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FIXING OUR LAWYERS, DOCTORS AND TOWN PLANNERS ETC:

THE NEED FOR STUDYING THE “PROFESSIONS” IN PAKISTAN

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INTRODUCTION: WHY STUDY THE PROFESSIONS?

Public policy analysts often point out that one of the main reasons why Pakistan’s economic growth is lagging behind is because of broken systems: a justice system that is slow and unpredictable, an urban design system which creates sprawling cities, littered with over-priced, poorly designed, energy-inefficient, built structures; and a healthcare system which impoverishes people.

While investigating the causes these aspects of governance failure, the natural question to ask is: Who runs our justice system and our healthcare system? Who plans cities and designs built structures? Interesting, the responsibility does not rest with state official only. The blame for the failures of the justice system can be assigned, in a large measure to lawyers (and judges who are also ex-lawyers); for the healthcare system, it belongs to doctors, nurses and pharmacists; and to Town planners, architects and engineers who bear responsibility for the state our urban development.

Given the enormous social and economic importance of the “regulated professions”, surprisingly little research has thus far been carried out on the governance regime of the professions in Pakistan. This represents a glaring gap in our literature on public policy. My study represents the first serious attempt to fill in this knowledge gap.

METHODOLOGY

I have counted that there are 13 major regulated professions in Pakistan. They are governed by 13 pieces of primary legislation, all of which I have, for the first time ever, compiled in one volume: PEC Act 1976, PMC Act 2020, PCATP Ordinance 1983, Chartered Accountants Ordinance 1961,



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ICMA Act, 1966, Legal Professionals and Bar Councils Act 1974, Pakistan Nursing Council Act 1973, Pharmacy Act 1967, PMC Act 2020, Pakistan Veterinary Medical Council Act 1996, Unani, Ayurvedic and Homeopathic Practitioners Act 1965 and Unani, Ayurvedic and Homeopathic Practitioners Act, 1965. After studying and comparing these laws in some details, I have charted out a map of the regulatory environment in which the 13 major professions in Pakistan function. I have also collected demographic data related to the professions for the first time. This data is primary data collected directly from the regulators themselves. This legal and demographic mapping exercise is an essential prerequisite for fostering a better more informed reform debate.

KEY FINDINGS

What I have discovered through a comparative analysis of these laws is that the regulatory environment of all these professions, although similar in nature, is not identical. The most significant variation, which needs to be further studied, is with regard to the extent of self-regulation by elected representatives. Some of the professions, such as law and engineering, continue to adhere strictly to this principle; the medical profession, on the other hand, has recently taken a turn towards a different direction. Elections have been abolished altogether amongst doctors; and even non-doctors have been given a role in the disciplinary process.

There are other notable differences too. For instance, the modes of elections of the professions is quite different: some, such as engineers, have nation-wide direct elections; others, such as lawyers, have district-level elections which then indirectly produce a national-level leadership. The length of tenure of elected bodies also varies widely. The longest tenure - 5-years - is that of the Bar Councils; the 2-year tenure of PCATP is the shortest. Some, such as Engineers have mandatory specialization; so, for instance, a civil engineer cannot practice in the field of electrical engineering. Others, such as doctors, do not make specialization compulsory but do accredit specialists. Some professions, such as lawyers and chartered accountants, provide no recognized pathway at all for attaining specialization.

The demographic data of the professions is also quite revealing. Engineering has emerged as the most populous profession having crossed a total number 320,000. Lawyers, nurses and doctors are also quite numerous. Chartered Architects, on the other hand, continue to remain under 9,000 in number, despite all these years. The number of architects, although no sizeable as yet, is growing at a fast pace. Gender ratios in the professions also varies widely: nursing remains female dominated, while engineering, law and accounting remain male dominated. Medicine seems to have achieved something close to a parity between men and women.



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RECOMMENDATIONS

Firstly, my most salient recommendation is that researchers, particularly political economists, demographers and anthropologists, need to study and analyse the professions. Theorists and analysts of good governance seem to have missed out on the importance of fixing the professions. The reality is that you cannot possibly fix the justice system by simply writing better laws, building better courtrooms and implementing court management software. Nothing of note can be achieved without fixing the lawyers. And this, in turn, cannot be done without fixing the regulatory environment in which lawyers operate. Likewise, it is a myth that healthcare can be improved by simply pouring billions more into hospitals and pharmaceuticals; will improve without bring about a behavioral changes amongst medical professionals, which, in turn, requires re-designing PMDC, Pharmacy Court and Nursing Councils. No sustainable improvement in urban planning and infrastructure can be brought about without without dealing with the regulatory environment in which town planners, architects and engineers operate. This is a rather elementary point but seems to have completely evaded our public policy researchers who have hitherto focused their attention entirely on state official or market players, while totally ignoring the professionals who mediate between the state and market players.

Two, we need to have a serious debate in this country about whether “self-regulation” - where misconduct is judged entirely by one’s own professional peers – is working. A lot of anecdotal evidence suggests that its failing. Standards of conducts have plummeted because lawyers, doctors and the like are allowing the worst of their kin to go scott-free. If this is indeed the case, we need to chart out and consider alternatives to self-reguation. We could look at the reform model employed in the British legal profession, which I have briefly studied in the final chapter of the study. Or, we could consider altogether different alternatives such as creating a common disciplinary body of all the 13 professions where learned persons sit in judgment over other professions to decide cases of misconduct.

Finally, we need to ask what model of regulation the professions should have. I have identified that at present the various professions have two different regulatory models: a “criminalization model” of regulation where it is criminal for non-licensed persons to practice; and a more benign “invalidation model” where non-licensed persons are allowed to practice but cannot claim contractual rights or immunity from tortious liability. We need to see which model is working better and could be universally adopted.



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We also need to have a conversation about the demographic trends in the professions. The relatively more “controlled” population growth of Chartered Accountants has yielded rich dividends for the professionals involved but the question arise if it has done so at the cost of making make the relevant professional service unaffordable for most businesses. On the other hand, the almost “open entry” approach adopted by lawyers and engineers, which has made these services cheap, is clearly not a desirable model because it has fueled a race to the bottom in terms of quality of services and in terms of the professional ethics. A middle path has yet to be charted out. Gender inclusivity and provincial inclusivity also need to be studied and analyzed furthers.

Finally, we need to have a conversation about how to make our professionals more marketable – inside and outside the country. Some of the professions lack any pathway for continuing professional development and specialization. That needs to be considered. And stricter regulation of professional standards should be promoted in all the professions.