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The Dilemma of Non-compliance between Institutions and How it Effects Government Servants with special reference to Executive-Judiciary Relations in Pakistan

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Abstract: *The judiciary and executive are two of the fundamental institutions in any democratic polity and coordination and cooperation between them are fundamental for the smooth running of the affairs of the government. However, if there is any incoherence and lack of cooperation between them, it is the public and its servants that suffer the most in the process. This research article talks about one such phenomenon in the Pakistani context by getting involved in an academic and theoretical debate. To understand this phenomenon, different theories and their comparative strengths and weaknesses have been discussed in detail. In the course of this research article, off-and-on recourse has been made to Muhammad Arif's case in the Elementary and Secondary Education Department in the KP province to better understand the phenomena with empirical evidence.*

Key Words: Judiciary, Government Servants, Pakistan, Democratic Polity, Education Department

Introduction

This research is based on executive non-compliance with judicial decisions in Pakistan's education sector, focusing specifically on the Khyber Pakhtunkhwa Elementary and Secondary Education Department (KP E&SED). A Neo-institutionalism framework, emphasizing decoupling, informal norms, and power dynamics will guide this case study analysis. This framework is well-suited because it will allow us to examine how formal rules and procedures within the E&SED interacted with informal practices and power dynamics to shape the response to the court's decision in the specific case of Muhammad Arif, a DPE (Director of Physical Education) in teaching cadre within the KP E&SED. Discrepancies between formal promotion procedures and actual practices, and the influence of informal power dynamics on promotion decisions contributed to the non-implementation of the court order shall be specifically analyzed.

In an effective democratic governance, there is a balanced interaction between the executive and judicial branches. The executive is responsible for policy implementation and state administration. On the other hand, the judiciary safeguards the rule of law, interprets legislation, and holds the executive accountable. Executive non-compliance with judicial decisions disrupts the balance, undermining the legal system's integrity, eroding public trust, and hindering access to justice (Helmke & Levitsky, 2004). These problems are especially severe where weak state institutions, corruption, and political interference are prevalent (Mullally, 2009). This non-compliance has impacted not only individuals but also broader societal well-being and governmental legitimacy.

Research on non-compliance uncovers a complex interplay of institutional, procedural, and political influences. Systemic weaknesses such as weak state capacity hinder the enforcement of judicial decisions to a greater extent (Mullally, 2009) argued about how corruption and resource constraints weaken a government's ability to comply with judicial orders, it highlights the crucial link between strong

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institutions and a functional legal system. Resource constraints and inadequate training within the judicial system can aggravate delays and undermine public confidence (Mullally, 2009). These interconnected problems often create a self-perpetuating cycle of inefficiency that hinders and impedes judicial implementation.

Many studies have utilized broad comparative methods which have identified systemic weakness and ineffective enforcement. This approach is quite valuable for establishing general trends and identifying common challenges across different jurisdictions but it often fails to capture the nuances of non-compliance within specific institutional contexts. The reliance on aggregate data and cross-national comparisons often obscures and blur the complexities of implementation at the institutional level, and fails to capture the interplay of formal and informal factors shaping responses to court orders. The limitations of these broad comparative studies become more apparent and obvious when examining the implementation of judicial decisions in administrative contexts. The complexities of bureaucratic procedures, the potential for political maneuvering, and the intricate interplay of various actors often require a more detailed and context-specific analysis and it is not possible through broad comparative methods.

Introduction: Judicial Implementation and Executive Compliance—Setting the Stage

The relationship between the judiciary and the executive branch is fundamental to democratic governance. Judicial decisions, particularly those concerning individual rights and state accountability, serve as a crucial check on executive power. However, ensuring that court orders are effectively implemented remains a persistent challenge in many developing democracies, frequently undermining the rule of law and public trust in the judicial system. Executive non-compliance with judicial decisions can have severe consequences, ranging from individual injustices to broader societal instability and erosion of democratic legitimacy (Huntington, 1968; Helmke & Levitsky, 2004). This is particularly relevant to Pakistan's education sector where tensions between the judiciary and the executive regarding teachers' rights are frequently observed, illustrating how the failure to adequately enforce judicial mandates has contributed to various systemic inadequacies that need a thorough review. This study examines this issue, exploring and interpreting exactly what mechanisms drive these kinds of persistent non-compliance through analyzing a detailed case study to provide contextually relevant insights for understanding executive non-compliance within Pakistan's education system, using a neo-institutional framework to address a clear research gap and to contribute original, high-impact conclusions for consideration in implementing practical and sustainable reforms.

Scholars have extensively studied the complexities of judicial implementation, identifying a wide array of institutional, political, and bureaucratic factors that can impede the execution of court decisions by the executive branch. These include organizational structures, power dynamics, resource constraints, and conflicting institutional logic (Mullally, 2009; Ayeni & Adeleye, 2013). Mullally (2009) offers a detailed analysis of resource constraints and corruption as significant impediments to compliance, while Ayeni (2013) highlights the influence of weak state institutions and political interference. Often these studies are broad comparative and highlight the complexities, making for a useful backdrop to this research, but they are of insufficient detailed focus to ground it. Many of these broader accounts, however, fail to provide a level of nuance in their insights that is necessary in explaining which mechanisms could cause non-compliance, in particular, in regard to this sector in its Pakistani governance context.

With poor judicial-executive relations, the education sector is a particularly contested arena in Pakistan. The superior courts have often had to step in and enforce the constitutional and legal rights of teachers and students. This intervention, while intended to support and enforce these protections nevertheless often encounters resistance and non-compliance from the education bureaucracy (Zulfiqar, 2022). Zulfiqar's (2022) work highlights the significant challenges faced by the judiciary in enforcing its decisions within the Pakistani education system, including political interference and weak institutional capacity, demonstrating that there are inherent difficulties associated with this issue. The persistent non-compliance observed highlights how systemic problems interact and serve as critical points requiring further investigation in identifying factors that have caused non-compliance with respect to promotion

cases across those years within the KP E&SED. This lack of consistent, timely, fair, and transparent adherence to legal and judicially mandated actions is exactly what this case study intends to address.

Theories of Judicial Implementation and Executive Compliance

Many theoretical models provide analysis of executive compliance and judicial execution. Understanding the link between the court (principal) and the executive (agent) is made easier with principal-agent theory. Emphasizing the need to evaluate the possible impact of decisions taken in relation to complying or resisting legal directions, rational choice institutionalism stresses how actors weigh costs and benefits and so explains decisions across the spectrum investigated. Sociological institutionalism emphasizes the part played by organizational culture, standards, and institutional isomorphism—that is, the inclination of companies toward like forms over time. Although these several strategies provide possibly helpful and often relevant viewpoints, they do not fully capture and integrate some institutional practices, especially in terms of explaining the impact that established, strong informal norms usually impose across administrative bodies.

These points of view, however, do not adequately address how entrenched informal power relations and prevalent cultural norms could circumvent or challenge official institutional systems in the specific Pakistani setting. This restriction combined with the need to investigate how political pressures influence and greatly impede administrative decision-making in relation to staff promotion creates the particular kinds of contextually driven problems associated with executive non-compliance which is often and persistently observed in the literature described and developed using those broader perspectives articulated here is precisely the area of research needing more focused exploration and where a nuanced theoretical lens might best contribute and justify creating a rigorous explanation providing original insight.

Neo-institutionalism and the Study of Compliance: A Focus on Decoupling and Informal Norms

For neo-institutionalism, formal organizational structure and rules tend to decouple from real organizational practices and the informal norm tends to outweigh formal institutional routines (Benedetto, 2018, Foorthuis, 2020, Varella, 2014). A broader analysis through this lens of largely political, cultural, and informal power relations, can better inform the mechanisms for bureaucratic decisions shaped by non-compliance on the part of the executive by rendering in more contextual and holistic understanding of these reasons which she believes have conspired to induce executive non-compliance.

From a neo-institutionalism perspective, organizations may take formal structures and policies that respond to external pressure and expectations, while practice could be decoupled from official frameworks. This could be the case in the Pakistani education bureaucracy, where the officials formally outline the court directives on promotion, but privately undermine them the way through clientelistic networks, political interference, or cultural norms of Yuiuanzi networks of emulated relationship.

In addition, neo in institutionalism emphasizes the fact that informal institutional arrangements, social relationships, and cultural scripts are usually stronger in shaping organizational behavior than formal rules. Informal norms seeped deep into the politics and therefore the public sector hiring and promotion became so deeply entrenched, which was in contravention of court rulings that could dictate those. In order to understand more precisely the specific mechanisms and factors that continue to underlie the persistent non-compliance of the executive with judicial decrees in the education sector in Pakistan namely in the province of KP, this study takes a neo-institutional approach. As opposed to doing this from an institutionalist standpoint, this more nuanced approach, neo-institutionalism lends itself to the way in which formal and informal institutions interact with each other, and whether or not they relate to organizational decision-making and adherence to rules and regulations, as defined by the organization.

The key idea of neo-institutionalism is the idea of decoupling, in which even though organizations have formal structures and formal procedures as institutional pressures, they do not practice the same (Hinings, 2018). It allows organizations to remain in the eyes of external stakeholders as legitimate but doesn't have any effect in being meaningful internally. More precisely, this dynamic of decoupling is particularly salient in the context of Pakistan's public sector bureaucracy—undergirded by the strength of



both informal norms and embedded power structures. Relatedly, neo-institutionalism pays undue attention to the critical influence of informal norms, organizational culture, and social embeddedness on behavior, even when formal rules suggest another path. Such findings also offer important clues as to why executive bodies may resist or even ignore judicial orders, not at the exception but at the norm, even when those orders comport with formal laws and regulations.

This paper draws on this neo-institutional perspective to explain, on the one hand, the ways in which the specific mechanisms and factors encourage or limit compliance by education bureaucrats with their judiciary's directives for the promotion of staff in the KP province. It will focus on how formal rules interact with informal norms, organizational culture, and power dynamics to generate patterns for (non)compliance, and explain the persistence of this phenomenon in the Pakistani context.

Institutional Capacity and Bureaucratic Processes in Judicial Implementation

Another critical factor in compliance involves the competence of the administrative and bureaucratic apparatus to which the implementation of judicial decisions is assigned. The educational bureaucratic system of Pakistan faces numerous capability challenges that note deficient processes alongside deficient training and non-existent record-keeping. The weaknesses within institutional structures impair bureaucrats' capacity to properly convert court directives into concrete action steps.

Bureaucratic staffing processes have deteriorated because political forces and patronage networks undermine the system's merit-based selection and its professionalism in appointments and promotions. The educational department shows diminished capability to execute required administrative procedures and procedural steps that enable legal orders to be executed within proper timeframes with uniformity.

The overall permissive positional framework established by political influence and informal power structures and lack of institutional capacity enables education bureaucrats to reject or implement court commands partially with minimal repercussions. Analyzing how institutional elements mutually shape the behavior of court order execution officials explains the complete pattern of non-compliance.

Accountability Mechanisms and the Role of Oversight in Judicial Implementation

The lack of effective accountability mechanisms is another key factor contributing to the non-implementation of court orders in Pakistan's education sector. The absence of robust monitoring and evaluation systems, as well as the limited power of the judiciary to enforce its own decisions, creates an environment where bureaucrats can effectively evade or delay compliance with little fear of repercussions (Khan & Christensen, 2020).

Historical research established that the structural and functional tension between the judicial and executive branches remains problematic because the judicial system does not possess sufficient administrative units combined with appropriate enforcement instruments to demand executive compliance with their directives. The challenge exists because Pakistan's public sector lacks both transparency and sufficient civil society oversight in its operations. When external monitoring is weak bureaucrats use their positions to pursue informal system priorities over legal requirements along with political convenience and personal advantage.

The judiciary needs greater power to independently supervise and sanction education bureaucracy noncompliance with court orders while civil society organizations and the media contribute independent monitoring for better oversight. The research (Kapiszewski & Taylor, 2012) reveals how the judiciary and media work to dismantle politician-bureaucrat patronage relations and this field demands additional academic inquiry.

This study uses an institutional analytic approach to explain why Pakistan's education department violates judicial directives through specific examinations of formal and informal institutional relationships organizational performance shortcomings and bureaucratic accountability lapses.

The Influence of Interest Groups and Power Dynamics on Judicial Implementation

This section examines how interest groups and informal power dynamics animate government responses to court decisions, and why from that non-compliance is so repeatedly observed.

Informal power structures and vested interests are inextricably linked to the nature of bureaucratic decision-making and organizational behavior such as no formal rules or policies. However, as (Munir, & Noreen, 2020) note, the powerful patronage networks and political influence can offer incentives for bureaucrats to serve the interests, rather than the commands of the courts even if the commands are consistent with formal laws and regulations. For instance, during past elections in Pakistan, we have found that political parties have used patronage over the bureaucracy to make patronage of appointments and promotions, in ways that are customarily customized according to partisan loyalty rather than merit, showing that there is a system of "party patronage" which shapes the incentives and normality of patrol servants (Rizvi, 2016). Such a dynamic can result in bureaucrats responding more favorably to the demands of political elites than to the need of the legal process which in turn can create patterns of non-compliance with court orders.

Likewise, entrenched interest groups, particularly teachers' unions or private education providers, can also be powerful incentives for the bureaucrats to resist or selectively implement court directives that implicate the interest of that stakeholder. Evaluation of the process of judicial implementation must also attend to the ways in which these informal power structures and interest group dynamics intersect with and shape the bureaucratic decision-making and compliance occurring within the formal process.

Judicial Non-Compliance in Pakistan's Education Sector: A Contextual Overview

The emphasis in this section is devoted more directly to Pakistan's education. This also reviews the extant literature on judicial non-compliance with this contextual focus, concentrating in particular on systemic issues, contextual features pointed to that have direct bearing on administrative capacity, access to, opportunities for appealing such decisions in administrative and judicial systems (Siddiquee, & Zafarullah, 2020).

Challenges in implementing court orders in Pakistan's education sector are well known. Studies have found that while after a series of landmark court rulings designed to improve education access, increase transparency, and boost teacher quality, the education bureaucracy too often failed to act on these in a timely or consistent way. This non-compliance is evidenced by the research to be greatly affected by the 'esprit de corps' of the bureaucracy - the tendency to follow internal interests rather than the public good. We know that there is evidence that bureaucrats in the education department often oppose court-mandated reforms that run counter to their power, perks, and political connections (Rizvi, 2016).

The other important contextual factor is the centrally designed and hierarchical nature of Pakistan's education system which empowers very few senior officials with all the decision-making power. It is impossible for lower-level bureaucrats to enforce unpopular court orders if they want to because they don't want to get retribution from superiors. Apart from that, the education sector in Pakistan has also been deprived of merit-based appointments and promotions and the job of politics for long. This has created a culture of impunity and disdain for formal rules that have obstructed the courts from being able to force real change through their judgments.

Conclusion

The existing literature highlights several key factors that contribute to the persistent non-implementation of court decisions in Pakistan's education sector, including:

- i. Influence of informal power structures and vested interests that affect bureaucratic decision-making and is also ammunition to non-compliance.
- ii. Organizational capacity deficits and hierarchical rigidities in the education bureaucracy constrain the lower-order officials from enforcing unpopular court orders
- iii. A broader culture of political interference, nepotism, and impunity critically jeopardizes the rule of law and the authority of the judiciary (Rizvi, 2016).

This is not unique to Pakistan's education systems, however, and the literature also provides insights into how these dynamics reflect broader problems in Pakistan's public sector and institutional landscape. Although previous literature provides valuable insights, there is a need for more in-depth, qualitative research on the ORKSKMO 降 pupil how the micro-level mechanisms and the decision-making mechanisms



in which non-compliance takes place. In view of this, the dynamics of the interplay between formal and informal institutions, power as well as accountability gaps in the existing literature on the context are not foregrounded as they are in this study and the primary driver of non-compliance with court orders will be highlighted.

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