimum price for the sugar cane to be paid to the growers for the season of 2002 -2003, under s. 16 of the Act. Previously, as compensation for regulating</p>	<p>Application dismissed.</p> <p>While the plaintiffs appeared to have an arguable case, <i>prima facie</i>, the application was dismissed on the grounds that suspending the impugned notification</p>

⁶³ Cane Purchase Receipt

			<p>sugarcane, the Government would lift the entire sugar manufactured at a uniform ex-factory price fixed in advance, ensuring at least minimum profit for the mills. However, subsequently, deregulation left the prices at the stake of market forces. Now, with the surplus of the sugar stock of the previous season due to excessive imports and lack of subsidies for the opportunity of exports, the market forces have decided a low price for the end product to the point that the plaintiff would not be able to break even. The Respondent contended that due to shortage of irrigation, the yield has been affected adversely and with the consolation of Economic Co-ordination Committee, the prices have been set to train a balance. The original price demanded was not set due to the objections by the mills.</p>	<p>would have grave consequences. Since the sugar cane has been harvested and the delay in crushing is causing the canes to lose their sucrose content entailing an irreparable loss upon the growers.</p>
7.	1987 MLD 2417 KARACHI-HIGH-COURT-SINDH	Messrs MIRPURKHAS SUGAR MILLS Ltd. VS CONSOLIDATED SUGAR MILLS Ltd.	<p>The case mainly tackled the confusion in the jurisdictional dates of a notification that could reserve an area for a sugarcane factory.</p> <p>The Petitioner owns a Sugar Factory, and the Respondent No.1 is another Sugar factory owner while Respondent No.2 is the sugarcane grower, and the Respondent No.3 is the Government of Sind. The dispute was that the plaintiff wanted the Respondent 2's area to be reserved for him as per Section 10 of the Act by Cane Commissioner, Respondent 2 was already a client of Respondent 3. Since no date was referred to in the Act or Rules, thus provisions regarding the Sugarcane Factory estimating its requirements and submitting the same to the Cane Commissioner before May following the ensuing crushing season were interpreted,⁶⁴ and the back date was settled by the Judge to be 1st October. The appeal was opposed on behalf of Respondent 1.</p>	<p>Application dismissed. Reservation of area for sugar factories for procurement of sugarcane should be made by or before start of crushing season. Reservation made much beyond time of crushing season would not be in accordance with relevant law.</p>

⁶⁴ Sugarcane Factory Rules, r 6.

8.	1986 MLD 649 LAHORE-HIGH- COURT-LAHORE	FECTO SUGAR MILLS, DARYA KHAN VS COMMISSIONER, DERA GHAZI KHAN	Cane Commissioner, Punjab in exercise of powers vested in him under s. 10 in a notification allocated various chaks, declaring them to be reserved area for the purposes of supply of cane to the Petitioner company for the crushing seasons 1982-83, 1983-84 and 1984-85. It is the case of the Petitioner company that purchase centres with the provision of weigh bridges etc. were established within the reserved area and agreements for the purchase of sugarcane were entered into with the cane-growers etc., after making advance payments to them. Later, Respondent 1 in a letter to the Cane Commissioner dated 2 Oct 1983, assigned 79 villages under the Petitioner to Respondent 3. After hearing both the Petitioner and Respondent 3, the Cane Commissioner (Respondent 2) refused to remove the area from Petitioner's zone since the allocation of this area to the Petitioner was mutually agreed upon by both parties and no valid ground existed to change this arrangement. The Respondent 3 then filed an appeal against this with Respondent 1 who upon accepting the appeal, declared the 79 chaks in question an unassigned area. This order has now been assailed in this constitutional petition on the ground (i) that no appeal lies against an order refusing to withdraw any area from the reserved area already notified and that the appeal filed was barred by time; (ii) that Respondent 2 was neither conscious that the appeal filed was barred by time nor the delay was condoned by him and that the delay could not be condoned as the appeal was not accompanied with an application for condonation of delay; (iii) that Respondent 2, having earlier directed to the Cane Commissioner to withdraw the said 79 Chaks from the reserved area could not hear the appeal himself against the order of	Petition accepted. The order by Respondent 1 was declared without lawful authority.
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			refusal passed by the Cane Commissioner per principles of natural justice (iv) that the impugned order is illegal as it was based on extraneous considerations; and (v) that the propriety demanded that the arrangements entered into by the parties be not disturbed towards the end of the period fixed as any such disturbance at that late stage would cause immense financial loss to the petitioner company.	
9.	1984 CLC 1943 LAHORE-HIGH-COURT-LAHORE	BABA FARID SUGAR MILLS LTD., OKARA VS COMMISSIONER, LAHORE DIVISION, LA-HORE	After the allotment of the reserved Chaks, the Petitioner entered into agreement with the cane-growers of the areas. Advance to the growers were paid in the two areas. A letter was then issued relocating some Chaks and assigning new ones. The impugned letter was deemed without lawful authority by the Petitioner because it was issued without consulting the Sugarcane Control Board which was an essential legal formality as required by s. 10. Learned counsel also raised a few other contentions, for instance that the Cane Commissioner overlooked an important legal and factual aspect which was that after the allotment of the areas, the Petitioner incurred heavy expenditure in entering into agreements with the cane-growers for the supply of sugar-cane, in connection attention was drawn to rule 9 (3) of the Sugar Factories Control Rules, 1950. Learned counsel submitted that this aspect was completely ignored, and this is bound to cause irreparable loss to the Petitioner. The learned Assistant Advocate-General took up the position that no final order has yet been passed, the impugned letter was a mere proposal-"tentative zones have been demarcated. These proposals are yet to be confirmed by the Sugarcane Control, Board, Punjab."	Petition dismissed. No final order had been passed and the impugned letter was a mere proposal. The matter was yet to be determined and the meeting for this with the Sugarcane Control Board was to take place the next day. No need to give any authoritative decision on the points raised by the Petitioner as the matter is yet to be finally determined.
10.	1980 CLC 804 KARACHI-HIGH-COURT-SINDH	CONSOLIDATED SUGAR MILLS LTD., KARACHI VS	Cultivating areas were, in a notification by the Cane Commissioner (Defendant 2),	Application dismissed. Under s.14, there is no restriction for the

		UNITED SUGAR MILLS LTD., KARACHI	<p>assigned and reserved for the plaintiffs, under s. 14 and 10 respectively, in October 1978. The contracts were carried out between the cane growers and the mills ensuring the supply of the cane. Defendant 1 (another mill) then infringed the right of the plaintiffs and lifted cane from the "assigned area" of the plaintiff, allegedly by offering attractive prices. However, the order issued by Defendant 2 was unlawful in lieu of not following procedure following the Defendant 1's accepted petition dated 2 January 1979. It is further asserted that the Defendant 1 had paid advance to the cane growers and unless sugarcane was allowed to be lifted, at least to the corresponding extent, the money paid to the growers will be lost. Moreover, while s. 13 provides that other than the factory no purchaser is to buy from the <i>reserved</i> area, there was no such premise regarding <i>assigned</i> areas.</p> <p>An interim injunction was granted to the Plaintiffs on 28 Dec 1978. This application concerned whether, on the fact alleged, the Plaintiffs are entitled to the confirmation of the injunction already passed.</p>	<p>purchase of cane in respect of an assigned area and since the order merely designated the Sukkur District as an assigned area, there was no restriction for purchase by the outsiders.</p> <p>Since there was a contract of purchase with the cane growers in the area, the cane growers are under both a statutory as well as contractual obligation to supply cane per s. 14. It is therefore, open to the Plaintiff to take necessary action in case of a breach against the cane growers themselves.</p> <p>Injunction refused.</p>
11.	1993 SCMR 920 SUPREME-COURT	MIRPURKHAS SUGAR MILLS LIMITED VS GOVERNMENT OF SINDH	<p>The case revolved around the balance shared by the Sugar Factories Control Act 1950 and The Agricultural Produce Markets Act 1939. The appellant contended that the two Acts were in conflict.</p>	<p>Appeal dismissed.</p> <p>While the former ensures the supply and regulates the price of a specific product the other provides for the better regulation of the purchase and sale of agricultural produce in the Province and for that purpose to establish markets and make rules for their proper administration. The contention of appellant that both laws mentioned above are repugnant to or in conflict with each other was denied.</p>
12.	2013 PLD 81 LAHORE-HIGH-COURT-LAHORE	Haji BASHIR AHMAD VS CANE COMMISSIONER, PUNJAB	<p>The Petitioners were growers who had remained unpaid by the mills. Grievance was addressed to the Cane Commissioner who</p>	<p>Petition allowed.</p> <p>While the Respondent is of the opinion that they were not the competent</p>

			failed to redress it – Respondent felt that they were not the competent authority	authority, the Court found otherwise. Relying upon Rule 17 of the Punjab Sugar Factories 1950 along with Section 6 which compares the role of the Commissioner to that of Collector, ensuing responsibilities con-firmed that the Commissioner was in fact the competent authority.
13.	2006 YLR 2271 LAHORE-HIGH-COURT-LAHORE	ADAM SUGAR MILLS LTD. through Director VS SECRETARY FOOD, GOVERNMENT OF PUNJAB	The Petitioner had purchased the quantity of sugar cane by growers worth Rs.86,25,338, however, only part of the price was paid. The Respondent 2 then reached Respondent 1 -the Cane Commissioner, who levied a penalty of Rs.20,00,000 despite the Petitioner’s appeal regarding consideration to their tight financial position during the crushing season of cane being the primary reason of delayed payment was ignored. The appellant petitioned that since all the amount to the grower is paid, the fine should be waived since it is not only unauthorized but is also excessive and exorbitant.	Petition accepted. The Court was of the same view since the Respondent had proceeded to decide appeal through a mechanical and non-speaking order. The Petitioner shall be deemed to be pending before the Secretary Food, Government of the Punjab.
14.	2005 YLR 2127 KARACHI-HIGH-COURT-SINDH	State VS GENERAL MANAGER, PINGRIO SUGAR MILLS	Complaint was initiated by the Cane Commissioner due to the lack of compliance with S. 2(h) and 8 of the Act, which dictates the crushing season and noncompliance is punishable under 21(a). This was dismissed by the learned Civil Judge and Judicial Magistrate. State contended that Direct Complaint could not be dismissed in absence of complainant therefore, the impugned order was illegal on the face of it and Additional Sessions Judge erred in law while dismissing revision application.	Application dismissed. The application was dismissed on the account that powers under S. 561-A, Cr. P. C. ⁶⁵ were to be used sparingly and only when there appeared to be abuse of process of law.
15.	2002 CLD 1183 LAHORE-HIGH-COURT-LAHORE	FECTO SUGAR MILLS LTD. through Director VS GOVERNMENT OF PAKISTAN through Sec-retary, Ministry of Finance and	The judgement consists of three writ petitions. In Category I, the writ petitioners were involved in the manufacture of cane sugar and had produced sugar in excess of the previous three years average and thus were eligible for the said benefit i.e.,	Petition falling under Category I – Allowed. The petition was allowed subject to the fulfilling of the conditions laid down in para.55 of the judgement of the Honorable Supreme Court

⁶⁵ CrPC, s 561-A; “Nothing in this code shall be deemed to limit or effect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under the code, or to prevent abuse of the process of any court or otherwise to secure the ends of justice”

		Economic Affairs, Islamabad	<p>the payment of duty at a rate 50% less than payable on the normal production, requested for clearance of the excess stocks on payment of duty prescribed in the said Notification. After processing and allowing clearance, it was withdrawn. This was due to the fact that the petitioners' mills had not operated for a period of not less than 150 working days in the three preceding financial years hence it cannot be cleared on the said concessionary rates. However, the writ petitioners had denied the factual allegations of the mills not operating for 150 days during the relevant three years. In Category II the cases in this category were dealt accordingly in reference to the Army Welfare Sugar Mills Ltd. and decided in terms of para. 55 of the said case. In CATEGORY III the crushing season was defined as 160 days qua the Province of the Punjab. In this case it was determined that the crushing period would be initiated from 30th of November and end on 30th June of the following year. In this category the respondents considered the crushing period to be of 160 days which otherwise was less than the normal period hence they were entitled to the benefit of the departmental interpretation.</p>	<p>of Pakistan in Messrs Army Welfare Sugar Mills Ltd. and others v. Federation of Pakistan 1992 which was reaffirmed in Collector of Customs and Central Excise, Government of Pakistan v. Bawany Sugar Mills Ltd. and others 2000. The petitioners were granted approval to clear the excess stocks on payment of duty. Petition falling under Category II – Allowed. The petition was allowed in terms of para.55 of the judgement in Messrs Army Welfare Sugar Mills Ltd. and others v. Federation of Pakistan 1992 SCMR 1652. Petition falling under Category III – Dismissed. The petition is dismissed due to the concerns related to the crushing season controversy .</p>
16.	2016 PLD 85 LAHORE-HIGH- COURT-LAHORE	MUHAMMAD AFZAL WARRAICH VS MUHAMMAD RAMZAN	<p>The Respondents had made an application to the Sessions Judge/ Chairman Human Rights as they had not been paid by the Petitioners for the sugar cane delivered. The sessions judge then provided an order recognizing that a cognizable offence had been made out against the respondents (i.e., Petitioners, presently) and directed the S.H.O. to inquire into whether the sugar mills establishment had money in the bank at the time and were not paying the price to the cane growers – in which case it would be fraud.</p>	<p>Petition allowed. None other than the Cane Commissioner was competent to adjudicate upon claim of sugarcane owners. The Punjab Sugar Factories Control Act, 1950, was a special enactment legislated for resolution of such disputes and special law had overriding effect over general law. Sugarcane owners instead of following procedure laid down in this special enactment chose wrong</p>

			Learned counsel for the Petitioners submitted that the learned Sessions Judge committed material illegality and irregularity while passing impugned order and that the relationship between the parties is to be regulated under the Punjab Sugar Factories Control Act, 1950.	forum for redressal of their grievance
17.	2020 SCMR	JS Bank Vs Brother Sugar Mills	Cane growers approached the High Court through Writ Petitions for the payment of the sugarcane supplied to the Occupier of a factory (as defined in Section 2-k of the Punjab Sugar Factories Control Act 1950). The banks also approached the High Court under Art.199 of the 1973 Constitution challenging the actions and order of the Cane Commissioner whereby the refined sugar was pledged with the banks against the "Running Finance" facility extended to the Sugar Mills (Occupier) and under the possession of the "Muqaddam" of the Bank was attached and sold for the payment to the cane growers and claimed that the banks have a first charge being secured creditors upon the refined sugar. It was reported that all other mills have cleared their liability of payment of sugarcane prices to the cane growers except the Brother Sugar Mills.	The appeal was dismissed by the High Court on the basis of it not being maintainable. Supreme Court held that the Occupier cannot be allowed to use statutory protections unilaterally. Moreover, the title of white sugar to the extent of unpaid amount remains with the growers, there arises no occasion for the lien of the creditor Banks to the "pledged stock". A valid pledge could only be created against the goods owned by the occupier and not the third party. The Petitioners have failed to make out a case for grant of leave and the petition stands dismissed.

18.	Lahore Court	High	<i>M/s Tandlianwala Sugar Mills Ltd. V Province of Punjab and others</i>	The mentioned petitioners had challenged the respondents who had referred the cases to the Station House Officers of different police stations for registration of FIRS. Section 13 A was enacted by an amendment made on 22.06.21 addressing the powers of the cane commissioner to determine the liability of an occupier of a factory. The Pakistan Sugar Factories Control Act 1950 has provided a mechanism to determine the liability of an occupier of a factory for payment of cane price to a cane-grower no later than forty-five days of the end of the crushing season. The registration of a criminal case can only be permissible on two grounds; the respondents are obliged to follow the statutory provisions regarding determination of the liability and in case the liability is not paid in the ordinary course or by the normal procedure provided under the Act and Rules 1950	Petition allowed. The Cane Commissioner was allowed to proceed under Section 13-A of the Act for any existing determination of liability against the mentioned petitioners and this was to be subject to the procedure provided under law
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Punjab Factories Rules 1950:

Case law:

#	Citation	Name	Summary	Judgment
1.	2021 MLD 77 LAHORE-HIGH-COURT-LAHORE	SHAHTAJ SUGAR MILLS LIMITED VS PROVINCE OF THE PUNJAB	The Cane Commissioner, on perusal of data provided by the sugar mills, came to know of the malpractice of not paying the interest at the rate of 11% to the sugarcane growers on account of delayed payments beyond 15 days. Since it was a violation of the mandatory provisions of Rule 14(2) of the Punjab Factories (Control) Rules, 1950, the Cane Commissioner in exercise of powers conferred under Rule 16(10) directed the Occupiers/General Managers of all the sugar mills in Punjab to provide information about the payment of cane grower's dues. This information was re-quired to ascertain how much of interest amount had been paid to the growers on account of delayed payments. The Petitioners contravened it on the ground	Petition dismissed. The Court held the law does not make it a condition precedent that before embarking upon any investigation to check malpractice the Cane Commissioner must receive a complaint.

			being Cane Commissioner without having any complaint from any grower cannot undertake any investigation thus his exercise has no backing of law.	
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NWFP Sugar Factories Control Act 1950

#	Citation	Name	Summary	Judgement
1.	1989 PLD 449 SUPREME-COURT	NOOR SUGAR MILLS LTD. VS MARKET COMMITTEE	The appellants are in the business of producing sugar and possess sugar mills in various parts of Punjab. They buy sugarcane from specified locations designated for them by the Sugar Factories Control Act. The relevant Market Committees have requested that they pay market fees in accordance with the Punjab Agricultural Produce Markets Act, 1939. In these appeals, the appellants argue that they are not liable to pay the charge.	No merits were found in these appeals which were hereby dismissed with costs.
2.	1983 PLD 1 KARACHI-HIGH-COURT-SINDH	BAWANY SUGAR MILLS LTD. VS MARKET COMMITTEE, BADIN	It has been prayed that the levying of market fees on sugar and sugarcane by market committees constituted under the foregoing notifications be ruled illegal, or, alternatively, that market fees cannot be imposed on both sugarcane and sugar.	The petition is dismissed except to the extent of the relief that market fee cannot be recovered both on sugarcane and sugar.
3.	2012 CLD 1405 LAHORE-HIGH-COURT-LAHORE	SHAUKAT MEHMOOD VS GOVERNMENT OF PUNJAB through Secretary Agriculture	The Petitioners' objections in these writ petitions are that, as sugarcane cultivators and growers, they supplied sugarcane to several Sugar Mill owners, including the respondents, for the 2009-2010 season. The Petitioners were duly issued sugarcane purchase receipts in which the outstanding amounts were duly mentioned with regard to their supplies as given in their writ petitions. The Petitioners stated that they approached the Cane Commissioner, Punjab, Lahore for redress of their grievances due to the non-payment by the respondents/mill owners. The Cane Commissioner, Punjab, Lahore is under a legal obligation to ensure that the respondents make payment of the price of the sugarcane within a period of 15 days from its purchase under Rule 14(2) of the Punjab Sugar Factories Control Act, 1950 as well as under the	Petition was allowed as the Learned Additional AG states there is no justification for the non-payment by the mill owners.

			Punjab Sugar Factories Control Act, 1950 but he failed to do so.	
4.	1987 PLD 225 KARACHI-HIGH-COURT-SINDH	MIRPURKHAS SUGAR MILLS LTD. VS CONSOLIDATED SUGAR MILLS LTD.	Mirpurkhas Sugar Mills Limited, the plaintiff, owns and operates a sugar mill in Baluchabad Mirpurkhas, District Tharparker. Consolidated Sugar Mills Limited, Defendant No. 1, operates a sugar mill in Ranipur, District Tharparker. Syed Qurban Ali Shah, Defendant No. 2, is a Zamindar and a purchasing agent, according to the plaint. The Cane Commissioner and Director of Agriculture, as well as the Chairman of the Sugarcane Control Board, are Defendants Nos. 3 and 4, respectively. Plaintiff claims that during the 1986-87 crushing season, the Cane Commissioner issued orders declaring "reserved areas" for the purpose of supplying cane to the various sugar factories under the Act and the Rules enacted thereunder known as Sugar Factories Control Rules, 1950, and that under the Act and the Rules, cane grown in a reserved area cannot be purchased by a purchasing agent or by anyone other than the occupier of the factory for which such area has been reserved. The plaintiff's complaint is that defendants Nos. 1 and 2 are violating the Act and the Rules because sugarcane cultivated in the plaintiff's mill's reserved area is provided to and purchased by defendant No. 1.	The plaintiff has failed to establish a prima facie case because the Zoning Order in question was passed about two months after the start of the crushing season in 1986-87 and was not published in the official Gazette. As a result, the application is dismissed, and the interim order issued before is revoked.
5.	1993 PLD 1 KARACHI-HIGH-COURT-SINDH	SHAHID MUHAMMAD KHAN VS THE STATE	Abdul Ghani Dars, the second respondent, is a member of the Sugar Control Board and the Zamindar of Taluka Tando Allahyar, District Hyderabad. He made a direct complaint against M/s Mehran Sugar Mills Ltd's administration. The applicants are accused of deducting transport expenses without the approval of respondent No. 2 and without the permission of the Cane Commissioner of Sindh, in contravention of Rule 13(2) of the Sugar Factories Control Rules, 1950. Respondent No.2 also claims that the applicants increased transportation prices in 1987-88 without the	The application filed under section 561-A of the Cr.P.C. was accepted, and the above proceedings pending E against the applicants at the Court of Civil Judge and F.C.M. Tando Allahyar were ordered to be dismissed.

			authorization of the Cane Commissioner of Sindh, in contravention of Rule 14(7) of the Sugar Factories Act.	
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Sindh Sugar Factories Control Act 1950:

#	Citation	Name	Summary	Judgement
1.	2020 CLC 232 KARACHI-HIGH-COURT-SINDH	MIRPURKHAS SUGAR MILLS LIMITED VS PROVINCE OF SINDH through Chief Secretary	These three petitions concern the Government of Sindh Agriculture Supply and Prices Department's notice dated 07.12.2019 ("Impugned Notification"), in which, among other things, the minimum price of sugarcane for the crushing season 2018-19 was set at Rs.182 per 40 kg. According to Section 16 of the Sugar Factories Control Act, 1950 ("Act"), the Government of Sindh is required to issue a notification each crushing season determining the minimum price of sugarcane payable to growers in the province. The petitioners in CP D-8591 and CP D-8592 of 2018 are challenging the Impugned Notification on the grounds that the determinants for price fixation were not taken into account, and they want it overturned, whilst the petitioner in CP D-8624 of 2018 wants the Impugned Notification to be enforced.	These petitions were disposed of vide the aforementioned short order.

The Sindh Foodstuff (Control) Act 1958: (The West Pakistan Foodstuffs (Control) (Sindh Amendment) Act 1973)

#	Citation	Name	Summary	Judgement
1.	1984 CLC 2687 KARACHI-HIGH-COURT-SINDH	PAKISTAN BEVERAGE LTD. VS DEPUTY DIRECTOR (FOOD)	The petitioner opposes the department's claim for Rs.5,90,000 on account of the price of sugar supplied by the government to the petitioner in this case. The petitioner is a beverage and soft drink company with a factory in S.I.T.E., Karachi. Sugar is one of the raw materials for the petitioner's products, and the respondents have control over its distribution and sale under the Sind Food Stuffs (Control) Act, 1958. (West Pakistan Act XX of 1958). Respondents had assigned the petitioner an annual quota of	This case is partially granted to the degree that the department's demand of Rs.2,60,000 against the petitioner, based on an unnotified notification dated June 26, 1981, is determined to be without lawful authority and of no legal consequence. There will be no costing order.

			<p>1,200 tonnes of sugar, which was lowered to 960 tonnes in 1979, and the monthly distribution of this annual quota of 960 tonnes came to 80 tonnes, according to the petitioner. According to the petitioner, each month the petitioner would submit an application to the Office of the Deputy Director (Food) for the release of its monthly quota, after which a permit was issued and the price of sugar was deposited in the State Bank of Pakistan via a treasury challan, after which the Food Department issued a release order/delivery order on the basis of which the petitioner took delivery of the sugar from the Government. Before June 28, 1980, the petitioner had taken receipt of his whole quota for the period ending June 30, 1980, as well as 300 tonnes of sugar in advance, i.e. against the quota for the year beginning July 1, 1980. This advance quota was withdrawn after filing a formal application with the 1 Department, which was approved, and payment of the advance quota was made at the then-current rate of Rs.6.90 per kg. For industrial consumers, the price of sugar was hiked to Rs.9.00 per kg on June 28, 1980. The department then demanded an additional sum from the petitioner for a 300-ton advance quota at a differential price of Rs.2.10 per kg.</p>	
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1960s

The West Pakistan Sugarcane (Development) Cess Rules, 1964

#	Citation	Name	Summary	Judgment
1.	2008 SCMR 178 SUPREME-COURT	FACTOR SUGAR MILLS LTD VS SECRETARY FOOD	Show-cause notices were issued to Petitioner showed the allegation that sugarcane cess had not been correctly worked out by the Petitioner. Consequently, the amount of cess paid by the Petitioner was much less than the amount due. As per rules 4(1) and 5(1) of the Punjab sugar Cane (Development) Cess, Rules, 1964, the Cane Commissioner had levied a penalty. The Petitioner took up the	Petitions redirected to Cane Commissioner as appeals. Relying upon the case of Koh-i-Noor Sugar Mills Ltd., where the penalty levied was 33% and the adjustment of the Cess which was paid to the N.-W.F.P. Government had been allowed, whereas no

			position that it had paid the Cess to the N.-W.F.P. Government since the mill is situated on the border of N.-W.F.P.-Punjab Province and that cane had been purchased from the N.-W.F.P. Province, which has been a long-standing practice, at a loss of law.	such concession was offered to the Petitioner.
2.	2006 YLR 1169 LAHORE-HIGH-COURT-LAHORE	FECTO SUGAR MILLS LTD. through Director VS SECRETARY FOOD	The Petitioners were contesting against an order by the Cane Commissioner which had imposed upon the mills a penalty for not fulfilling the dues under the Act. The plea of the Petitioners was that sugarcane had been purchased from N.-W.F.P. on account of non-availability of enough sugarcane to meet the crushing capacity of the mills. All the Petitioners claimed that they had been depositing the Cess (growers' share) in N.-W.F.P as per instructions of the Cane Commissioner, N.-W.F.P.	Petitions dismissed. The Court held that s. 12 of the Punjab Finance Act, 1964, dictates, sugarcane bought from whatever place the Cess is payable on actual sugarcane crushed by the sugar mills and not on the sugarcane purchased/collected or brought to the mills. Due to the big disparity between the rates observed in the 2 provinces, undue advantage was being taken. The Petitioners were found to be liable of the penalty.
3.	2005 PLD 571 LAHORE-HIGH-COURT-LAHORE	NATIONAL SUGAR INDUSTRIES LTD. VS GOVERNMENT OF PUNJAB	Concerned default in payment of sugarcane cess by the petitioners (Sugar Mills) The Provincial Government had allowed the Petitioners to clear their default in payment of Sugarcane Cess through monthly instalments. All the Petitioners had faithfully given their instalments per the agreement. However, after the bulk of the overdue Cess had been cleared by the Petitioners, each of them had received a notice from the Cane Commissioner demanding payment of penalty for committing default. Note, the installment agreement between the parties did not contain any term that waived the charge of penalty claimed.	Petition allowed. There are 2 issues; (1) Whether the liability to pay the penalty exists; yes, since the agreement contained no waiver - the Petitioner was simply relying on the omission of the Respondents to collect a penalty at any stage prior (2) Quantum; the stand taken by the Respondents is neither justified by the facts of the case nor by the terms of policy relied by them. The existence of an agreement demonstrated 'unavoidable circumstances' which would make the maximum penalty unreasonable.

4.	1998 CLC 1912 LAHORE-HIGH-COURT-LAHORE	SHAHTAJ SUGAR MILLS LTD. VS PROVINCE OF PUNJAB	The Petitioners argued that the Ordinances of 1978 and 1983 were invalid and ultra vires. Martial Law was proclaimed in 1977 which held Constitution of Pakistan in abeyance. The Ordinance-making power of the Governor under Article 128 of the Constitution was no longer exercisable, since they were never placed before the Provincial Assembly for approval after the revival of the Constitution.	Petitions dismissed. The Court held by virtue of Article 279, all the taxes and fees levied under any law in force would continue to be levied notwithstanding anything contained in the Constitution. A similar view has been taken in the cases of Messrs Mirpur Khas Sugar Mills Ltd. v. Consolidated Sugar Mills Ltd. and 3 others PLD 1987 Kar. 225. The sort also decided against the Petitioner's contention that the abolition of Mill Zones does not consequently result in an abolition of the cess.
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Excise Duty on Production Capacity (Sugar) Rules 1966:

#	Citation	Name	Summary	Judgement
1.	1971 PLD 210 PESHAWAR-HIGH-COURT	CHARSADDA SUGAR MILLS LTD. VS GOVERNMENT OF PAKISTAN	The petitioner has prayed for the following reliefs: (a) To declare that the Excise Duty on Production Capacity (Sugar) Rules, 1966 were not good law and (b) To declare that the notification directing the assessment of duty on the basis of production capacity could not be given effect to and in terms of the express provisions of section 3 (1) and section 3 (7), Central Excises and Salt Act of 1944, the only method of levying excise duty legally available to the respondents was on the basis of actual production of sugar. (c) To direct the respondents that any determination of the production capacity of the petitioner could only be done after inviting/permitting the petitioner to lead evidence relevant to the matter and that respondent No. 2 could not determine the production capacity of the petitioner's Sugar Mill otherwise than by giving the petitioner an opportunity of being heard and that the law contemplated their passing a speaking order in this behalf.	Declare that the petitioner's assessment under the regulations was issued without legal authority and had no legal effect, and that no recovery could be taken from the petitioner based on the assessment. The petitioner's costs are to be paid by the respondents. Petition was allowed.

			<p>(d) To declare and order for the reasons explained in paras. 18, 19, 20 and 21 of the writ that respondent No. 2 was bound to allow the petitioner rebate from payment of excise duty for a period of 41 days as against 32 days allowed by respondent No. 2.</p> <p>(e) To declare the order of respondent No. 2 fixing the production capacity of the petitioner at 30,000 tons for the year 1966-67 and at 26,000 tons for the year 1967-68 as illegal and that as such no action could be taken on its basis.</p> <p>(f) To declare that the amendments introduced by the Finance Act, 1966 in section 3 of the Central Excises and Salt Act, 1944 were ultra vires.</p> <p>(g) To direct the respondents to levy and realize from the petitioner excise duty on the production of sugar on the basis of sugar actually produced by it in any year.</p> <p>(h) To direct the respondents to refund to the petitioner any amount realized from it in excess of its legal liability.</p>	
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West Pakistan Wheat, Wheat Atta, Maize, Rice and Sugar Distribution Order 1967

#	Citation	Name	Summary	Judgement
1.	1984 CLC 1453 LAHORE-HIGH-COURT-LAHORE	MUHAMMAD ASGHAR VS SECRETARY, GOVERNMENT OF PUNJAB FOOD DEPARTMENT, LAHORE	Respondents Nos. 4 and 5 are the two depot owners who were sued by the Petitioner. Following an investigation, the District Controller of Sargodha issued an order cancelling their authorization. The Deputy Director Food, Sargodha Region, Sargodha, dismissed their appeal. Following their amendment, the Secretary to the Punjab Government, Food Department, Lahore, issued the following order: I believe that the harsh penalty of terminating depot authorization/nomination was unnecessary in the circumstances of the case, especially when the involvement of a political faction, as noted in the Assistant Commissioner's Inquiry Report, cannot be ruled out. I believe that forfeiture of the entire monetary security deposited by the depontholders will satisfy the legal requirements. I	Petition dismissed. Subsection (3) of the same section quoted states the Government may pass any order as it may think fit. Therefore, Petitioner's contention is without merit.

			place my order accordingly." This was challenged by the Petitioner on the grounds that according to s. 6 of the Act, cancellation of authorization and forfeiture of security go together.	
2.	1982 CLC 538 LAHORE-HIGH-COURT-LAHORE	MUHAMMAD SADIQ VS DISTRICT FOOD CONTROLLER, SAHIWAL	<p>The Petitioner is a retail distributor for Basti Rehmatpura in Okara, and the District Magistrate granted him authorisation. A case was filed against him on the basis of a written complaint filed by Magistrate Section 30, Okara, alleging that during a raid conducted by him, a bag of sugar was discovered in the home of one Abdul Latif, who had reportedly purchased it for his hotel on the black market from the Petitioner. It was also determined that the Petitioner had forged the record by obtaining false thumbprints. The Petitioner challenged the suspension of authorisation order on the grounds that he was not served with a show-cause notice or given the opportunity to defend his case before the order was made. According to them, there is no legal justification for suspension just because a criminal case was registered against them.</p> <p>Respondent 3, contested on grounds that the present writ is not legally competent as Petitioner had not exhausted other remedies and has not come with clean hands.</p> <p>Secondly, since the impugned order is not a final order as the authorization of the Petitioner has not been cancelled so far and, therefore, they cannot challenge it. Petitioner should only approach this Court if authorisation had been cancelled.</p>	<p>Petition allowed.</p> <p>Petitioner had, in fact, also availed the legal remedy of appeal under clause 6(2) Wheat, Wheat-Atta, Maize, Rice and Sugar Distribution Order, 1967 before filing the present petition. Regardless, on the facts, since the Petitioner had been condemned and unheard and the suspension order was made in utter disregard of the principle of natural justice, audi alteram partem, the Petitioner was not bound to file a revision petition against the appellate order before coming to the Court. Well settled rule of law: "in case of excess of jurisdiction, an aggrieved person can invoke the writ jurisdiction of the High Court without resorting to other remedies". Secondly, suspension of authorization is also a penalty thus, the impugned order being penal in nature has been rightly challenged by the Petitioner.</p>
3.	1979 CLC 486 LAHORE-HIGH-COURT-LAHORE	ZAFAR ASIF VS PROVINCE OF PUNJAB	<p>Petitioners were allocated depots on a regular basis but were later served with notices of cancellation.</p> <p>The sanctioned authorisations that were in breach of the law were subjected to inspection by a Committee after the declaration of martial law. Rationing Controller revoked then numerous authorisations.</p> <p>Forty-nine people who were harmed by the Rationing Controller's order filed lawsuits in front of the learned Additional Administrative Judge, sought declaratory judgments that the orders cancelling their authorizations were void, illegal, unwarranted in law and in</p>	<p>All revisional applications dismissed EXCEPT that of Zafar Asif.</p> <p>Claim to injunction turned down because they did not have a fair question to raise at the trial as to existence of a legal right. In the circumstances, the question if Rationing Controller was not competent to cancel the authorisation in favour of the Petitioners is not</p>

			<p>excess of jurisdiction. Injunctions were sought. The learned trial Judge held that the Petitioners failed to make a prima facie case and Petitioners would not suffer irreparably if injunction were refused. Applications were turned down. Appeals also unsuccessful.</p> <p>The contention in the present case is that Rationing Controller was not competent to pass the impugned order. He had acted in a mechanical way which merely gave effect to the recommendation made by District Allotment Board and, finally that District Magistrate alone was empowered to withdraw authorisations sanctioned in favour of the petitioners.</p>	<p>significant. The assertion that the order was passed behind the back of the Petitioners is factually incorrect. HOWEVER, while some Petitioners did have a good prima facie case to challenge the legality of the order, they were still declined temporary injunction because they were ineligible ex facie for sanction of depot and had a relative who had been sanctioned authorisations. The Court granted an exception for Zafar Asif who was distinguished from the above with nothing to show that he was ineligible for sanction.</p>
4.	1977 PLD 212 LAHORE-HIGH-COURT-LAHORE	ISHAQUE HUSSAIN VS SHAHZAD HASSAN PERVAIZ ADDITIONAL DISTRICT COMMISSIONER (GENERAL) RAWALPINDI	<p>The District Magistrate of Rawalpindi granted the petitioners permission to distribute wheat, wheat atta, maize, rice, and sugar under the West Pakistan Wheat, Wheat Atta, Maize, Rice, and Sugar Distribution Order, 1967. By a separate order, the Additional District Commissioner (General), Rawalpindi, revoked these authorizations. This was because they lacked licences under the Punjab Sugar Licensing Control Order, 1972, and the West Pakistan Foodgrains (Licensing Control) Order, 1957, and they had committed various violations. Appeals made were also dismissed. Three contentions were raised by the Petitioner;</p> <ol style="list-style-type: none"> 1) The authorisations could legally only be cancelled by the District Magistrate - not Additional District Commissioner 2) Since the authorisations were granted under the 1967 Order, there was no need for a sugar licence or foodgrain license 3) The order passed suffers from malafides 	<p>Petition accepted. Although there is no express prohibition for the Additional District Commissioner, it can be read into the provisions of the 1967 Order by necessary implication. The 1967 Order empowers the District Magistrate alone to exercise the relevant power.</p>

5.	1976 PLD 919 LAHORE-HIGH-COURT-LAHORE	KHUDA BAKHSH KHADIM HUSSAIN VS SYED ANWAR HUSSAIN , M.I.C. KASUR	<p>The Petitioners were depot owners who were granted permission to operate under the West Pakistan Wheat, Wheat Atta, Maize, Rice, and Sugar Distribution Order, 1967. Raids were carried out by Magistrates who inspected the Ration Depots and discovered grave anomalies. On the basis of their reports, criminal proceedings were filed against the petitioners under the West Pakistan Foodstuffs (Control) Act 1958. Meanwhile, the District Food Controller has placed a hold on their licences pending final action on the termination of the licences.</p> <p>The Petitioners mainly challenge the suspension of their authorisations on the grounds that only an "Inspector" within the meaning of para 2, clause (k) of the 1967 Order could enter the premises of the Petitioners to carry out a search. The Magistrates who conducted the search could not be "Inspectors" and so, the suspension was without lawful authority.</p>	<p>Petition dismissed.</p> <p>The quoted provision makes express provisions for the District Magistrate to appoint any other official to act as Inspector and therefore, the order appointing the Magistrates who conducted the raid was within the meaning of the 1967 Order. Thus, the only contention raised is without force.</p>
6.	1975 PLD 25 KARACHI-HIGH-COURT-SINDH	RAEES AHMAD VS RATIONING CONTROLER	<p>The petition was brought to overturn a decision issued by the Food Department of the Government of Sind on October 11, 1973, in which the petitioner's licence was revoked, the shop was sealed, and the petitioner's security deposit of Rs. 250 was forfeited. Inspectors from the Food Department paid a visit to the petitioner's ration shop and inspected the records on June 10, 1973. It appears that several anomalies have been discovered. As a result, a report was produced, and the petitioner's store was sealed and his licence was revoked based on that report. The learned counsel for the petitioner's lone argument before us is that because the action of cancelling the licence and forfeiting the security deposit was taken without notice to the petitioner, the principles of natural</p>	<p>Petition dismissed.</p> <p>The petitioner has the option of approaching the licencing authorities to request a renewal of the licence or a new licence. As a result, the petition is dismissed with no decision as to costs.</p>

			justice were breached, and the action was thus without jurisdiction.
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1970s

Excise Duty on Production Capacity (Sugar) Rules 1972

#	Citation	Name	Summary	Judgment
1.	1992 S C M R 986	CRESCENT SUGAR MILLS AND DISTILLERY LTD. VS ASSISTANT COLLECTOR OF CENTRAL EXCISES AND LAND CUSTOMS	The appellant failed to pay the monthly instalments of Central Excise Duty based on production capacity. The Assistant Collector of Central Excise issued notice to the appellant to show cause why additional excise duty should not be recovered from him under rule 10 of the Central Excise Rules, 1944. The appellant replied to the show-cause notice. The Assistant Collector held that the appellant is liable to pay anyway, under rule 5(3) of the Production Capacity (Sugar) Rules; 1972. This order was maintained upto the Central Board of Revenue and the Petitioner's Constitutional petition was dismissed by the High Court. The learned counsel contended that the demand made by the Respondent is a penalty and unless it is adjudicated upon by a competent authority authorised under s. 33 of the Act, no demand could be made from the appellant.	Appeal dismissed. The learned counsel's argument holds no force. The provision is self-executing. Liability has already been determined by the Rule. It clearly lays down that in case of default, an additional duty shall be paid. This is not a penalty.
2.	1991 C L C 1167	COMMITTEE OF ADMINISTRATION FAUJI FOUNDATION, RAWALPINDI CANTT. VS CENTRAL BOARD OF REVENUE, ISLAMABAD	The Petitioner had requested for abatement of Excise Duty under rule 4 of the Excise Duty on Production Capacity (Sugar) Rules, 1972, on the shortfall of sugar production during the crushing season. The Respondent No.1 granted abatement accordingly by order dated 5 Jul 1975. The Petitioner challenged the aforesaid order before this Court. The order was set aside by this Court and the case was remanded to the Respondent with direction to decide the Petitioner's claim for abatement in terms of Rule 4 of the aforesaid Rules. The Petitioner by letter dated 23 Feb 1981 requested the Respondent to grant abatement of duty on the entire shortfall as prayed earlier in application.	Petition dismissed. Since the pleas of reasons leading to the shortfall of the production were supported with no evidence the Court held in favour of the Respondent.
3.	1990 CLC 752	ALNOOR SUGAR MILLS LTD. VS ISLAMIC REPUBLIC OF PAKISTAN	The Petitioner had filed for a relief in the penalty levied upon him and demanded refund for the amount already paid by him, since the Central Board of Revenue had provided a waiver upon 2 conditions, which the explanation for default satisfied. The	Petition dismissed. The case was remanded to Central Board of Revenue.

			Collector made the relevant recommendation to the Central Board of Revenue which was not accepted without justifiable grounds.	
4.	1988 PLD 344	BAHAWALNAGAR SUGAR MILLS VS PAKISTAN	Rule 4 of the Excise Duty on Production Capacity (Sugar) Rules 1972 enables the manufacturer to claim abatement of duty, where the shortfall in production has been beyond its control and is sub-stancial (not minor). The Petitioner claimed abatement because of shortfall, during three tenures.	While the court accepted lack of sugar cane throughout the season which consequently raised the prices of other substitutional raw materials to be reasons out of the miller's control and decreased the number of days the mill worked for, for the shortfall of years 1972-1973. However, the same reasons were held against the mills as the facts suggested differently for the years 1973-1975.
5.	1987 MLD 505	PAKISTAN INDUSTRIAL DEVELOPMENT CORPORATION (Pvt.) Ltd. VS CENTRAL BOARD OF REVENUE	In pursuit of Rule 4 of the Excise Duty on Production Capacity (Sugar) Rules 1972, the Petitioner had requested abatement, part of which was allowed. The Petitioner had provided reasons of paucity of sugarcane, irregularity in supplies, damage to cane crop caused by severe frost and diversion of cane supplies to our making. The CBR had taken the stand that the Mills crushed sugar for more days than in the preceding crushing season, but failing to capitalise and instead of increasing their production, further declined. As most of the other factors had remained the same a plausible explanation for this further shortfall was warranted which the applicants failed to put forth. The Petitioner then applied for a review putting forth no new ground and thus, the application was disallowed by CBR under the impugned order.	Appeal dismissed. The order was not open for review by CBR especially since the application was filed after one year and four months and no new ground had come up. They had had sufficient opportunity to make their case before CBR before the order was passed. They had then proceeded to accept the resultant partial abatement. If they were unsatisfied, they should have sought relief in any other manner possible. Even though the review application was disallowed without hearing the Petitioners, no justification was provided as to why the Petitioner was entitled to be heard again when there was no new ground to be discussed. Furthermore, the very fact of the delay works against the Petitioner's bona fide intent.

6.	1982 PLD 1	CRESCENT SUGAR MILLS & DISTILLERY LTD., FAISALABAD VS CENTRAL BOARD OF REVENUE, ISLAMABAD	Appellant-Company applied for exemption of payment of excise duty on shortfall of quantity of sugar claimed that the Board of Revenue had heard the representative of the company twice, but the order was passed a year later by another member of the Board.	Appeal accepted. Principles of Natural Justice demand that a right of fair hearing be read into the provisions of the Rules if not expressly provided. Appellant was held to not have been given a fair opportunity for a hearing, because the Officer hearing had not decided it himself and also because of a year having had elapsed in between hearing and date of order. It was held that if the judgement was reserved and not written within three to four months, fresh hearing should be granted.
7.	1981 PLD 357	TREASURER OF CHARITABLE ENDOWMENTS FOR PAKISTAN VS CENTRAL BOARD OF REVENUE, ISLAMABAD	The Petitioners, per Rule 4, were allowed abatement and the proposed amount by the CBR was accepted by the Petitioner, subject to the 10% deduction in the total figure. Later, the initial consent of the company was being used by the Respondent as an estoppel against challenging the proposed abatement.	Petition accepted. The Court took notice that the CBR had evolved a formula for granting abatement under rule 4 of the Rules, whereby they were to disallow 10 % abatement in all cases relying upon a Supreme Court judgement, irrespective of the facts of each case. Relying upon Rule 3 of the Rules "...at' such rate and to such extent as it may consider proper." the Court remanded the case to the Respondent and held that consent cannot be used as an estoppel against lawful provisions.
8.	1978 SCMR 428	FEDERATION OF PAKISTAN VS CHARSADDA SUGAR MILLS LTD.	In pursuance of Rule 4 allowing for abatement, the Respondent mill had applied to the CBR for a relief, providing the reasons of growers' strike, loss of sucrose content due to mismanagement of sugarcane, shortage of cane due to adverse growing conditions. The Board was stringent upon its formulae of 10%	Petition dismissed. Petitioner directed by the Court to assess fairly.

			deduction with no respect to the factors contributing to the shortfall.	
9.	1978 PLD 864	CRESCENT SUGAR MILLS & DISTILLERY LTD. VS PAKISTAN	Consequent to the floods of 1973, the Federal Government levied additional taxes to provide relief. The taxes were contested on the ground that the excise duty is calculated based on the production capacity of the plant or machinery employed to manufacture them. Moreover, that the said taxation does not come under the authority of the Federal Legislature. It was argued that while taxation was a part of the Federal Legislative List, flood relief and consequently, this Flood Relief Surcharge was not.	It was held that since the Parliament has chosen the word "surcharge" to attribute the tax and not Flood Relief Tax, it identifies itself as an independent, unrelated imposition, in the premise of the Federal Government.
10.	1976 PLD 370	TREASURER OF CHARITABLE ENDOWMENTS FOR PAKISTAN VS CENTRAL BOARD OF REVENUE ISLAMABAD	The determination of production capacity by the Central Board of Revenue did not take into consideration factors enumerated in Excise Duty on Production Capacity (Sugar) Rules, 1972 which is a must and set the production capacity lower than what was proposed by the Petitioners.	Petition accepted. The case was remanded to the CBR and directed to be decided on merits.

Price Control and Prevention of Profiteering and Hoarding Act 1977:

#	Citation	Name	Summary	Judgement
1.	1985 PCRLJ 1828 KARACHI-HIGH-COURT-SINDH	ABDUL RASHID V STATE ⁶⁶	The Applicant was convicted and sentenced by a First-Class Magistrate under s.7 of the Act for selling Kinno at a price higher than that which was fixed by the government. The Applicant appealed against this, but it was dismissed by the IVth Additional Sessions Judge, Karachi by his order, dated 8 Sep 1982. The Applicant challenged this order in this revision application on the grounds that Kinno/Malta/Mattar are not 'essential commodities' ⁶⁷ as set out in the Schedule of the Act and therefore, the provision under s.6(2) ⁶⁸ does not apply.	Application allowed. The conviction is bad in the present case. The revision application is allowed. The conviction and sentence are set aside and the Applicant stands acquitted of the offence he has been charged with. The fine, if recovered from the Applicant, shall be refunded to him.

⁶⁶ **NOTE:** Though this case does not relate to the sugar industry, the legal principles applied here set a precedent for the court of law and are applicable to sugar as it is also an 'essential commodity' under the Schedule of this Act.

⁶⁷ An 'essential commodity' for the purposes of the Price Control and Prevention of Profiteering and Hoarding Act 1977 are specifically those commodities listed in the Schedule to the Act.

⁶⁸ Price Control and Prevention of Profiteering and Hoarding Act 1977, s 6(2); No person shall sell or re-sell any essential commodity at a price higher than the maximum price so fixed.

2.	1979 PCRLJ 912 LAHORE-HIGH-COURT-LAHORE	MIAN NAZIR AHMAD VS SUMMARY MILITARY COURT, JHELMUM ⁶⁹ khalid	Petitioner, a contractor for M.E.S., was arrested under ss. 3 & 7 of the Act on suspicion that he may be storing cement bags - issued for the construction work entrusted to him - for sale in the black market. The case was eventually submitted before the Summary Military Court No.20, Jhelum where it was pending adjudication and presently, the Petitioner seeks a transfer of this case to the ordinary competent Court to try and dispose of the same.	Petition accepted. The circumstances of the case show that the case is not of an extraordinary nature, legal necessity nor involving public interest and as such, it should be tried by a competent Civil Court and not the Military Court.
3.	1983 CLC 464 KARACHI-HIGH-COURT-SINDH	MEAT MERCHANTS WELFARE ASSOCIATION, KARACHI VS GOVERNMENT OF SIND ⁷⁰	<p>In this petition, Petitioner No. 1 is a Meat Merchants Welfare Association, whereas Petitioner No. 2 is a meat seller.</p> <p>This case concerns ss. 3 & 6 of the Act (fixation of price of essential commodities)</p> <p>The Petitioners have sought the following relief;</p> <p>(a) declare that the retail prices of meat fixed by the respondents are unjust, unreasonable, discriminatory, arbitrary and without lawful authority and hence unenforceable in law.</p> <p>(b) declare that without regulating and ensuring the supply of animals and meat at fixed rates the respondents or any other authority have no power, authority or right to fix retail prices of meat at the rate whereby reasonable margin of profit is not left.</p> <p>(c) Restrain the respondents from enforcing the impugned notification and/or conducting raids on the basis of impugned Notifications.</p> <p>(d) quash the notifications issued by the respondents fixing the retail prices as well as convictions awarded in consequence thereof.</p> <p>(e) quash the order of respondent No. 3 dated 13-3-1980 convicting the Petitioner No. 2 and others.</p> <p>(f) grant any other relief deemed fit in the circumstances of the case.</p> <p>(g) grant compensatory costs.</p> <p>The Petitioners have averred that the retail control prices of the meat have not been fixed with reference to the</p>	<p>Petition accepted.</p> <p>A plain reading of the two sections together clearly indicates that a control price should be a fair price, which cannot be fixed in respect of the subject matters of the petition without having the data on the latest prices of the animals. Though the costs were originally fixed based on a price analysis conducted a month before the issuance of the notification, the prices of animals are variable so, a notification issued in May 1980 cannot hold the ground for a period of two years without having a fresh price analysis. Accordingly, the Controller-General should review the control prices at reasonable intervals to ensure that they are realistic and workable. Secondly, the notifications were also observed to not have been strictly enforced as mutton & beef were commonly not being sold at control prices.</p>

⁶⁹ **NOTE:** Though this case does not relate to the sugar industry, the legal principles applied here set a precedent for the court of law and are applicable to sugar as it is also an 'essential commodity' under the Schedule of this Act.

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			cost of the meat. The respondents have filed a counter-affidavit in which it has been averred that the control prices have been fixed based on the price analysis carried out. However, it is indicated that the price analysis of mutton was carried out on the basis of the cost of meat prevalent in July 1979 and there is no date given on the working of cost in respect of beef.	For these reasons, the notifications were held to be without lawful authority and of no legal effect.
4.	1983 CLC 26 LAHORE-HIGH-COURT-LAHORE	ISRAR HUSSAIN SHAH VS DEPUTY COMMISSIONER, LAHORE ⁷¹	The Deputy Commissioner fixed the prices of various kinds of soft drinks under s. 3 of the Act in their respective district. The Appellants, who are contractors for selling aerated water in cinema houses, filed a writ petition against this which was dismissed by the Single Judge in Chambers dated 14 Sep 1982. The Appellants submit that the prices fixed are not fair as the actual calculated service charges amount to Rs. 8.40/crate whereas the Single Judge indicated that the margin of profit is Rs. 8/crate. This has caused the Appellant to suffer losses and are thus appealing against the directed order of the Single Judge. The other plea is that the fixation of fair price should take into consideration the cost and sale price of a commodity leaving some margin of profit to the contractors.	Appeal accepted. 'Fair price' has two prerequisites; (i) there should be a reasonable margin of profit and, (ii) for the determination of this, a hearing must be provided to the persons affected. Even if the statute does not expressly provide for a hearing, the maxim <i>audi alteram partem</i> has to be read into the statute. The order of the Single Judge is set aside and District Magistrate is directed to hear the Appellants before fixing the price.
5.	1985 MLD 576 KARACHI-HIGH-COURT-SINDH	COKE AND OIL PRODUCTS LTD. VS GOVERNMENT OF PAKISTAN ⁷²	Parties: Coke and Oil Products Ltd. (Petitioner), Government of Pakistan through Secretary, Ministry of Industries, Islamabad and 2 others (Respondents). The Petitioner Company is engaged in the manufacturing of cooking oil marketing it under the Brand name 'Bella Cooking Oil' and extracting of cotton seed oil for which purpose the Petitioner set up a solvent Extracting Plant with Cooking Oil Refinery at Nawabshah Sind. On 2 Sep 1973, the Government nationalized the ghee industry and accordingly, began taking measures to acquire cotton seed oil. Vide notification dated 5 Aug 1974, the entire control of the procurement and	Petition dismissed. Petition dismissed on point of laches. However, even on merits, the Petitioner had no case.

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			<p>distribution of cotton seed oil was given to Respondent No. 3.</p> <p>A second notification dated 18 Apr 1980, directed that no producer shall consume or dispose of any quantity of cotton seed oil except the Hydrogenated Vegetable Oil Factory designated for the purpose by the Ghee Corporation of Pakistan and their nominee.</p> <p>The Petitioner challenged both these notifications on the grounds that the Government was not empowered to acquire the cotton seed from persons using it in their own Solvent Extraction Plant. Secondly, it was argued that the Federal Government had not delegated the power to the Joint Controller General, Prices and Supplies to issue notification impugned in this petition.</p>	
6.	1985 CLC 2026 LAHORE-HIGH-COURT-LAHORE	HAFIZ BROTHERS LTD. VS GOVERNMENT OF PAKISTAN ⁷³	<p>Parties: Hafiz Brothers Ltd. (Petitioner), Government of Pakistan and 3 others (Respondents)</p> <p>The Petitioner company manufactures cooking oil and was using the cotton-seed oil for the manufacture of cooking oil in their plant. They were restrained from doing so due to the notification dated 18 Apr 1980⁷⁴ and the Petitioner has filed a constitutional petition for the issuance of a direction to permit the petitioner company to use their cotton-seed oil for the preparation of the cooking oil and not to force it to sell their cotton-seed oil to a third party.</p> <p>The Petitioner contended that the Incharge Minister had granted exemption to the Petitioner company from supplying oil to the GCP by the order dated 20 Jun 1983.</p>	<p>Petition dismissed.</p> <ol style="list-style-type: none"> 1. The Minister had not passed a final order 2. It was for the department to grant/refuse exemption 3. There is no law which gives the Minister the authority to pass an order in contravention of the notification issued by the department under ss. 3 & 6 of the Act. 4. The petitioner does not suffer irreparable loss

⁷³ **NOTE:** Though this case does not relate to the sugar industry, the legal principles applied here set a precedent for the court of law and are applicable to sugar as it is also an 'essential commodity' under the Schedule of this Act.

⁷⁴ Notification No. S.R.O 355(1)/80, dated 18-3-1980; producers of cotton seed oil were restrained not only from from selling their oil except to the Ghee Corporation of Pakistan and their nominee, but were also restrained from consuming the cotton seed oil themselves.

7.	1994 PLD 101 QUETTA-HIGH-COURT-BALUCHISTAN	MUHAMMAD SHAFI VS PRICE CONTROL BOARD. ⁷⁵	<p>Parties: Sheikh Muhammad Shafi and 24 others (Petitioners), Price Control Board through Chairman and another (Respondents).</p> <p>Petitioners deal in the business of selling chicken, broilers, eggs and fish etc. It is their grievance that while fixing prices of poultry etc. local administration and District Price Committee has ignored original purchase value including expenses incurred by them for receiving said commodities for sale in Quetta Town. They mainly argued that since poultry etc. was prone to fluctuations in rate due to public demand, Pakistan Poultry Association alone was competent to fix rates or make changes for increase, due to fluctuation of rate in the market. Secondly, that under the provisions of the Act, District Magistrate was not empowered to fix prices for poultry items.</p>	<p>Petition dismissed. Merely arguing that prices cannot be fixed because a particular commodity faces fluctuation of rates is not acceptable as this can lead to arbitrary price hikes leading to unjust and adverse effects for the general public. Secondly, not only are fish, mutton, beef, eggs poultry feed etc. included in the Schedule to the Act but representatives of the Petitioners were also heard before the current fixation so any grievances should have been resolved then. Also, the District Magistrate apart from authority prescribed under Balochistan Safety Regulation, 1947 enjoys inherent powers to check unreasonable or arbitrary increase of rates as an agent of the State.</p>
8.	1980 PCRLJ	ALLAUDDIN VS THE STATE	<p>Applicants were apprehended on 28 May 1979 for carrying 130 bags of sugar in a truck or van when movement of sugar in the province of Sind was banned except on permit by the Provincial Government. It was contended that the sugar being transported was a part of the grower's quota on which there is no restriction of movement. The Applicants are thus seeking quashment of proceedings pending against them under ss. 7 & 10 of the 1977 Act and s. 6 West Pakistan Foodstuffs (Control) Act.</p>	<p>Proceedings quashed. The sugar bags were part of the grower's quota so there was no restriction on their movement and the sugar bags were also found to have been duly covered by permits.</p>
9.	2007 YLR 268 LAHORE-HIGH-COURT-LAHORE	MUHAMMAD GULZAR VS DEPUTY DISTRICT OFFICER (REVENUE)/SPECI	<p>Petitioners were retail fruit sellers and authorities imposed a fine on them under s. 7 of the Act.</p>	<p>Petition allowed. Upon a plain reading of the said item as also reading of the entire schedule, it cannot at</p>

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		AL MAGISTRATE 1ST CLASS, MULTAN ⁷⁶	Petitioners asserted that fruit is not an 'essential commodity' in the Schedule to the Act. Respondents contended that item (vii) (fruit juices) covers fruits as well.	all be said that fruit has been declared as an essential commodity within the meaning of said law. Therefore, Respondents have no lawful authority to impose and recover the penalty.
10.	1982 PCRLJ 228 KARACHI-HIGH-COURT-SINDH	FRUIT HAWKERS WELFARE ASSOCIATION, KARACHI VS THE GOVERNMENT OF SIND ⁷⁷	The Petitioner is an association of fruit merchants registered under the Societies Act. The Petitioners assert that fruits are not included in the Schedule to the Act and therefore, the price of fruits cannot be fixed. Secondly, in any case no notification for the fixation of price was gazetted per s. 6. On the other hand, the Respondents contend that the Schedule was amended under s. 12 to include fruits through a notification issued in the official Gazette. Also, the prices were, in fact, fixed in accordance with s. 6.	Petition allowed. Respondents failed to produce any Gazette notification to show that the Schedule was amended under s. 12 or that prices were fixed in terms of s. 6. Therefore, relying on the Petitioner's averment on oath, it is held that there is no such Gazette notification or amendment.
11.	2000 YLR 1772 KARACHI-HIGH-COURT-SINDH	ZULFIQAR AHMAD VS THE STATE		Overcharging is only an offence under the Price Control and Prevention of Profiteering and Hoarding Act 1977 for items listed under it and not the Pakistan Penal Code.
12.	2014 S C M R 329	<i>REGARDING ENORMOUS INCREASE IN THE PRICE OF FLOUR: In the matter of Constitutional Petition No. 52 of 2013</i> ⁷⁸	These proceedings were initiated upon a letter dated 19 Oct 2013 addressed to the Chief Justice of Pakistan by Mr. Liaquat Baloch, Secretary General, Jamat-e-Islami. Subsequently notices were issued to Ministry of Industries and Production and Ministry of National Food Security, Government of Pakistan. Response by the Ministry of Industries and Production; the flour mills are a part of the private sector and wheat is supplied to these mills by the provincial	Petition allowed. It was held that; ☐ The Government had made windfall profits at the cost of the poor as a result of frequent price hikes ☐ Government has failed to

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⁷⁷ **NOTE:** Though this case does not relate to the sugar industry, the legal principles applied here set a precedent for the court of law and are applicable to sugar as it is also an 'essential commodity' under the Schedule of this Act.

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			<p>government so the recent price hike cannot be attributed to this Ministry. Response by the Ministry of National Food Security and Research Division; the Ministry had already announced a support price of Rs 1,200 per 40kg (Rs.30/kg), decision dated 26 Nov 2012.</p> <p>The Advocate-General asserted that the Government had already introduced an incentive price but due to inflation, the rates of flour continued to increase day by day. Furthermore, price controls (under the 1977 Act read with Foodstuffs Control Act 1958) were the responsibility of provincial governments.</p> <p>Counsel for the Petitioner pointed out that, in fact, in the past year, the price of flour had increased by 50% to Rs.48/kg.</p>	<p>adopt a mechanism for Art. 38 of the Constitution wherein, it is the responsibility of the State to ensure the social and economic wellbeing of the people by preventing the concentration of wealth and providing the basic necessities of life</p> <p>☐ Ensuring supply and appropriate price controls for the purposes of s. 3 of the Foodstuffs Control Act 1958 and the 1977 Act is the responsibility of both Federal and Provincial governments</p>
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Landmark Judgment by Competition Commission of Pakistan

Another significant legal development regarding the regulation of the sugar industry is the recent historic judgement of the Competition Commission of Pakistan. The Pakistan Competition Commission (“CCP”) had issued show cause notices to the Pakistan Sugar Mills Association (“PSMA”) and its 84 member mills for alleged prima facie cartelization in violation of Section 4 of the Competition Act, 2010.

The show cause notices were issued after the CCP decided to file a complaint under Section 30 of the Act based on the findings of an investigation into anti-competitive practices in the sugar industry. The Pakistan Sugar Mills Association (PSMA) has been identified as a front-runner for cartelization in the sugar industry, according to the CCP's investigation. Evidence acquired during searches and inspections of PSMA and JDW Sugar Mills' facilities appears to indicate that these anti-competitive practices have continued since 2010. Exchanges of emails between a senior official of one of the Sugar Mills (a PSMA member) and PSMA Punjab zone office bearers regarding sensitive commercial information such as mill- and district-level sugar stock positions, as well as

the quantity of cane crushed, sugar produced, recovery percentage, carry forward old/raw sugar, total sugar, quantity sold, balance, and sold percentage, were among the impounded data.

Furthermore, member sugar mills used the PSMA's platform to make commercially sensitive decisions like reducing domestic sugar stocks/supplies, which resulted in an increase in or maintenance of desirable price levels in the relevant market.

PSMA and its members were given the option to present their case in court with regard to the ostensibly specific infractions listed therein. PSMA and all 84 sugar mills allegedly breached the Act by collectively deciding to export sugar and, as a result, determining the amount of sugar to be supplied in Pakistan. Similarly, they were in violation of the Act by lowering sugar supplies through exports, so collectively raising and maintaining sugar prices in Pakistan.

Furthermore, during the 2019-20 crushing season, 15 sugar mills in Punjab chose to collectively delay sugarcane crushing under the auspices of PSMA, resulting in a reduction in the quantity supplied in the market. Moreover, in Punjab, 45 sugar mills used PSMA's platform to share confidential business information.

Finally, in several tenders issued by USC, PSMA and sugar mills divided sugar quantities. The CCP found 19 mills in Punjab in violation of the Act in relation to a tender dated 2019, while 30 mills from across Pakistan were ordered to show cause in relation to an earlier offer.

PSMA and its members were engaged in price fixing and collusion in the acquisition of sugarcane, production of sugar, and sale or trade of sugar, according to the findings of CCP's earlier sugar investigation report in 2009. In this case, it appears that PSMA and its member mills attempted to keep prices consistent by restricting the supply of sugar accessible on the domestic market, among other things.

The matter was heard by a full bench of the CCP, which includes Chairperson Ms. Rahat Kaunain Hassan and Members Ms. Shaista Bano, Ms. Bushra Naz Malik, and Mr. Mujtaba Lodhi. Based on calculations of 55 mills' 2019 turnover data, including consolidated turnover figures for same group mills, accessible with the commission, the penalty levied by the Commission, which is the highest to date, is about Rs44 billion or \$265 million.

NAB INQUIRIES

See next page.
Table 2

#	Case Title	Name of Accused	Name of Complainant	Gist of Allegation	Date of Complaint Received	Date of Auth			DOC	Date of Filing of Ref	Amount involved	Current Status
						CV	Inquiry	Investigation				
1.	Inquiry against Ghazi Akhter Khan and others of M/s Tandlianwala Sugar Mills Pvt Ltd	Ghazi Akhtar Khan Haroon Akhtar Khan Sabah Haroon Akhtar	FMU – SBP	Suspicious Transactions	30-04-2011	Inquiry directly authorized	15-06-2015	N/A	N/A	N/A	700 million	Inquiry closed on dated 4-10-2017
2.	Inquiry against Officers/ Officials of PEPCO/ PESCO, Owners of Al-Moiez Sugar Mill, D.I. Khan and Others	Officers/ Officials of PEPCO/ PESCO, Owners of Al-Moiez Sugar Mill, D.I. Khan and Others	Source Information	Misuse of Authority/ Corruption in Illegal Sale and Purchase of Electricity	09-01-2013	17-01-2013	2-09-2014 (Re-authorized on 12-10-2015)	26-07-2017	N/A	28-06-2018	270 million	Investigation completed and reference signed in EBM dated 16-05-2018
3.	ACR No. 53/2017 State V/s Riaz Qadeer Butt, etc Directors / Owners of M/s Haq Bahu Sugar Mills Pvt Ltd and others	Directors / Owners of M/s Haq Bahu Sugar Mills Pvt Ltd	Ministry of Commerce of Govt of Pakistan	Non delivery of Sugar to Trading Corporation Pakistan. Loss to the Govt Exchequer	25-11-2014	2-12-2014	28-07-2015	18-08-2016	N/A	28-08-2017	Rs. 1.4 billion	Acquitted

REPORT BY THE INQUIRY COMMITTEE CONSTITUTED BY THE PRIME MINISTER OF PAKISTAN REGARDING INCREASE IN SUGAR PRICES 2020

On 20 February 2020, the Inquiry Committee was constituted by the Prime Minister to probe into the ongoing sugar crisis in Pakistan. The objective of this was to identify the role of various stakeholders, including Government institutions (such as the Ministry of National Food Security, Ministry of Industries & Production, Federal Board of Revenue etc) and the private sector in the increase of sugar prices, particularly, during the period of Dec 2018 to June 2019 wherein retail prices increased from Rs 55/kg to Rs 74/kg. It was also intended to identify any mala fide on part of any stakeholders and to make recommendations on any preventative or remedial measures which can be taken. This is a comprehensive report including inputs from all key stake holders including various Government agencies, Pakistan Sugar Mills Association (PSMA) and representative bodies for farmers from all over the country.

The report identifies five key factors which form the basis for the determination of the retail price of sugar: ex-mill price, commission of agent, transportation costs, profit margins of wholesaler/broker and the profit margins of retailers. It also debunks the pervading misconception that the massive hike in prices was due to low production of sugarcane when, in reality, despite decrease in cultivation area, production had been up 1% from the preceding year. This misplaced perception then had the carry-on effect of causing farmers to demand upto 15% higher than the Minimum Support Price as set by the Sugarcane Control Board (in consultation with all stakeholders) under the Sugar Factories Control Act 1950.

It was also shown that there are some concerning gaps in the overseeing of the sector by Federal and Provincial Governments at various stages of the production and selling of sugar. For example, Governments are completely unaware as to how ex-mill prices (which are a foremost determinant in price of sugar) are calculated and formulas provided by the CCP and the PSMA are notably non concurrent with one another. It appears that the Governments are totally dependent on the mills for crucial information such as, the pricing of sugarcane, amount of cane crushed, recovery ratio, sugar produced, sugar sold etc. There is the menace of Satta, which despite being illegal, has been neglected the strict legal action needed to rectify the situation. Furthermore, despite the availability of relevant laws (Registration of Godowns Acts in Punjab and Sindh) no data on the stocking of sugar is being maintained raising concerns of hoarding at the mills.

There were also obvious signs of mala fide on part of the sugar mills. According to the report 51% of the industry is controlled by 6 groups, most of which possess a political background meaning they also possess strong influence on policy and administration. Furthermore, in 2009, the CCP took *suo moto* notice of the possibility of collusive behaviour of the mills and despite finding substantial evidence of cartelisation, no serious action was taken on this. The report notes notwithstanding that the CCP is the main regulator for the industry, it has remained a silent spectator since its inquiry in 2009.

Table 2: Percentage Share of Big Groups in National Production in 2018-2019

#	Name of Group	No. of Mills	Production (tons)	Recovery Ratio %age	%age of Total National Production
1	JDW Group ⁷⁹	6	1,040,382	11.15%	19.97%
2	RYK Group	5	637,691	10.67%	12.24%
3	Al Moiz Group	5	354,231	10.26%	6.80%
4	Tandlianwala Group ⁸⁰	3	255,375	9.43%	4.90%
5	Omni Group	10	86,394	10.50%	1.66%
6	Sharif Family Mills ⁸¹	9	236,717	9.64%	4.54%
7	All Other	51	2,599,960	10.39%	49.90%
	Grand Total	89	5,210,750	10.47%	100%

Source: Sugar Inquiry Commission, 'Report of the Commission of Inquiry Constituted by Ministry of Interior to Probe into the Increase in Sugar Prices' (2020) p 42.

Also, there are not only real concerns of hoarding in the mills in order to artificially create demand to drive up prices but also, unjustified export of sugar in 2018-2019 which was shown to materially cause market prices to go up. As a result, the report concluded that malpractice in the industry is used to cover up real production and possible off-record sale and hence, there is a dire need for a forensic audit and physical stocktaking of the mills to take place.

⁷⁹ Owned by Jahangir Tareen- Ex General Secretary of Pakistan Tehreek-e-Insaf

⁸⁰ Owned by Humayun Akhtar Khan, Ex-MNA Pakistan Tehreek-e-Insaf

⁸¹ Owned by Sharif Family of Pakistan Muslim League (N), Established by Muhammad Mian Sharif

APPENDIX C

Literature Review

***“The Late Colonial State and Economic Expansion, 1900- 1930s”* by Thomas J. Lindblad:**

This article looks at how Southeast Asia's rubber and tin industries supported US demands, as well as the position in the Netherlands Indies (modern-day Indonesia) more than half a century before WWII, and how sugar became the country's most important export commodity.

“The Indian Sugar Industry” by B.C.Burt:

The focus of this essay is on sugarcane breeding in the Indian Subcontinent. It includes a statistical study as well as the historical background of sugar production in the Indian subcontinent. It elucidates the mechanisation and industrialisation of the sugar business, in addition to the legislation enacted to safeguard it, for example, The Sugarcane Act 1934.

***“The Late Colonial State and Economic Expansion, 1900- 1930s”* by Thomas J. Lindblad:**

This article looks at how Southeast Asia's rubber and tin industries supported US demands, as well as the position in the Netherlands Indies (modern-day Indonesia) more than half a century before WWII, and how sugar became the country's most important export commodity.

***“Exogenous Colonialism: Java Sugar between Nippon and Taikoo before and during the Interwar Depression, c. 1920-1940”* by G. Roger Knight:**

This article covers the course of sugar production and its import and export from the 1800s to the 1930s, in the era when sugar was the most valuable export commodity in the Netherlands Indies. The majority of sugar production took place on the large island of Java, which aided US demands and made up for a shortfall in Caribbean imports caused by the Spanish-American War.

***“Sugarcane Cultivation and Sugar Industry in India: Historical Perspectives”* by A. K. Shrivastava, A. K. Srivastava, S. Solomon, A. Sawnani, S. P. Shukla:**

This paper examines the coefficient variation of decadal sugarcane area, production, yield, and recovery in the Indian subcontinent from 1930 to 1950. It also observes the goals and safeguards established by The Sugar Industry Protection Act 1932.

First Report of S.C. on sugar and coffee:

This report stipulates a thorough examination of how the sugar industry in the Indian Subcontinent was power-driven by humans. It further discusses the irrigation system, the participants in the sugar production chain, and its comparative analysis to free African labour in the West Indies.

***“Ownership Structure and Economic Outcomes: The Case of Sugarcane Mills in India”* by Sendhil Mullainathan & Sandip Sukhtankar:**

This paper highlights the onset of industrialization in North Bihar, as well as the reorganization of agricultural departments that focused on enhancing cane production and recognizing the cane crop's economic potential. It also addresses the establishment of British and Indian private sugar factories.

***“Factors Determining Indian Sugar Production and It's Comparative Advantage”* by Mr Satish Kansal:**

The dominance of Japanese sugar in the Indian market is discussed in this study report. It also explains why the Sugar Industry Protection Act of 1932 was adopted, as well as its key provisions, and evaluates the Act's impact on the Indian market.

***“A Brief Overview of the Sugarcane Act, 1934”* by Ayush Verma:**

The Sugarcane Act of 1934 is explained in its entirety in this research article, including why it was passed by the Central Legislature. It covers the key aspects, such as the "zoning system", "command area," as well as the penalties that are to be imposed in case of breaches and infringements.

“The Adaptation Policy Paradox: The Implementation Deficit of Policies Framed as Climate Change Adaptation” by J Dupuis and P Knoepfel:

This article seeks to address the answer to one of the most recurring questions in the sugar industry, i.e. why do public policies time and again fail to achieve their claimed goals and why is their implementation confined to bureaucratic file rooms.

“Sugar Policy and Reform” by Larson, D. and Borrell, B., n.d:

This paper entails the regulatory policy in the Indian Subcontinent which may be traced back to the Defence of India Act, 1939, intended to prevent speculation and stockpiling during World War II. The paper also covers the ramifications faced in the sugar industry of the Indian subcontinent as a result of the catastrophic Bengal famine of 1942 which claimed the lives of nearly three (03) million people.

“Legal Control over the Sugar Industry”

This article sheds light on the government’s purpose for enacting a plethora of laws, rules and regulations in order to regulate the sugar market and the rationale behind ensuring and accordingly implementing stringent controls by law.

“Analysis of Sugar Industry and Shortfall of Sugar” by Syed Asim Habib:

It highlights those difficulties which are faced by farmers in the processing of sugarcane, such as underweighting. It also covers the challenges that are faced by the farmers and how millers have built a monopoly that exerts an adversarial influence on the same.

“Sugar and Political Power III” by Adeel Malik:

This paper discusses the pro et contra of “zoning systems” and “command areas”.

“Sugar Industry of Pakistan”

This article examines the sugar crisis prevalent in Pakistan as a result of institutional deficiencies, policy failures, massive budget deficits, and an inability to fulfil expanding sugar demand and understanding the notion of economies of scale.

“A STUDY ON IMPACT OF GOVERNMENT REGULATIONS ON SUGAR INDUSTRY IN INDIA” by Goswami, N. and Sharma, K:

This research paper focuses on the reforms which have been brought about in Australia's sugar industry. The paper focuses on the establishment of free zones and how they empower mill areas. It also emphasizes on critical elements which have led to significant reforms, such as the development of a single regulatory authority and the entire or partial deregulation of the sugar industry.

“The Adaptation Policy Paradox: the Implementation Deficit of Policies Framed as Climate Change Adaptation”:

This research paper is an examination of the sugar industry's failure to implement public policy and why the laws remain on paper.

“Daily Jang Reports”:

This report contains the statistical analysis of Pakistan’s annual sugar consumption.

“The Pakistan Sugar Industry: An Economic and Policy Analysis” by Kamil Lodhi:

The establishment of sugar mills after partition laid the framework for commercial development in the 1950s, according to this study article. It also explored the post-de-zoning framework and its implications for the industry's market structure.

“What Does Matter? Liquidity or Profitability: A Case of Sugar Industry in Pakistan” by Muhammad Zulqarnain Safdar, Muhammad Zahid Awan, Zeeshan Ahmed, Muhammad Imran Qureshi, Tafakhar Hasnain:

This research study examines the gradual expansion in the number of sugar mills over the decades, as well as the statistics on yield, sugar production, and the sugar industry's labour force.

“Sugar Industry in Pakistan, Problems, Potentials” by Syed Jamil Ahmed Rizvi, FCMA:

This research article discusses the impact of sugar mill closures, as well as a comparison of Pakistan's production per hectare with that of Sudan and Zambia. It also goes through the causes behind Pakistan's decreased sugar productivity.

“The Political Economy of Industrial Development in Pakistan: A Long-Term Perspective” by Imran Ali and Adeel Malik:

The workings of Development Finance Institutions (DFIs) are discussed in this research study and how they were utilized to shift credit flows to sugar production, exacerbating the problem of sugar overcapacity.

“Analysis of Sugar Industry and Shortfall of Sugar” by Syed Asim Habib:

The latest statistics regarding sugarcane yield, GDP, and the number of sugar mills in Pakistan were presented in this research study.

Coelli, 2005:

The components to boost sugarcane productivity were highlighted by this author.

“Distortions in Producer Incentives of Cash Crops in Pakistan” by Abdul Salam, Pakistan Economic and Social Review 2019:

The devolution of agriculture following the 18th Amendment to the Pakistani Constitution is highlighted in this research paper, and how sugarcane prices are now controlled by the Provincial Administrations. It also goes through the elements that influence the price of sugar in Pakistan.

Pakistan Sugar Mills Association, Economic Survey 1999-2000:

From 1985 to 2000, this survey provided a statistical analysis of the continuous increase in sugarcane output, yield per hectare, number of mills, sugar mill utilization, sugar produce, and recovery.

Friedman, 2011:

The relevance of sugarcane and its utilization in other businesses that create consumable goods is highlighted by this author.

Gupta, 1998:

He argued that food crises are not always natural and are frequently caused by factory owners, as well as how powerful farmers have monopolized government agencies that serve as a conduit between farmers and sugar mills.

M. Ravallion, M. Lokshin (2000) and Haq et al (2008):

They discussed as to how sugar has become a rare commodity due to sugar mill owners' deliberate establishment of a high profit margin, not because of an artificial shortage.

“Changing Sugar Consumption Pattern in Pakistan and Increasing Sugar Industry’s Profitability” by Imran Umer Chhapra, Asim Mashkoor & Nadeem A. Syed, Journal of Management and Social Sciences 2010:

The sugar situation in Pakistan was explored in this research report, and how mill owners and wholesalers raise sugar prices for unjust advantages during Ramadan.

“A History of Dismal Sugar Policies”, Dawn Newspaper, 2006:

This article examined a report produced in 1988 by the National Commission on Agriculture, which stated that the region under cultivation was suffering from water stress, and how this affected sugar production.

“Sugar Policy and Reform” by Donald F. Larson and Brent Borrell:

In Mauritius, the Philippines, and South Africa, the sugar income is shared at a predetermined rate, according to this research paper. It emphasizes that legislating pricing systems that provide the correct incentives requires a high level of complexity.

“Farmers seek abolition of Gur Control Law”, Dawn Newspaper, 2006:

This article provided a timeline of events that led to a decrease in gur consumption and an increase in the country's reliance on sugar and sugar products. It also explored how the government should repeal the Gur Control Order of 1948 and provide farmers with incentives.

“Sugar millers for re-enactment of Gur Act”, Dawn Newspaper, 2006:

The politicisation of Pakistan's sugar and gur industries was discussed in this article.

“Sugar Pricing Technical Matter, Can’t Interfere: LHC”, Amir Riaz for The News, 2021:

This article discussed a recent ruling by Justice Shahid Jameel Khan of the Lahore High Court, who stated that price control and competition laws are not effectively enforced in Pakistan and ordered the provincial administration to ensure that all basic commodities are sold at controlled and fixed prices at retail outlets throughout the province, as required by the Constitution.

“Proposed Sugar Factories Act 1950 amendments jeopardise growers’ interests” PSMA, Jawaad Rizvi, 2020:

The history of the Sugar Factories Control Act of 1950 is outlined in this article.

“Millers denying billions to cane growers producing high sucrose content crop”, Nasir Jamal, Dawn, October 2020:

This article discusses the sucrose recovery in Sindh and South Punjab, as well as how growers are being pushed to invest in sucrose-rich varieties for increased output.

“Sugar Industry: A case of Policy and Institutional Failure”, Business Recorder by Dr. Mahmood Ahmad, May 2020:

This article discusses how Pakistan is the only country where sugarcane pricing is not determined by the amount of sugar recovered.

“Profiting from delay in cane crushing”, by Ashfak Bokhari, Dawn, December 2014:

The Sugar Factories Control Act is thought to permit the provincial government to establish the minimum procurement price unilaterally and arbitrarily, according to this article.

“Growers, millers inch closer to deal on cane rate” by Mohammad Hussain Khan, Dawn, September 2021:

The viewpoints of millers and farmers on the establishment of a minimum sugar price are similar, according to this article.

“Sugar inquiry report: a damning indictment of regulators” by Abdul Moiz Jaferii, Dawn, June 2020:

The sugar lobby has forced governments into violating the Sugar Factories Control Act 1950, according to this report.

“Political Economy of Sugar Industry in Pakistan” by Ali Muhammad Khushk Aslam Memon M. Ibrahim Lashari, 2010:

This study examines the sugar industry's taxation, including the market committee fee and sugarcane/road cess, as well as how these revenues are spent.

“Misuse of sugar-cane cess fund” 2003:

This article focuses on corruption in the sugar sector, as collected revenues rarely make it to the government due to loopholes in the collecting process.

“A knee-jerk reaction of price controls”, by Nasir Jamal, Dawn, 2021:

This article covers how the Price Control and Prevention of Profiteering and Hoarding Act of 1977 is still legally relevant today, and how it has been widely criticized for merely being a band-aid solution to the widespread problem of rising prices due to inflation and shortages.

“14 ACs, magistrates deputed to check commodities’ prices”, International The News, 2021:

According to the Price Control and Prevention of Profiteering and Hoarding Act of 1977, businesses were required to show a price list, and 25 mobile stores were established to give needed commodities to citizens at reduced prices.

“Cost of Sugar Industry Regulations” by Dr Karim Khan, 2021:

According to Dr Karim Khan, the Sugar Supply-Chain Management Order 2021 was adopted to prevent mills and other entities involved in the supply of sugar from hoarding sugar. If the market was deregulated, sugarcane growers would be able to figure out their other possibilities. If sugar prices were competitive, sugar producers would be incentivized to enhance their productive, technical, and allocative efficiencies.

“Punjab Govt Vows to Rein in Sugar Sector”, The Express Tribune, 2021:

The Punjab Sugar Supply Chain Management Order and the Prevention of Speculation in Essential Commodities Ordinance 2021 were created to help people, according to this article.

“Punjab Govt Raid Sugar Mills After Manufacturers Refuse to Take Down Price”, Geo News, 2021:

The Punjab Sugar Supply Chain Management Order 2021 was used by the government to confiscate stocks from sugar mills and sell them in the market at declared pricing, according to this report.

“An exercise in self-defeat” by Ahmad Faraz Khan, Dawn, May 2021:

The Sugar Factories Control (Amendment) Ordinance 2020 was enacted to respond rapidly to the sugar crisis, and it permitted the Punjab government to begin crushing operations in early November.

“Key Indicators of Sugar Industry: A Comparative Study of Punjab” by Randhawa, G. and Gupta, A

This article mainly examines the present status of the sugar mills in Punjab, India and performs a comparative analysis of co-operative and private sugar mills in the region on the basis of key indicators. The paper also proposes various measures for the betterment of the sugar sector in Punjab.

“Review of Committee Reports on Indian Sugar Industry and Partial Decontrol” by P Asha Priyanka, M Chandrasekaran and E Nandakumar

This article reviews various committee reports pertaining to the Indian Sugar Industry from 1947 to 2013 and specifically traces their relevance to the 2013 partial decontrol and liberalisation of the industry.

“Sugar sector: speed up the process of deregulation” by Lavanya BT (Deccan Herald)

This article traces the historical development and deregulation of India sugar industry and pushes for further deregulation of the industry as the author feels that partial decontrol has proven to be insufficient.

“STUDY ON INDIAN SUGAR INDUSTRY & ESTIMATION OF THE PRODUCTION OF SUGARCANE & WHITE SUGAR IN THE COUNTRY USING SPSS THROUGH COBB DOUGLAS MODEL” by Gaurav Kalra

The objective of this paper is to provide future estimates of sugar production in India using the Statistical Package for Social Science (SPSS) which is a widely used statistical package for linear and non-linear regression analysis. Since the behaviour of production is generally non-linear, it can be analysed using the Cobb-Douglas function consisting of two independent variables i.e., labour and capital.

“The Indian Sugar Industry Roadmap 2017” by KPMG

In light of global shifts in sugar trade and the emergence of sugarcane as a renewable energy source, this report was sponsored by the Indian Sugar Exim Corporation (ISEC), Indian Sugar Mills Association (ISMA) and National Federation of Co-operative Sugar Factories (NFCSF) to formulate a roadmap for the industry to research opportunities, assess potential for India and to develop a comprehensive and actionable roadmap to enable the industry to take its place as a food and energy producer for one of the world’s leading economies.

“Initiatives and Implications of Philippine Sugar Liberalisation (FFTC Agricultural Policy Platform, 23 March 2020)” by Annette M Tobias

This article reviews the development of the policies and regulations governing the Filipino Sugar industry and documents the impact of sugar liberalisation. It further provides recommendations for the strengthening of the industry.

“Regulation and Reform of the Queensland Sugar Industry (ASMC 2014)” by JM Craigie

This paper provides a comprehensive roadmap of the Queensland Sugar Industry’s regulatory journey from being over-regulated to complete deregulation of the industry in 2006. It goes in depth into the policy reasons and reports of the numerous committees reports that pushed for the change and the impact these have had.

“Regulation Overload: Review of Government Regulations Impacting the Australian Sugar Industry and their Implications for Industry Revitalisation and Long-Term Sustainability” by ASMC

In this paper, the Australian Sugar Mills Council (ASMC) pitches a Revitalisation plan to promote the long-term financial security, resilient regional communities and environmental sustainability of the industry. In doing so, the regulatory development of the Australian Sugar Industry is outlined, and a case is made for complete deregulation by emphasising the positive impact of the 2006 reforms for the industry and demonstrating how the subsequent re-regulation has done more harm than good.

“Rethinking on growth mechanism of Indian sugar industry” by Sheetal and Rajiv Kumar

This paper attempts to revisit the growth mechanism of Indian sugar industry by deploying quantitative and qualitative metaphors.

“Decision Regulatory Impact Statement: Sugar Industry (Real Choice in Marketing) Bill 2015” by Queensland Productivity Commission

This paper reviewed the proposed provisions Sugar Industry (Real Choice in Marketing) Bill 2015 and upon analysis makes the case that there is no justification for the re-regulation of the Queensland sugar industry.

“Voluntary Compliance and Regulatory Enforcement” by John T Scholz

This article focuses on advocating for enforcement strategies that encourage voluntary compliance which can improve regulatory efficiency by reducing unnecessary enforcement and compliance costs associated with legal confrontation.

“Sugar Crops and Sugar Policy of Pakistan” by Inayatullah Khan and Muhammad Jamil

This is a review article documenting the production, processing and other agronomic and policy related matters affecting sugarcane and sugar production in Pakistan.

“The Pakistan Sugar Industry, its Current Status and Future Needs” by Muhammad Awais Qureshi and Shahid Afghan

Given the importance of the sugarcane crop for Pakistan, this paper documents the progress of Research & Development for cane, the various agronomic and policy -related challenges faced in sugarcane cultivation. The paper then goes on to present recommendations laying down what needs to be done for the crop to reach its full potential.

“Analysis of Sugarcane Production in Punjab, Pakistan: Constraints and Yield Nexus” by Hafiz Ali Raza and Muhammad Amir

In light of the crisis faced by the sugarcane crop in Pakistan, this study endeavours to explore the reasons impeding the potential production of sugarcane in the Rahim Yar Khan district of Punjab, Pakistan.

“Sugarcane Production, Economics and Industry in Pakistan” by Muhammad Aamir Iqbal

This article is a study on sugarcane cultivation in Pakistan. It reviews the economic and agronomic factors affecting cane production and identifies impediments faced by the sector. Finally, the author emphasizes on the need for effective extension programs and raising awareness among farmers about the latest cultivation technology/practices.

“Deregulation in Practice” by David Boies

This article examines how regulation and deregulation affect strategic business decisions and what impact litigating in either of those contexts has on regulatory results.

“Developing Successful Agriculture: An Australian Case Study” by Zhang-Yue Zhou

In finding that the agri-food sector in many countries tends to suffer from excessive and poorly focused intervention and unsustainable practices, the author demonstrates how to achieve accountability and transparency in decision-making, outlines means of avoiding capture by vested interests in the drafting of public policy and illustrates what a sustainable and efficient agri-food sector looks like by way of the Australian example.

“Functional Statements of Sugar Regulatory Administration” by the Sugar Regulatory Administration (Philippines)

Outlines the roles and responsibilities of the various departments and limbs of the Sugar Regulatory Administration.

LIST OF CASES

Abdur Rashid Bhuiya vs A Hashim, Special Magistrate and Another [1963] PLD 551 Dhaka High Court

Army Welfare Sugar Mills vs Government of Sindh [2018] SCMR 727 Supreme Court

Fauji Sugar Mills vs Province of Punjab [1996] CLC 592 Lahore High Court

Bawany Sugar Mills vs The Cane Commissioner of Agriculture, Extension, Hyderabad Sindh and Another [1993] MLD 650

Shakarganj Sugar Mills Ltd Jhang vs Cane Commissioner, Lahore Punjab and Another [1987] CLC 1647

Al Baraka Bank (Pakistan) Ltd vs Province of Punjab [2018] CLD 626 Lahore High Court

Messrs Al Noor Sugar Mills Ltd vs Province of Punjab [2003] MLD 1940 Karachi High Court

Messrs Mirpurkhas Sugar Mills Ltd vs Consolidated Sugar Mills Ltd [1987] MLD 2417 Karachi High Court

Fecto Sugar Mills, Darya Khan vs Commissioner, Dera Ghazi Khan [1986] MLD 649 Lahore High Court

Baba Farid Sugar Mills Ltd, Okara vs Commissioner, Lahore Division [1984] CLC 1943 Lahore High Court

Consolidated Sugar Mills Ltd, Karachi vs United Sugar Mills Ltd, Karachi [1980] CLC 804 Karachi High Court

Mirpurkhas Sugar Mills Ltd vs Government of Sindh [1993] SCMR 920 Supreme Court

Haji Bashir Ahmad vs Cane Commissioner, Punjab [2013] PLD 81 Lahore High Court

Adam Sugar Mills Ltd vs Secretary of Food, Government of Punjab [2006] YLR 2271 Lahore High Court

State vs General Manager, Pingrio Sugar Mills [2005] YLR 2127 Karachi High Court

Fecto Sugar Mills Ltd vs Government of Pakistan [2002] CLD 1183

Muhammad Afzal Warraich vs Muhammad Ramzan [2016] PLD 85 Lahore High Court

Shahtaj Sugar Mills Ltd vs Province of Punjab [2021] MLD 77 Lahore High Court

Noor Sugar Mills Ltd vs Market Committee [1989] PLD 449 Supreme Court

Bawany Sugar Mills Ltd vs Market Committee, Badin [1983] PLD 1 Karachi High Court

Shaukat Mehmood vs Government of Punjab [2012] CLD 1405

Mirpurkhas Sugar Mills Ltd vs Consolidated Sugar Mills Ltd [1987] PLD 225

Shahid Muhammad Khan vs The State [1993] Karachi High Court

Mirpurkhas Sugar Mills Ltd vs Province of Sindh [2020] CLC 232 Karachi High Court

Pakistan Beverage Ltd vs Deputy Director (Food) [1984] CLC 2687

Shahtaj Sugar Mills Ltd vs Province of Punjab [1998] SCMR 2492

Factor Sugar Mills Ltd vs Secretary Food [2008] 178 Supreme Court

Fecto Sugar Mills Ltd vs Secretary Food [2006] YLR 1169 Lahore High Court

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LIST OF LEGISLATIONS

Sugar Factories Control (Amendment) Act 2021
Sugar Supply Chain Management Order 2021
Price Control and Prevention of Profiteering and Hoarding Order 2021
Punjab Prevention of Hoarding Act 2020
Punjab Registration of Godowns Act 2014
Sugar Factories Control (Sindh Amendment) Act 2009
Sugar Factories Control (Sindh Amendment) Ordinance 2002
Sugar Factories Control (Amendment) Ordinance 2001
Sugar Factories Control (Sindh Amendment) Ordinance 1995
Sugar Factories Control (Sindh Amendment) Ordinance 1993
Sugar Factories Control (Sindh Amendment) Ordinance 1985
Central Excise Duty on Sugar (Validation) Ordinance 1979
Price Control and Prevention of Profiteering and Hoarding Act 1977
Excise Duty on Production Capacity (Sugar) Rules 1972
West Pakistan Foodstuffs (Control) (Sindh Amendment) Act 1973
Sugar Export Subsidy Fund Ordinance 1970
West Pakistan Wheat, Wheat Atta, Maize, Rice and Sugar Distribution Order 1967
Excise Duty on Production Capacity (Sugar) Rules 1966
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Sugarcane Control Order 1961
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Sugar Distribution Order 1960
Sindh Foodstuff (Control) Act 1958
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Sindh Sugar Factories Control Act 1950
NWFP Sugar Factories Control Act 1950
Punjab Factories Rules 1950
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