SUGARCANE AND SUGAR SECTOR X-RAYED: WHAT OUGHT TO BE DONE

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Abstract—Recently, India has witnessed decisive farmer unrest against the contentious farm legislation. Most farmers belonged to the North Indian States, demanding a legal entitlement to MSP based on the M.S. Swaminathan Commission recommendations and timely remittance of sugarcane dues from the sugar mill owners. This turned out to be a focal issue in the political battlefield owing to the assembly elections of five states, compelling all the significant political parties to pledge and incorporate them in their election manifestos with strict compliance with the sugarcane standing order-mandating payment of sugarcane within 14 days. The author attempted to find the reasons for the suffering of the farmers, the sugar sector and the difficulties faced by the government in implementing the Sugarcane Standing Orders despite legislative enactment on this behalf. A comprehensive study of the Legal, Institutional and Regulatory framework governing the sugar and sugarcane sector is the subject of this research paper.

Keywords: Sugarcane, Sugar Industry, MSP, Swaminathan Commission, APMC

I. INTRODUCTION

"If commodities define countries, Russia is wheat, Saudi Arabia is oil, the U.S.A is corn, and India is sugarcane" – Fortune India.[1]

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In recent records, India has witnessed large-scale farmer agitation in response to the controversial legislation,[2] as there was an apprehension that large business conglomerates would take over the farming sector.[3] It is a proven fact that *Minimum Support Price* (MSP) with actual procurement, expansion of *Agriculture Produce Marketing Committees* (APMC) instead of dismantling[4] would ultimately benefit the farmers.[5] The significant demands[6] and large-scale protests under the banner of *Sanyukta Kisan Morcha* consequently led to the intervention of the Apex Court in the case of *Rakesh Vaishnav* v. *Union of India*[7] *and put the implementation offarm laws in abeyance until the decision on their legality. It further constituted a committee of four members to address farmers' outrage concerning those legislations and make recommendations accordingly. After the colossal resentment and backlash from the farming community, on November 19, 2021, the PM finally announced the withdrawal of the impugned legislation citing that:*

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1 Hindol Sengupta, *Sugar's Bitter after Taste*, FORTUNE INDIA, (Aug. 27, 2018), https://www.fortuneindia.com/macro/how-sugar-influences-politics-in-india/102326 (last visited on March 22, 2023).

2 The three ordinances were proclaimed on June 5, 2020, and finally enacted as legislation by the Parliament on September 20, 2020. The three legislative acts, namely:
i) The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020;
ii) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Service Act, 2020; and
iii) The Essential Commodities (Amendment) Act, 2020. The preamble states that the removal of Restrictions on agricultural produce, barrier-free intra-state and inter-state trade beyond the APMC markets, Freedom from state market fees, cess, or levy outside promotion of contract farming and necessary items such as cereals, pulses, Sugar, edible oils, onions, potatoes, removed from the Essential Commodities Act,1955.
See PRS legislative research, The Farm Laws Repeal Bill, 2021, https://prsindia.org/billtrack/the-farm-laws-repeal-bill-2021 (last visited on Nov.15, 2022)

3 Pritam Singh, *BJP's Farming Policies, Deepening Agro Business Capitalism and Centralisation*," 55 ECONOMIC AND POLITICALWEEKLY, Oct. 10, 2020, https://www.epw.in/journal/2020/41/commentary/bjps-farming-policies.html (last visited on March 22, 2023)

4 Bihar APMC Act was repealed in 2006; it was expected to lead to a surge in agricultural markets; instead, the progress remains stagnant, owing to state withdrawal from building agri-markets infrastructure. Approximately 96% of paddy cultivators and 97% of small farmers receive prices below MSP *see* Manish Kumar, *The Government's Retreat from Agricultural Policy Experiences from Bihar*, 56 ECONOMIC AND POLITICAL WEEKLY Jan. 23, 2021 (last visited on March 22, 2023).

5 In 2011-12 the income of rural household in states like Punjab, Haryana, Kerala, West Bengal, and Tamil Nadu is Rs. 1,04,831 against Rs. 26,408 in states like Bihar *see* Deepankar Basu and Kartik Misra, *An Empirical Investigation of Real Farm Incomes across Indian States between 1987–88 and 2011–12*, 57 ECONOMIC AND POLITICAL WEEKLY, 14, Jul. 11, 2022, https://www.epw.in/journal/2022/26-27/review-rural-affairs/empirical-investigation-real-farm-incomes-across.html (last visited on March 22, 2023).

6 MSP as a legal entitlement based on the M.S. Swaminathan Commission recommendations (C2 or total cost + 50% margin), withdrawal of the controversial Electricity (Amendment) Bill, 2021, and removal of penal provisions in the Air Quality Management in the National Capital Region and Adjoining Areas Act, 2021 *see* Editorial, *Lessons in Democracy*, 56, ECONOMIC AND POLITICAL WEEKLY, 7, Dec. 4, 2021, https://www.epw.in/journal/2021/48/editorials/lessons-democracy.html (last visited on March 22, 2023).

7 *Rakesh Vaishnav* v. *Union of India*, (2021) 1 SCC 590.

> *"We helped farmers with seeds, irrigation, and soil health cards, leading to higher agricultural production. However, we failed to make them understand the benefits of the new laws, so we have decided to roll them back".*[8]

All controversies rested, but the issues of the farmer remained as it was. Analyzing the prevailing situation**,** the agricultural contribution to Gross Value Added remains at 18.2% in 2014-15, this further decelerates to 16.5% in 2019-20.[9] However, in 2020-21 it reached 20.2%, owing to the pandemic and in 2021-22, the projected share would reach 18.8% with a growth rate of 3.6%. It further grew by 3.9% during 2020-22.[10] Earlier, the share of agriculture in employment remained around 70% of total rural households, with 82% of small/marginal farmers.[11] It increased from 42.5% in 2018-19[12] to 45.6% in 2019-20, with a 13.5% GDP contribution. The confusion exists, as GDP is not diminishing in ratio to employment.[13] But, despite its poor performance and deflation/stagnation in the GDP, it is still recognized as the leading sector with forward and backward linkages. It has been demonstrated that a trivial development in agriculture will cascade on different industries and overall economy.

Debating Agricultural versus Non-agricultural Income*:* The farm income examination also demonstrates a disappointing trend as the income from the farm sector in 2010–12 is Rs. 78,264 per cultivator while agricultural labourers account for Rs. 32,311 and that of non–agriculture workers was calculated to Rs. 2,46,514, which is 3.15 times more than the income earned by a farmer or his family engaged in agriculture. The average agriculturalist earnings per farm household are approximately Rs. 77,230. At the same time, the per year income of a family of 5 persons at the poverty line living in a village is Rs 48,960.[14] The government has acknowledged the fact that more than 22.50% of

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8 Express web desk, *Farm Laws Repeal Highlights: Samyukt Kisan Morcha to Decide Future Course of Action During Meet on Weekend*, THE INDIAN EXPRESS, (Nov. 20, 2021), https://indianexpress.com/article/india/modi-address-to-nation-live-updates-7630350/ (last visited on March 22, 2023).

9 Economic Survey 2019-20, *Agriculture and Food Management*, 193, MINISTRY OF FINANCE, https://www.indiabudget.gov.in/budget2020-21/economicsurvey/doc/vol2chapter/echap07_vol2.pdf (last visited on March 22, 2023).

10 Economic Survey 2021-22, *Agriculture & Food Management*, 234-236, MINISTRY OF FINANCE, https://www.indiabudget.gov.in/economicsurvey/ebook_es2022/index.html (last visited on March 22, 2023).

11 Economic Survey 2019-20, *supra* note 9, at 193.

12 Yogima Seth Sharma, *Share of Agriculture Sector in Employment sees Steady Increase: CMIE*, THE INDIAN EXPRESS, (Aug. 12, 2021), https://economictimes.indiatimes.com/news/economy/indicators/share-of-agriculture-sector-in-employment-sees-steady-increase-cmie/articleshow/85266073.cms?from=mdr (last visited on March 22, 2023).

13 Neelam Patel etal., A New Paradigm for Indian Agriculture from Agroindustry to Agroecology Chapter is India Headed for a World without Agriculture, VII NITI AAYOG (2022), https://www.niti.gov.in/sites/default/files/2022-04/Working_Paper_on_Agriculture_With_Cropmarks_060402022.pdf (last visited on March 22, 2023).

14 Ramesh Chand et al., *Estimates and Analysis of Farm Income in India, 1983–84 to 2011–12*, 50 ECONOMIC AND POLITICAL WEEKLY, 142-144, (May 30, 2015), https://www.epw.in/

farmers are living below the poverty line; moreover, SAS report 2021 shows that average farmland dropped from 0.725 hectares (2003) to 0.592 hectares (2013) and further to 0.512 hectares (2019)[15] forcing them to earn more income to keep themselves above the poverty line. The National Sample Survey Office, 2014, 70th round report, estimated that across India, the average income of agricultural households was Rs 6,426/month,[16] of which cultivation comprises 48%, livestock is 12%, wages, and non-farm business at 32% and 8%, respectively,[17] and 77th round of the survey, the income was Rs 10218/- in which 37% came from cultivation; there are 93.094 million people in agricultural households, out of which 70.4 % population holds less than one hectare of land.[18]

In furtherance of cited tribulations, stalled sugarcane payments are the most worrisome; this sector nourishes the livelihood of more than 5 crore agriculturalists and employs about 7.5% of the rural population, sharing about 10% of the agricultural GDP.[19] It is the backbone, making it the second-largest agro-based industry after cotton.[20] This issue has many dimensions; firstly, economic elements, as the regions of Punjab, Uttar Pradesh (U.P), Haryana,and the adjoining areas of Delhi comprise most cane growers and 55% of the total cane area of the country,[21] and even farm demonstrations detected unprecedented agriculturalist participation in these areas. Secondly, political facets, to appease or mileage in assembly elections of five states, practically all major political parties had pledged and incorporated this point in their election manifesto. They called for strict compliance with the Sugarcane (Control) Order, 1966, *hereinafter* referred to as "the 1966 Order", which talks about the payment of the price of Sugarcane within 14 days.

This paper's contribution is to investigate and concentrate on the reasons for the under performance of this sector despite much insistence given by State via regulatory instruments, market interventions, support mechanisms, the establishment of research institutions/universities, and massive budget appropriation

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journal/2015/22/special-articles/estimates-and-analysis-farm-income-india-1983-84-2011-12.html (last visited on March 22, 2023).

15 Economic Survey 2021-22, *supra* note 10, at 249.

16 Report of the Committee on Doubling Farmers Income, "March of Agriculture since Independence and Growth Trends," *Ministry of Agriculture & Farmers' welfare*," II, Aug.2017.

17 Economic Survey 2021-22, s*upra* note 10, at 248.

18 Situation Assessment of Agricultural Households and Land and Livestock Holdings of Households in Rural India: NSS 77th Round, MINISTRY OF STATISTICS AND PROGRAMME IMPLEMENTATION, (Jan.-Dec. 2019), https://ruralindiaonline.org/en/library/resource/situation-assessment-of-agricultural-households-and-land-and-livestock-holdings-of-households-in-rural-india/ (last visited on Nov.28, 2022).

19 Priyanka Upreti & Alka Singh, *An Economic Analysis of Sugarcane Cultivation and its Productivity in Major Sugar Producing States of Uttar Pradesh and Maharashtra*, 62 ECONOMIC AFFAIRS, 4, 711, (2017).

20 Economic Survey 2021-22, *supra* note 10, at 239.

21 NATIONAL FOOD SECURITY MISSION, https://nfsm.gov.in/BriefNote/BN_Sugarcane.pdf (last visited on Jul. 25, 2022).

of about Rs 1,51,521/- crore.[22] The research will predominantly twist around the plight of the farmers, the elements accountable for uncertain payments, distressing sugarcane industry, including an appraisal of various schemes, procedural modalities, and identifying impediments existing in legal, institutional, and regulatory frameworks governing the sector with specific recommendations for advancing the same.

II. SUGARCANE AND SUGAR INDUSTRY AT A GLANCE

In supplement, the Indian sugar and sugarcane sector's comprehensive valuation is Rs. 80,000 crores, there are 732 installed sugar factories functioning in private and c-operative sectors, including two standalone refineries (refined Sugar from imported raw Sugar) with a crushing capability to deliver around 339 Lakh Metric Tonnes (LMT) of Sugar,[23] nourishing employment to more than 5 lakh people.[24] The Ministry of Agriculture assessed the total sugarcane production (LT) in 2019-20 and 2020-21 is 3705.00, 4053.99 respectively, and the target for 2021-22 is 3970.00, and as per the second revised estimation that the production is probable to touch 4140.44.[25] In the case of U.P. which is a leading producer contributes 38% of sugar production, 48% of the sugarcane-grown Area, and nearly half of the Sugarcane produced across the country, with an annual turnover of Rs. 40,000/- crore and revenue generation of Rs 10,400/- crore, directly or indirectly affecting 53.37 lakh farmer families and 2.67 crore family members. Sugarcane alone contributes 17.05% to the state agriculture GDP, and jointly, they constitute 22.33% of the manufacturing sector, which is 32.11%.[26] In 2019-20, the total sugarcane cultivable area was 26.79 lakh hectares, with 117 sugar mills.[27] The additional statistics stated below are the state-wise normal Area, production, and yield of sugarcane State/UT (average of 2016-17 to 2020-21)[28] demonstrates that half of the Sugarcane cultivates in U.P.

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[22] *Budget at a Glance 2022-2023*, https://www.indiabudget.gov.in/doc/Budget_at_Glance/budget_at_a_glance.pdf (last visited on Nov. 2, 2022).

[23] *Sugar and Sugar Cane Policy*, https://dfpd.gov.in/sugar-sugarcane-policy.htm (last visited on Nov. 12, 2022).

[24] Hindol, s*upra* note 1.

[25] SECOND ADVANCE ESTIMATES OF PRODUCTION OF OILSEEDS AND COMMERCIAL CROPS FOR 2021-22, http://eands.dacnet.nic.in/Advance_Estimate/Time%20Series%202%20AE%202021-22%20(English).pdf (last visited on Oct.12, 2022).

[26] *Sanjay Bhoosreddy, The Sugarcane Industry Makes a Weighty Contribution to UP's Economy, is the Main Source of Livelihood for 2.67 crore People*, FINANCIAL EXPRESS, (Aug. 27, 2018), https://www.financialexpress.com/opinion/sugarcane-industry-makes-weighty-contribution-to-ups-economy-is-main-source-of-livelihood-for-2-67-crore-people/1293002/ (last visited on March 22, 2023).

[27] Samyak Pandey, *Take Sugar, Forget Payment of Dues — Yogi Govt. Order Angers Sugarcane Farmers*, THE PRINT, (May 1, 2020), https://theprint.in/india/take-sugar-forget-payment-of-dues-yogi-govt-order-angers-sugarcane-farmers/412202/ (last visited on March 22, 2023).

[28] NORMAL ESTIMATES OF AREA, PRODUCTION AND YIELD OF SELECTED PRINCIPAL CROPS APRIL 2022, https://eands.dacnet.nic.in/PDF/Normal%20Estimates%20(2016-17%20to%202020-21).pdf (last visited on Oct. 12, 2022).

	Area (1000 Hect.)	Production (1000 Tonnes)	Yield (Kgs./Hect.)
U.P.	2201.20	170959.13	77666
All India	4737.55	373457.81	78829

In 2018-19, the total area (hectare) under Sugarcane in each district of Uttar Pradesh was 22,42,205, other Sugar was 46,950, and the total sugarcane area was 22,89,155, respectively.[29] The sugarcane and sugar industry is experiencing several interconnected issues resulting in poor performance. Below is a comprehensive analysis of the various factors.

Bumper crop production: The Economic Survey of 2021-22 highlighted that the annual sugarcane production would remain at 35.5 crore tonnes (CT), producing 3 CT of Sugar with domestic consumption of about 2.6 CT.[30] As stated, the target for 2021-22 is 3970.00 LT; it is likely to touch 4140.44 LT.[31] Additionally, the Agricultural Outlook 2021-2030 report forecasted that sugarcane production will grow by 1% per annum for both Brazil and India, as they concurrently contribute 65% of global output of about 35.6 Million Metric tonnes by 2030, the rationale basis is the momentous output recovery, suitable weather, extensive cultivation,[32] there are other factors, as underlined in the Economic Survey, like the doubling of the Fair and Remunerative Price (FRP) in the previous decade and the output recovery which is 60%–70% additional corresponded with any other crop and in case of cotton and wheat it is more than 200%–250% computed by the Commission for Agricultural Costs and Prices (CACP)[33].

The State advised price (SAP) above the FRP, announced by state governments during the previous decade either as a populist action or due to electoral promises. In 2018-19, the sugarcane price in U.P. was Rs. 315/-, Haryana was Rs. 335/- and Punjab Rs. 300/-[34]. Moreover, strict adherence to the standing orders directing the obligatory purchase of Sugarcane within the Cane reservation area, absence of any middleman/dealer/commission agent between the cane grower and factory owner, receiving of at least two-thirds of sugarcane production cost upfront or within time, demands minor labor, inputs, and supervision compared to any other crops,[35] additionally heightens sugarcane production.

[29] Area Under Crops in each District of Uttar Pradesh State for the Year Ending 2018-19, https://aps.dac.gov.in/LUS/Public/Reports.aspx (last visited on Oct. 15, 2022).

[30] Economic Survey 2021-22, s*upra* note 10, at 241.

[31] Second, s*upra* note 25.

[32] OECD-FAO, *Agricultural Outlook 2021-2030*, https://www.agri-outlook.org154 (last visited on Oct. 20, 2022).

[33] Ramesh Chand, Report of the task force on Sugarcane and sugar Industry, March 2020, AAYOG, 25, https://www.niti.gov.in/sites/default/files/2021-08/10_Report_of_the_Task_Force_on_Sugarcan_%20and_Sugar_Industry_0.pdf (last visited on March 10, 2023).

[34] *Ibid.*

[35] Ramesh, *supra* note 33, at 22.

Excessive Regulatory Mechanisms: This sector heavily regulates through a myriad of central and state (agriculture being *State* subject) legislations like the ECA, 1955, the 1966 Order, the Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953 *hereinafter* referred to as " the 1953 U.P. Act". These legislations and regulations cover every aspect, from notifying the cane reservation area by the cane commissioner, promoting sales by initiating a contract between the cane cooperative society and factory, commensurate sugarcane supply through Minimum distance criteria of 15 km, determining sugarcane purchasing price through FRP and Minimum selling price of Sugar, devising sugarcane procurement mechanism, sugar production and release of Sugar by factories in domestic and international markets. The sugarcane and sugar industry became out of sync with the global markets and unable to reap the advantage during and after 1991; liberalization corresponded with other sectors of the economy and became largely dependent on the compassion of the government's domestic support mechanism, interventions, policies, and financial support measures.[36]

Export-Import Mismatch: The low price of Sugar in the international market than domestic, COVID-19, war, depression, and high transportation costs, mainly truck freight, directed towards more irregular export prospects. In 2021-22, as 308.00 LMT sugar production and a price range of Rs. 3292-3356/- quintal or Rs. 40-42/-kg, the closing Stock is 73 LMT, after 70 LMT export (including 28.91 LMT of raw Sugar and 41.09 LT of white Sugar).[37] The situation became murkier with the import of 12.44 LMT of Sugar and the export ban by the government from June 2022, to contain inflation and make it functional for domestic consumption.[38] The per-capita sugar consumption in India is only 20 kg, out of which are 35% for household consumption and the remaining industrial compared to other counterparts, which is 50–65 kg.[39] The Agricultural Outlook 2021-2030 reports that global sugar consumption would remain low, owing to awareness about the adverse health effects of Sugar, unhealthy weight gains, diabetes, heart diseases and tooth decay. In response, countries have imposed taxes on caloric sugary products and limited the sale and promotion of sugary drinks/sweets to children below eighteen and multinational's started reducing their portion sizes and the number of caloric sweeteners or replaced them with artificial sweeteners.[40] Also, the government to stabilize and divert, as it is an essential commodity,[41] a reduction

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36 *Id*. at 27.

37 Ex-Mill & Retail Prices of Sugar, Production, https://dfpd.gov.in/sugar_C.html (last visited on Oct. 28, 2022).

38 ET Online, *India Imposes Restrictions on Sugar Exports From June 1*, THE ECONOMIC TIMES, (May 25, 2022), https://economictimes.indiatimes.com/news/economy/foreign-trade/india-imposes-restrictions-on-sugar-exports-from-june-1/articleshow/91773814.cms?from=mdr.

39 Ramesh, s*upra* note 33, at 19 (last visited on March 10, 2023).

40 OECD-FAO*, supra* note 32, at 157.

41 The Essential Commodities Act, 1955 s. 2(e); (e) "sugar" means— (i) any form of Sugar containing more than ninety percent of sucrose, including sugar candy; (ii) Khandsari sugar or

in the export duty up to 20%, and further discouraging imports and stabilize domestic prices, the customs duty has been raised from 50% to 100% ,[42] as per Rangarajan committee.

International Market: Due to FRP/SAP scenario, the share of Sugarcane in total sugar production is more than 65%, approximated with other companions like Brazil, Thailand, and Australia, which is only 25.11, 27.45, and 24.05 US dollars which mean sugar producers are paying a double price.[43] The production cost of Sugar is Rs. 36/- kg against the global price of Rs. 18.50, which is 60% higher,[44] making ex-mill sugar prices costlier than global retail prices. This would make Indian Sugar highly uncompetitive, causing diminishing returns and failing to compete in the international market without Government export subsidies, causing substantial expenditures to the state exchequer in 2019-20 alone, 59.60 LMT has exported, and a target of 50 LMT in 2021-22.[45] In addition, factors such as storage, labour, transportation, and associated expenses decline profits; make it hard to make cane payments. The reproduced data is adequate to authenticate that this sector profoundly affects the overall GDP; both Sugarcane and Sugar are entwined. The sugarcane farmers suffer from irregular payments; in contrast, the sugar industry is ailing from surplus production and money liquidity, contributing to this entire sector's underperformance.

III. LAW AND SUGARCANE

Agriculture is the *State* subject - Entry 14, including agricultural education and research, protection against pests, and prevention of plant diseases, Preservation and protection of livestock - Entry 15, and Markets and fairs - Entry 28.[46] Earlier, the Government of India Act, 1935, provincial list, Entry 20 specified same subject matter.[47] Including agri-related activities in the state list indicates the framers' intentions to empower state administrations to address diverse agricultural situations and regional aspirations effectively. By resorting, various states enacted their APMC Act; however, the difficulty lies when

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burn sugar or crushed sugar or any sugar in crystalline or powdered form; or (iii) sugar in process in vacuum pan sugar factory or raw Sugar produced therein.

42 GENERAL POLICY, https://dfpd.gov.in/gen_policy.htm (last visited on Oct.22, 2022).

43 Sugar, *Political Pricing of Cane*, ECONOMIC AND POLITICAL WEEKLY, (Oct. 13, 2001), https://www.epw.in/journal/2001/41/editorials/sugar-political-pricing-cane.html (last visited on March 10, 2023).

44 Ramesh, s*upra* note 33 at 27, 28.

45 Annual Report 2021-22, Production, Consumption, Imports, availability and Stocks of Sugar, MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION, https://dfpd.gov.in/E-Book/examples/pdf/AnnualReport.html?PTH=/1sGbO2W68mUlunCgK-mpnLF5WHm/pdf/FOOD_Annual%20Report_2021-2022%20Final_New.pdf#book/188 (last visited on Nov. 28, 2022).

46 The Constitution of India, 1950, sch. VII, List II.

47 The Government of India Act, 1935, Seventh Schedule, https://www.legislation.gov.uk/ukpga/1935/2/pdfs/ukpga_19350002_en.pdf (last visited on Nov. 28, 2022).

Union intrudes upon the State's subjects, as noticed in the enactment of farming legislations by taking resort of Entry 42 List I inter-State trade and commerce and Entry 26 list II - intra-state trade, subject to Entry 33 of Concurrent List.[48]

Moreover, the Apex court in *West U.P. Sugar Mills Assn.* v. *State of U.P.*[49] elucidates the constitutional scheme, and states that in the GOI Act, 1935, the entire subject matter of the Sugarcane Act, 1934 fell within the Provincial legislative list. The U.P. legislature passed the U.P. Sugar Factories Control Act, 1938, which remained in force until 1952 and provided for licensing of sugar factories, supply of sugarcane, the minimum price of sugarcane, establishing a sugar control board and advisory committee, and tax on sugarcane intended for factories. In 1942, Sugar was made a controlled commodity by the defense of India act and brought under the sugar controller. In 1946, with emergency revocation, the dominion legislature ceased power over the provincial list. With the enactment of the India (Government and the Legislature) Act, the Indian legislature can make laws regarding foodstuffs. In 1950, the Union promulgated the Sugar and Gur (Control) Order 1950, which empowered fixing of the minimum price of sugarcane, prohibiting the movement of sugarcane in any area except the license issued; and restrictions on selling or agreeing to sell and purchasing at a price lower than notified, along similar lines, the enactment of the Bihar Sugar Factories Control Act, 1937. In addition, with the enactment of the Industries (Development and Regulation) Act of 1951, many parts of the U.P. Sugar Factories Act of 1938 became inoperative, which was later repealed by the 1953 U.P. Act.

Further, the preamble stated that "the sugar industry regulation would become a central subject and state governments are restricted to the supply of sugarcane to factories, and provides for rational distribution of sugarcane to factories for its developments on organized scientific lines to protect the interest of the cane-growers and the industry." In response, exercising the rule-making powers conferred under Section 28 of the 1953 U.P. Act, the U.P. Sugarcane Rules, 1954, hereinafter referred to as "the 1954 Rules", and via Section 16, U.P. Sugarcane Order, 1954, hereinafter referred to as "the 1954 Order" was enacted. However, the Union domain broadened with the enactment of the ECA, 1955, which provided for the control of production, supply, and distribution of, Trade and commerce in certain commodities to be defined

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[48] Entry 33 List III: Trade and commerce in, and the production, supply, and distribution of— (a) the products of any industry where parliament declares the control of such industry by the Union by law to be expedient in the public interest, and imported goods of the same kind as such products; (b) foodstuffs, including edible oilseeds and oils, (c) cattle fodder, including oilcake and other concentrates (d) raw cotton, whether ginned or unginned and cotton seed and (e) raw jute. *See* Amit Jaiswal, *What Will the Legal Challenge to the Modi Government's Farm Bills Look Like?*, THE WIRE, (Oct. 5, 2020), https://thewire.in/law/farm-bills-legal-challenge-constitution-seventh-schedule-supreme-court (last visited on March 10, 2023).

[49] West U.P. Sugar Mills Assn. v. State of U.P., (2020) 9 SCC 548.

as an essential commodity under Section 2(a)(V) to be any foodstuff, including edible oilseeds and oils; and clause (b) encompasses "food crops," including crops of sugarcane. Also, Section 3(1) empowers the Union to maintain or increase the supplies of any essential commodity or to secure their fair distribution and availability at fair prices to regulate or prohibit the production, supply, and distribution thereof of Trade and commerce. In this exercise, the Union promulgated the Sugar (Control) Order of 1955, hereinafter referred to as "the 1955 Order" empowering itself to fix the price or minimum price to be paid by the producer of Sugar for sugarcane purchased by him in that area and different prices for different areas based on recovery. The Union further notified the 1966 Order, specifying under clauses 3 and 3-A the minimum price of sugarcane payable by the producer of Sugar to the cost of production.[50]

Moreover, the Constitution bench in *Ch. Tika Ramji* v. *State of U.P.*[51] upheld the constitutional validity and negated the existence of any repugnancy between the 1966 Order and the 1953 U.P. Act, the 1954 Rules and the 1954 Order. It accentuated that the acts/notifications were all encompassed within the concurrent list, and no question of legislative competency would arise. The sugar industry was controlled, and none of the enactments were exclusively within the jurisdiction of Entry 52, list I, Entry 27 of List II and Entry 24 of List II, except where they were the products of the controlled industries, they would fall within Entry 33 of List III. The centre and the provincial legislatures had the same jurisdiction.

In *U.P. Coop. Cane Unions Federations* v. *West U.P. Sugar Mills Assn.*[52] the five-judge bench of the apex court determines whether the States have legislative competence to fix the SAP over and above the minimum price specified by the Union. The Court accentuated that State Government could fix the higher price in the exercise of its regulatory power under the 1953 U.P. Act, against the Central government minimum price under Clause 3(1) of the 1966 Order, and such fixation of minimum price does not exhaust the field of determination of the price of sugarcane.

There are multiple explanations for arriving at such a conclusion; first, the Union amended the 1966 Order several times, and the definition of 'price given in Clause 2(g) shows that it can either be the "price" or the "minimum price" fixed by the Union. Even Clause 3(1) empowers the Union to fix only the "minimum price" of sugarcane to be paid by sugar producers for the sugarcane purchased by them. The cumulative reading of the 1966 Order reveals that the Union shall fix the minimum price of sugarcane. However, there can be a higher price than the minimum, which may be an agreed price between the sugar producer and the sugarcane growers cooperative society. Second,

[50] *Ibid.*

[51] *Tika Ramji* v. *State of U.P.,* 1956 SCC OnLine SC 9 : AIR 1956 SC 676.

[52] U.P. Coop. Cane Unions Federations v. West U.P. Sugar Mills Assn., (2004) 5 SCC 430.

sugarcane is the primary raw material for making Sugar and juice, eventually becoming a marketable commodity. Unlike coal, ore, or minerals, sugarcane is unavailable under the earth's surface, which may be extracted and stored, and used as and when required. The sugar factories do not have an infinite capacity to crush sugarcane; therefore, requiring fresh sugarcane in a limited quantity every day during the entire crushing season. In order to ensure a commensurate supply of sugarcane throughout the crushing season, the harvesting must commenced in a limited quantity every day; given this requirement, the grower's position becomes entirely different from those of wheat or paddy, which is harvested in one go and sold at the opportune time.

To execute the above-stated and ensure remunerative price, the state governments legislated the 1953 U.P. Act, the 1954 Rules, and the 1954 Order. These legislations enclosed every aspect between the sugarcane producer and factory owner. While deciding whether sugar factories are obligated to pay SAP, the apex court observed that: "*State Government, exercising its regulatory power, can fix the price of the sugarcane. Even a compulsory sale does not lose the character of a sale because the legislative intent is to regulate the purchase of cane by factory owners as cane growers scattered in villages with no bargaining power. In contrast, factory owners enjoyed a near monopoly on buying and could dictate their terms. In this inequitable contest, the law stepped and compelled the factory to enter purchase contracts of cane offered by the cane growers on prescribed terms and conditions*." Further, the regulatory power possessed by the State Government is exhaustive and covers every aspect. If the state government is devoid of price fixation, the provision becomes completely one-sided, operating entirely for the benefit of sugar factories, giving them advantages with no corresponding obligations and leaving the cane grower in a lurch with a host of restrictions upon him.

The above-stated *West U.P. Sugar Mills Assn.* v. *State of U.P.*,[53] which reached up to a five-Judge Constitution Bench due to conflicting judgments in *Tika Ramji* v. *State of U.P.*[54] and *U.P. Coop. Cane Unions Federations* v. *West U.P. Sugar Mills Assn.*[55] The query put forth for consideration was whether the 1953 U.P. Act confers any power upon the State Government to fix the sugarcane purchase price besides Section 3(2)(c) of the ECA, 1955 and Clause 3 of the 1966 Order. The Court, therefore, concluded that by Entry 33 and 34 List III, the Central and State governments have the legislative competency for price fixation and acting in their respective fields. The Union can fix the "minimum price," exercising the 1966 Order; however, it is invariably available for the State to fix the "advised price," which is always higher than the "minimum price," by exercising Section 16 of the 1953 U.P. Act. Therefore, there is no conflict. It is where the "advised price" is lower than the "minimum price"

53 *Supra* note 49.
54 *Supra* note 51.
55 *Supra* note 52.

the Union enactments will prevail. So long as the "advised price" is higher than the "minimum price," the question of voidness under Article 254 cannot emerge.

In yet another judgment of the Allahabad High Court in *V.M. Singh* v. *Sanjay Bhooserddy, Cane Commissioner*[56], in which contempt proceedings started against the State of U.P. for its failure to execute the 2017 directives issued in *Rashtriya Kisan Mazdoor Sangathan* v. *State of U.P.*[57] *The issue before was the interest payment of sugarcane, at a 15% rate since 2014, in which mill owners approached the state government and requested to waive off the interest part of the payment as the industry was going through a rough phase. While accepting their plea in October 2016, the state government finally waived the interest. In compliance, the commissioner itself had made the distinction of 12% profit-making mill owners and 7% for non-profit making and forwarded the same for the approval of the state government.* Abdul Moin, J., while delivering the judgment, elaborately discussed Section 17(3)[58] of the 1953 Act, stating that where interest has been awarded at the specified rate of 12% per annum, there is no requirement for consent from the state government. The Court observed that "even if the interest rate has been awarded at a lesser rate and over two and half years have elapsed; therefore, simply because the government has chosen not to pass an order, it can't be expected that for years, the applicants are to wait for the approval and, therefore, prima facie a case of contempt is made out against the State Government."[59] The Court emphatically remarked that the Cane Commissioner has willingly sat over the matter despite having passed an order for payment of interest at the specified rate under the pretext of taking the state government's approval and directing the cane commissioner to comply with it. In compliance, the government has asked sugar mills to pay 12% simple interest to them for 2012-13, 2013-14, and 2014-

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56 V.M. Singh v. Sanjay Bhooserddy, Cane Commissioner Contempt Application (Civil) No. 2815 of 2018 (All HC, Dec. 9, 2021)

57 Rashtriya Kisan Mazdoor Sangathan v. State of U.P., 2017 SCC OnLine All 4597.

58 Uttar Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1953, s. 17: Payment of cane price. (1) The occupier of a factory shall make such provision for speedy payment of the price of the cane purchased by him as may be prescribed. (2) Upon the cane's delivery, the factory's occupier shall be liable to immediately pay the price of the cane so supplied, together with all other sums connected. (3) Where the person liable under sub-section (2) is in default in making the payment of the price for a period exceeding fifteen days from the date of delivering, he shall also pay interest at a rate of 7-1/2 percent per annum from the said date of delivering. Nevertheless, the Cane Commissioner may, in any case, direct, with the approval of the State Government, that no interest shall be paid or be paid at such a reduced rate as he may fix: [Provided that concerning default in payment of the price of cane purchased after the commencement of this proviso, for the figure "7-1/2' the 'figure 12'shall be deemed substituted.]

59 Deepa Jainani, *Ten Sugar Mills in UP to Pay 12% Simple Interest on Delayed Payment to Farmers*, The FINANCIAL EXPRESS, (Dec. 25, 2021), https://www.financialexpress.com/economy/ten-sugar-mills-in-up-to-pay-12-simple-interest-on-delayed-payment-to-farmers/2389392/#:~:text=Complying%20with%20an%20Allahabad%20High,14%2C%20and%202014%2D15 (last visited on March 11, 2023).

15.Moreover, in 2009, with an amendment in the 1966 Order the concept of Statutory Minimum Price (SMP) was substituted by FRP.[60] The CACP presents the price policy reports to the Union after consultation with the State governments and feedback from sugar industry associations. Now, the farmers are not required to wait till the end of the season or for any announcement of the profits by sugar mills or the government. The new system also assures margins on account of profit and risk to farmers, regardless of whether sugar mills generate profit and are not dependent on performing any individual sugar mill. To ensure that higher sugar recoveries are adequately rewarded and considering variations amongst sugar mills, it linked the FRP to an introductory recovery rate of Sugar, with a premium payable to farmers for higher recoveries of Sugar from sugarcane. The FRP of Sugarcane for the two seasons, 2018-19 and 2019-20 are Rs.275/- and for the years 2020-21 and 2021-22 is Rs. 285/- and 290/- respectively, with basic recovery level of 10%.[61]

Through stated legislations and judicial pronouncements, the legislative boundaries between the Union and states have been depicted; on additional comparable evaluation, most arrangements favour states and farmers in sequence with the constitutional scheme. Despite this, in a state like Uttar Pradesh, approximately 80% of the payments are pending with the cooperative sector, excluding private mills;[62] together with the stated factors, it is indisputable that practicing agriculture yields no success.

IV. GOVERNMENT POLICIES & COMMITTEES RECOMMENDATIONS

Identifying the existing impediments the Union in 2013-14, based on the suggestions of the Rangarajan committee, discontinued levy obligations established under the Levy Sugar Price Equalisation Fund Act, 1976. Also, made optional for states to acquire straight from the market or to deliver under the targeted public distribution system; the government reimburses them as it exacerbates cross-subsidization. Sugar's open market sale allows it to improve financial health, increase cash flows, and scale down inventory costs terminating the regulated release mechanisms. The Industries (Development & Regulation) Act, 1951, brought de-natured ethanol within the centre's domain

[60] The Sugarcane (Control) Order, 1966, s. 3. The criteria for fixation of FRP would include (a) the cost of production of sugarcane, (b) Return to the growers from alternative crops and the general trend of prices of agricultural commodities (c) availability of Sugar to consumers at fair price producers sell price at which Sugar is produced (d) Sugar cane recovery (e) The realization came from the sale of by-products Molasses, bagasse, and press mud or their imputed value (inserted vide notification dated 29.12.2008) and lastly, the reasonable margins for growers of sugarcane on account of risk and profits.

[61] *Sugar and SugarCane Policy*, https://dfpd.gov.in/sugar-sugarcane-policy.html (last visited on Nov. 21, 2022).

[62] *Cane Price Payment* As On 13-07-22, http://www.upsugarfed.org/UploadedFiles/13db9ef842-3696-44da-844a-bbd63926de7f.jpg (last visited on Dec. 12, 2022).

for barrier-free interstate movement. Further altercations occurred because the authority over alcoholic liquor for human consumption remained with the respective states. The Committee also suggested abandoning Minimum distance criteria and the Cane reservation area by the cane commissioner, as it is pernicious to farmers and mill owners, functions as a blockade for barrier-free transaction, and pushes for monopolistic tendency. Market-based long-term contractual adjustments between the growers and mill owners are the premise for procurement for a long-term occupation. Sugarcane Price and revenue-sharing by-products like molasses and bagasse should have been 70% of the value of sugar and by-products, like bagasse, molasses, and press mud, or 75% of the ex-mill sugar price alone. Regarding by-products, the Committee is of the view that barrier-free marketing of molasses and ethanol in the open market, along with a stable trade policy without quantitative restrictions; in response, 5% export duty and enhanced custom duty from 25% to 40%.

The suggestions are optional, as agriculture is a state subject, and only a few states like Karnataka, Tamil Nadu and Maharashtra embodied it through legislation.[63] In appendix, the joint task force of Niti Aayog and CACP further advocated the ratification of revenue sharing formula and premium paid for higher recovery between the farmers and mills owners, promotion of crop diversification towards acceptance of less water-demanding crops, enhancement of ethanol blending to reduce the burden on sugar, periodical reexamination of Minimum Selling Price of Sugar, redesigning of export incentives to prepare them WTO compliant, discontinuation of buffer stocks.[64]

An array of strategies has been delivered to growers and recompensed the minimum cost of sugar production to industries through launching of Sugar pricing policy via Sugar Price (Control) Order, 2018,[65] which introduced the Minimum Selling Price of Sugar based on Fair and Remunerative Prices and establishing of sugar price at the factory gate for consumption at Rs. 29/kg for white/refined sugar, which raised to Rs. 31/kg.[66] The enduring answer to handling the surplus sugar, the state has diverted the sugar and sugarcane to ethanol, which is a watershed moment as it reinforces the money liquidity in the sector for clearing pending payments and restricting the distressed sale, augmenting product diversification. In expansion, policy initiatives like the distribution of Sugar through PDS to Antyodaya Anna Yojana (AAY) Families[67] and

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63 General Policy, *supra* note 42.

64 Ramesh, s*upra* note 33, at 14-16.

65 The Essential Commodities Act, 1955, s. 3(2) Powers to control production, supply, distribution, etc., of essential commodities clause (c) for controlling the price at which any essential commodity may be bought or sold.

66 General Policy, *supra* note 42.

67 Sugar was being distributed through the Targeted Public Distribution System (TPDS) by the States/UTs at subsidized prices for which the Union was reimbursing them @ 18.50 per kg. The scheme was covering all BPL population of the country as per 2001 census and all the population of the North Eastern States /special category/ hilly states and Island territories. The National Food Security Act, 2013 (NFSA) is now being universally implemented

the Ethanol Blended Petrol Programme[68] have prompted sugar mills to divert excess sugarcane and sugar to Ethanol.[69]

The National Policy on Biofuels, 2018 with a target of 20% blend in petrol and 5% blend in biodiesel by the year 2030.[70] However, the target was advanced to 2025 with achieving 10% in 2022.[71] Keeping the industry and farmers' interests intact; the Government has allowed the production of ethanol from C-heavy and B-Heavy Molasses, sugarcane juice, sugar syrup, and sugar. It establishes the remunerative price to Rs. 46.66 per liter, Rs. 59.08 per liter and from sugarcane juice, sugar/sugar syrup route to Rs. 63.45 per liter.[72] The policy progression has generated a positive impact, there witness a consequential increase in sugar and sugarcane diversion to ethanol which remains proven, the ethanol procurement by Oil Marketing companies from 38 crore liters in 2013-14 with 1.53% blending levels, to 164.75 in 2018-19 with 5.50% levels, 173.3 in 2019-20 and 302 in 2020-21 with 8.1% levels.[73] Moreover, in the past four sugar seasons ending 2020-21, revenue of about Rs. 35000/- crore has been generated by sugar mills/distilleries from sale of ethanol to OMCs which has helped in clearing cane price arrears of farmers.[74]

However, adding worries, these initiatives have been questioned by Brazil, Australia and Guatemala, involving the market support measures in terms of MSP and FRP, financial assistance by respective governments, and export subsidies provided by the Union in contravention of the Agreement on Agriculture and Subsidies and Countervailing Measures (SCM). The WTO panel resolved against India, articulating that the subsidies India nourishes in the backing of sugarcane producers are additional than the authorized level of 10% of the entire value of sugarcane production. Furthermore, export subsidies contingent upon export performance also conflict with the commitments under Articles

by all 36 States/UTs. Under the NFSA, there is no identified category of BPL; however, the Antyodaya Anna Yojana (AAY) beneficiaries are clearly identified *see Review of Existing System for Distribution of Sugar through PDS to Antyodaya Anna Yojana (Aay) Families,* https://dfpd.gov.in/sugar-sugarcane-policy.html (last visited on Nov. 27, 2022).

68 General Policy, s*upra* note 42.

69 In sugar season 2018-19 & 2019-20 about 3.37 & 9.26 LMT of sugar was diverted to ethanol. In previous sugar season 2020-21, about more than 20 LMT of excess sugar was diverted to ethanol. In current sugar season 2021-22, it is likely that about 35 LMT of excess sugar would be diverted to ethanol. By 2025, it is targeted to divert 50-60 LMT of excess sugar to ethanol, which would solve the problem of high inventories of sugar, improve liquidity of mills thereby help in timely payment of cane dues of farmers *see Centre Encouraging Sugar Mills to Divert Excess Sugarcane to Ethanol*, https://pib.gov.in/PressReleasePage.aspx?PRID=1883411 (last visited on Dec.14, 2022).

70 National Policy on Biofuels – 2018,14-15, (Jun. 4, 2018), https://mopng.gov.in/files/uploads/NATIONAL_POLICY_ON_BIOFUELS-2018.pdf (last visited on Dec. 14, 2023).

71 Rakesh Sarwal, et al., Roadmap for Ethanol Blending in India 2020-25, NITI AAYOG, (Jun. 9, 2021), https://www.niti.gov.in/sites/default/files/2021-06/EthanolBlendingInIndia_compressed.pdf (last visited on Dec. 14, 2023).

72 Sugar, https://dfpd.gov.in/imp.htm (last visited on Dec.14, 2022).

73 Centre*, supra* note 69, at 37.

74 Economic Survey 2021-22, s*upra* note 10, at 241.

3.1(a) and 3.2 of the SCM Agreement. The Panel instructed the pullback of prohibited subsidies within 120 days.[75] Regardless, India has petitioned the Appellate Body against the Panel's decisions.[76]

V. CONCLUSION & RECOMMENDATIONS

The examination outlined apprehensions concerning farmers' welfare, inadequate money liquidity, cane arrears, and impracticable laws and policies beleaguering the sector. This section recommends essential refinements that must be realized to overcome the deadlock.

Research and development drives innovation and creates new solutions. Sugarcane is only crop with immense productivity and profit margins. Its usage is to make sugar, alcohol, ethanol, and by-products like bagasse -molasses, and during the pandemic, the manufacturing of sanitizers (from 10 lakh litres to 5 crore litres),[77] even garbage is employed to generate electricity, which reduces electricity consumption and increases overall earnings. Nowadays, in balancing returns, production costs and improving efficiency, manufacturers are using state-of-the-art technology, with a considerable shift towards the Integrated Industrial Complexes comprising Sugar plants, Cogeneration (Power) plants and Fuel-Ethanol Distilleries, and by-products like – bagasse, molasses, and press-cake.[78] Also, research and development on potash-rich ash for manufacturing bio-fertilizer, fermentable sugar for value-added products, fortified jaggery and sugar, and biodegradable plastic,[79] can generate additional revenue. Therefore, modernization of sugar mills, distillery plants, and production of sulphur-free sugar in a timely and phased manner to reap the maximum benefits.[80]

Another myth prevailing is concerning Sugar mills closure, the Minister of State conveyed in parliament that of 756 installed sugar mills, 250 are lying closed. The reason described is the non-availability of adequate sugarcane,

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75 India—Measures Concerning Sugar and Sugarcane, WTO, https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds581_e.htm (last visited on Dec. 10, 2022).

76 India – Measures Concerning Sugar and Sugarcane Notification of an Appeal by India under Article 16.4 and Article 17.1 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (Dsu), and under Rule 20(1) of the Working Procedures for Appellate Review, WTO, https://Docs.Wto.Org/Dol2fe/Pages/Ss/Directdoc.Aspx?Filename=Q:/Wt/Ds/579-10.Pdf&Open=True / (last visited on Dec. 10, 2022).

77 ANNUAL REPORT 2020-21, 75, https://dfpd.gov.in/annual-report.htm (last visited on Dec. 11, 2022).

78 INDIAN SUGAR MILLS ASSOCIATION, *Technologies used in Sugar Complex*", https://www.indiansugar.com/PDFS/Technologies_used_in_sugar_Industry__1_.pdf. (last visited on Dec. 15, 2022).

79 ANNUAL REPORT 2020-21, *supra* note 77, at 160.

80 Vivek Waghmode, *U.P. Govt. Draws Blueprint for Sugarcane Industry*, CHINI MANDI, (Jun. 25, 2022), https://www.chinimandi.com/uttar-pradesh-government-to-modernize-the-sugar-mills/ (last visited on Dec. 14, 2023).

uneconomic size of the plant, lack of modernisation, high cost of working capital, poor recovery from sugarcane, lack of professional management, over-staffing, financial crunch, and insufficient irrigation in sugar mills catchment area.[81] The stated reasons are aliens to farmers; the sector's internal affairs are liable for such blockade. In contrast, the industry is profitable; instead of concentrating, it is widening fast, as it grew from 31 in 1931-32 to 139 in 1936-37, to over 756 today.[82] Henceforth, shifting concern towards management and capacity building is prudent.

Businesses have the opportunity to contribute via Corporate Social Responsibility. The Apex court in *U.P. Coop. Cane Unions Federations* v. *West U.P. Sugar Mills Assn.*[83] noted that Sugar cane is not available under the surface of the earth; and put into usage when required. Therefore, the 1966 Order, and the 1953 U.P. Act, was legislated; Section 15 reserves the area for commensurate sugarcane supply, creating a monopoly, in response, farmers receive remunerative prices. The monopolistic arrangements and high-profit margins cast a duty upon industry to improve the rural infrastructure like roads, water technology, fertilizers, small agricultural machinery, and availability of early and quality sugarcane varieties with high recovery for benefiting both stakeholders. The worrisome fact is that only a nominal amount is spent, disregarding social responsibilities. Hence, it is legitimate to follow an investment and welfare model.

A healthy contest is a prerequisite for growth. In the sugar sector, a legislative-backed monopoly exists through minimum distance criteria and a cane reservation area, which ensures a minimum availability of cane for all mills and establishing a new mill; in reality, it caused market distortions, inhibit new entrant, discourage new investment, affecting competition for the purchase of sugarcane, hamper mill efficiency, and virtual monopoly over a large area, empowered the factories to dictate their terms over small farmers. These restrictions, hampers the development of the sector and should be terminated.[84] Also, the Rangarajan committee pointed out: "that market-based long-term contractual arrangement can balance the interests of sellers and buyers".[85] Therefore, the States should encourage the competition these arrangements and

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[81] Sanjeev Verma, *8 out of 250 Sugar Mills Closed in the Country in Punjab, 2 in Haryana: Union Minister Sadhvi Niranjan Jyoti*, THE TIMES OF INDIA, (Aug. 13, 2021), https://timesofindia.indiatimes.com/city/chandigarh/8-out-of-250-sugar-mills-closed-in-country-in-punjab-2-in-haryana-union-minister-sadhvi-niranjan-jyoti/articleshow/85293649.cms (last visited on Dec. 14, 2023).

[82] Sandip Sukhtankar, *Sweetening the Deal? Political Connections and Sugar Mills in India*, 43-63, AMERICAN ECONOMIC JOURNAL: APPLIED ECONOMICS (Jul. 2012), https://www.jstor.org/stable/23269730?seq=2 (last visited on March 22, 2023).

[83] *Supra* note 52.

[84] *Id*. at 7.

[85] Report of the Committee on The Regulation of the Sugar Sector in India: The Way Forward, available at 6 https://www.indiansugar.com/uploads/Rangaran_Comm_Report.pdf (last visited on Dec. 10, 2022).

phase out cane reservation areas and bonding by amending Rule 6-A of the 1966 Order, which mandates restrictions on the operation of sugarcane factories within 15km.[86] This modification would increase coverage, competition, business possibilities, and freedom for farmers to sell their produce at competitive prices to anyone in lieu of better facilities and advantages.

Further, the practical application of the law is divergent from the drafted one. The legislature in the 1966 Order,[87] the 1953 U.P. Act, and the 1954 Order have assembled elaborate provisions encompassing every element from payments, price and supply between the cane-growers and factory. The courts have afforded the requisite thrust through judicial pronouncements favouring the farmers and states. Even State regulators such as Cane Federations/Cane Commissioner have also been given extraordinary powers. However, it is ascertained that despite clear directives and laws, it declines to provide desired results on pending cane payments. The discussed Allahabad High Court verdict confirms the state authorities' sincerity and the government regulator's unsympathetic approach, i.e., cane commissioner. These incidents are ample to sculpt a sketch of the sector's complex governance and regulatory issues, resulting in the dilution of laws and policies.

Concerning the rural economy, the task force suggested the promotion of Jaggery or *Gur* as it fulfills the aspiration of boosting the agricultural economy by generating extra income and health benefits by reducing the consumption of white sugar.[88] An amendment in Rule 7 of the 1966 Order, prohibiting *Gur* and *Khandsari* manufacturing in the cane-notified area without a license is prescribed.[89] Additionally, sugar tourism promotion via advertisement and

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86 The Sugarcane (Control) Order, 1966 r. 6-A Restriction on setting up of two sugar factories within a radius of 15 km.— Notwithstanding anything in cl. 6, no new sugar factory shall be set up within 15 km of any existing sugar factory or another new sugar factory in a State or two or more States: Provided that, the State Government may, with the prior approval of the Union, which it considers necessary and expedient in the public interest, notify such minimum distance higher than 15 km or different minimum distances not less than 15 km for different regions in their respective States.

87 The Sugarcane (Control) Order, 1966 s. (3A). Where a producer of sugar or his agent fails to make payment of sugarcane purchased within 14 days of delivery, he shall pay interest on the amount due at 15 percent per annum for the period of such delay beyond 14 days. Where payment of interest on delayed payment is made to a cane growers society, the society shall pass on the interest to the cane growers concerned after deducting administrative charges permitted by the rules of the said society.

88 Ramesh, s*upra* note 33 at 56.

89 The Sugarcane (Control) Order, 1966 s. 7. Power to license power crushers, khandsari units, and crushers and to regulate the purchase of sugarcane.—The Union may, by order.— 1 [(a) direct that a crusher not belonging to a grower or a body of growers of sugarcane, or a power crusher or a khandsari unit shall not be worked except under and in accordance with a license issued by the Union in that behalf;] (b) direct that in a reserved area.— (i) no sugarcane shall be purchased for crushing by a power crusher; 2 [(ii) no sugarcane or sugarcane juice shall be purchased for crushing or for the manufacture of gur, shakkar, gul, jaggery, rab or khandsari sugar, as the case may be, by a crusher not belonging to a grower or a body of growers of sugarcane or by a khandsari unit in the area;

marketing of the sugarcane and its by-products through *Gur Mahotsav*, Sugar Museum, and opening up of businesses centres of sugar manufactured by co-operative should be mandatory and regular activity.[90] The policies would be ingrained with foresight rather than exhilaration, in constraint rather than debasement.

Experts reported that crop diversification could appropriately safeguard the environment as the agri-sector predisposes towards water-intensive crops. Therefore, launching a National mission plan in collaboration with Krishi Vigyan Kendra and sugar research institutes to preserve food security through increased productivity, meeting domestic demands, and concurrently implementing novel technologies such as drip irrigation, organic farming, water conservation, and the advancement of high-yielding, low water-consuming sugarcane varieties, particularly in regions with unsuitable weather, scant precipitation, and archaic agricultural practices, like Maharashtra and southern states.[91] Implementing favourable trade and price policies that promote high-value and water-conserving crops will lead to the program's success.[92] Choosing technological reforms over management reforms will likely alleviate farmers' financial burden, culminating in a favourable climate and economic feasibility without overburdening the state exchequer.[93] Further, a *transition cost of Rs 50,000/- per hectare from 6000/- for five years and 5%-15% reduction in cane purchase slips, as advocated by Niti Aayog, as different crops demand distinct soil and weather conditions.*[94]

Despite overwhelming policy actions, legislation, and hyped Niti Aayog endeavours to double the farmers' income by 2022, agriculture lasts a non-profitable activity. The sugarcane and sugar policies are interlaced, as the Niti Aayog task force argued that there exist five stakeholders, viz. farmers, consumers, industry, economy, and environment; therefore, considering them while formulating strategies. Further, exclusive attention towards strengthening farmers' income through adopting a multi-pronged approach focusing on productivity enhancement, average cost reduction, better price realization, innovation, production, marketing, expansion of allied activities and non-farm occupations.[95]

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[90] Vivek, s*upra* note 80.

[91] Ramesh, s*upra* note 33 at 15.

[92] Shenggen Fan & Ashok Gulati, *The Dragon and the Elephant: Learning from Agricultural and Rural Reforms in China and India*, 43, ECONOMIC AND POLITICAL WEEKLY, 140, (Jul. 11, 2008), https://www.jstor.org/stable/457081fb-d4f1-35a3-8342-31575bcb51eb (last visited on March 10, 2023).

[93] Ramesh*, supra* note 33 at 85.

[94] *Id*. at 54.

[95] Ramesh Chand, *Agricultural Challenges and Policies for the 21st Century*, NABARD RESEARCH AND POLICY SERIES 6/2022,https://www.niti.gov.in/sites/default/files/2020-01/Presidential_Address.pdf (last visited on March. 10, 2023).

In formulation, adoption of a "trial and error" approach rather than prearranged strategies and field testing through pilot projects before domestic application.[96] Agri-sector is the prominent employer and supplier of food grain, enclosing linkages with different sectors; hence, growth, development, and farmer welfare can act as an axle driving the Indian economy forward. The policies originators ensure that improvement attempts not just build back the past but also grasp new prospects. There should be a robust effort; otherwise, the aspirations to double the farmers' income, achieve the goal of a 5 trillion dollar economy,[97] and becoming ATMANIRBHAR will only remain distant dreams.

[96] Ashok, *supra* note 92 at 138.
[97] Economic Survey 2019-20, s*upra* note 9 at 231.