Understanding Compliance Behavior in Restaurants in China
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Summary

Compliance Pluralism and Processes:
Understanding Compliance Behavior in Restaurants in China

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China faces major challenges in ensuring that its citizens and companies comply with its laws, despite its great efforts and achievements establishing an entirely new legal system in the last 30 years. This calls for high-quality empirical work to understand the problems of compliance in China to identify solutions to these challenges. In addition, studying compliance in the Chinese context provides a tremendous opportunity to add a non-Western case to the predominantly Western compliance literature. The present research aimed to address China’s compliance challenges and seize the opportunity for further theoretical development. Thus, its first aim was to provide an in-depth study of compliance in China by drawing on the existing body of compliance research. Its second aim was to contribute to compliance theory by offering a unique empirical study conducted in China’s unique context, with a novel ethnographic study approach that facilitates the understanding of the dynamic processes of compliance in a small business organization involving many different legal rules and changes throughout the business cycle. This new research approach was developed to overcome the limitations of existing methods, especially in the Chinese context. Nevertheless, it has several implications beyond China.

The research approach allows both an endogenous understanding of what compliance means for the key actors involved and an exogenous exploration of the factors that influence compliance behavior, as well as a processual dynamic understanding of how compliance emerges, changes, and varies, and ultimately what explains the changes and variations. Instead of looking for steps (or processes) involved in moving from legal norms to final compliance, or the even institutionalization of legal norms, which is the focus of the conventional process
approach, this dynamic approach seeks to understand how compliance changes in the business cycle from the start-up phase to daily operations. It does not evaluate compliance at one static point and analyze it statically but analyzes the development of compliance over time and attempts to understand it dynamically.

Furthermore, most existing compliance research focuses on one particular law, attempts to understand compliance by examining how regulated actors act regarding that law, and characterizes regulated actors based on their performance on that single law. However, the reality is that regulated actors have to deal with multiple laws in their daily lives. In this view, compliance involves how regulated actors respond to a combination of different and often diverging legal rules that seek to shape their behaviors. Based on such understanding, this research attempted to offer an integrated view of compliance true to how it is experienced by the regulated actors.

With those research aims, compliance was studied in one type of business setting, restaurants. Thus, how restaurants responded to relevant legal rules and regulations (including food safety, occupational health, environmental protection, fire safety, business registration, and taxation) was studied. The research answers three main research questions:

1. How do selected restaurants respond to relevant regulatory rules, and what variation is there in their responses to different types of such rules and at different points in time in their business cycles?

2. What factors influence the variation in compliance behavior identified through question 1?

3. What new insights do the answers to questions 1 and 2 provide for general compliance research in China and abroad—practically, methodologically, and theoretically?

To answer these questions, compliance was viewed as an interaction between legal norms and organizational and individual behavior, and compliance was seen to exist when the behavior aligned with the law. The first question focuses on behavior and on describing the behavioral response to legal norms that occurred in restaurants. The second question focuses on explaining these behaviors in terms of why there is variation in responses to legal rules in these restaurants and what factors influence the emergence and evolution of compliance.
An in-depth qualitative methodology, which consists of a combination of participant observation, in-depth semi-structured interviews, and document collection, was employed. Participant observation was the most significant data collection method. The researcher was permitted to work as a server in two core restaurants, where she conducted participant observation for six weeks in each setting. She gained a vivid understanding of the real-life context of restaurants’ compliance behaviors and established relationships based on trust with the interviewees.

To describe compliance behaviors and capture their complexity as much as possible, the diverse cases sampling technique was used to select cases. This allowed maximum variances along relevant dimensions to emerge. Two dimensions, size and cost of consumption, were used to identify diverse cases in the pilot study, but after developing a deeper understanding of restaurants, more nuanced dimensions, such as the owners’ ideology of operating restaurants, attitudes toward regulators, and apparent compliance behaviors, were found to be more relevant dimensions for identifying diverse cases. In addition, the researcher considered the most diverse restaurants that would allow the deepest level of study and where she would gain a truly comprehensive understanding of all the research questions. Besides the two core restaurants, data was included from four other restaurants studied in less depth to add complementary information and dimensions.

The main body of thesis is presented in two parts. Part A, which aims to answer the first research question, deals with compliance behaviors. The approach of descriptive analysis of compliance behaviors used later is described based on a review of the literature on existing compliance approaches in Chapter 2. Chapter 3 and 4 detail the two contrasting restaurant cases and illustrate how compliance was studied in this research through descriptions of compliance behaviors that occurred and changed from the start-up phase to daily operation.

Chapter 3 tells the story of a health-oriented and idealistic restaurant, Mingguan. This restaurant intended to provide healthy and environmentally friendly food, and the main owner was highly educated, idealistic, and morally concerned about food safety. Mingguan had a strong intention to comply with the law it encountered, but its compliance behaviors ultimately were complex. These behaviors included full, beyond, creative, partial, attempted, skeptical, formal, fraudulent, conflictive, and
fake compliance, as well as noncompliance. Regardless of the complexity, compliance behaviors at Mingguan showed an overall commitment to the law.

Attempts to characterize Mingguan’s compliance behavior, existing classifications fell short. On the one hand, classifications related to how regulated actors comply, such as Braithwaite’s motivational postures and Kagan et al.’s management styles, showed the most positive classifications of commitment and capitulation, as well as true believer and committed complier. Yet these classifications do not fit the restaurant’s behavior, which was mixed and included negative compliance, which conflicted with what characterization in terms of the motivational postures and management styles predicted.

Chapter 4 deals with Naguan, which aimed to provide tasty and affordable food while maximizing profits. The owner’s knowledge was based on experience, and he was pragmatic and rarely concerned with morals. Naguan’s compliance generally focused only on profit maximization, which led to instances of symbolic, fake, fraudulent, and forced compliance, as well as noncompliance. However, it also engaged in compliance with some legal norms at certain points.

Naguan showed a complex combination of motivational postures, including game playing, capitulation, disengagement, and resistance. Different motivational postures were even expressed regarding the same regulatory requirements and the same types of compliance behaviors, for example those governed by the FDA. As to management style, Naguan was a combination of laggard and strategist, which have divergent ranks in terms of managerial commitment to regulatory requirements. A laggard complies only to avoid costly enforcement actions, while a strategist complies strategically and proactively. Theoretically, the strategist has greater commitment to and a more positive attitude toward legal requirements than the laggard does. Hence, a laggard combined with a strategist found in this research calls for further examination.

Chapter 5 offers a short conclusion for Part A, moving beyond the two core restaurants and drawing out some broader implications from the variations in compliance behavior found in restaurants and the proposed novel approach used. For this analysis, compliance information from three other restaurants was included. Implications identified in this chapter include compliance pluralism, compliance processes, characterizing the compliance subject, and several methodological implications.
Compliance pluralism captures the complexity and fluidity of compliance found in the restaurants studied. The concept refers to the many rules, concrete behaviors toward each legal norm, and time points during the processes of responding to legal norms that constitutes compliance. Compliance in one restaurant might have differed between different legal norms and concrete behaviors, and for even one legal norm, may have changed over time. Moreover, it was understood differently from the perspectives of different actors.

The compliance processes described in the two core restaurants clearly show two kinds of processes: clarifying processes (or learning processes) and contesting processes. The two processes share some similarities with other processes proposed by previous scholars using the processual approach, but some significant differences also were identified. During the clarification or learning process, the regulated actor attempts to clarify what compliance is expected and verify with the regulator what compliance entails. This process has not been the focus in preexisting compliance process studies. During the contesting process, the regulated actor contrasts its own values and interests with the legal norms. This is thus different from the negotiation process previously discussed by compliance process scholars, as the negotiation process focuses on the negotiations between regulated actors and regulators.

Furthermore, in this chapter, conclusions are drawn about the characterization of the regulated actors. The previous classifications of the regulated actors that this study has drawn on, motivational postures and management styles, assume that the regulated have the same attitudes and postures toward legal norms and regulatory authority, and partly classify the regulated actors based on that assumption. However, this research revealed that restaurants may have different attitudes and postures toward legal norms and regulatory authorities, and that this should be considered when classifying the regulated.

Part B answers the second research question, that is, what explains the compliance behaviors? The explanation falls into three levels: regulatory, organizational, and individual levels. Factors in each level are addressed in the subsequent chapters, with one chapter dedicated to each level.

Chapter 6 focuses on factors at the regulatory level and on how laws arrive at the restaurant through interaction between the regulator and so-called regulatory receptors, that is, the restaurant owner or top manager. More specifically, it focuses on
restaurants’ comprehensive legal knowledge formation. Comprehensive legal knowledge consists of two kinds of knowledge: doctrinal legal knowledge and legal practice knowledge. The two kinds of knowledge may be different and become dissonant in terms of showing the regulated actors what “the law” is with which they need to comply. Doctrinal legal knowledge and legal practice knowledge influence each other and form the comprehensive legal knowledge from which the regulated actors identify what the law is.

There was limited doctrinal legal knowledge but abundant legal practice knowledge in restaurants. The comprehensive legal knowledge in restaurants had deviated from the original written law that attempted to regulate the restaurants. Consequently, their comprehensive legal knowledge pointed to a different direction of compliance rather than the compliance direction to which the original written law points. Restaurants’ compliance behaviors are situated in their comprehensive legal knowledge. Variation in restaurants’ compliance behaviors reflected the variations of their comprehensive legal knowledge. When such comprehensive legal knowledge changed, compliance behavior changed as well.

**Chapter 7** offers a discussion of the organizational influences on compliance behaviors and specifically focuses on how legal norms are activated by or how they compete with other norms in an organization. In this analysis, restaurants were treated as being composed of people at all levels, including employees and employers or owners, instead of as a single entity. To reach the very employees targeted by certain legal norms, the law must be transmitted within the restaurant internally, and it is mediated, either activated by or competing with, by organizational norms that guide employees’ behavior at the same time.

In this study, three forms of organizational norms—managerial, injunctive, and descriptive norms—were analyzed. Several organizational norms relevant to legal norms and compliance in each restaurant were identified, and the interaction between those organizational norms and legal norms, as well as how organizational norms influence compliance, was analyzed. Some organizational norms activate and promote certain legally required behaviors. Simultaneously, some organizational norms compete with legal norms in reducing the reasonability of legal norms, rationalizing the low possibility of meeting the legal requirements, reducing the responsibility of ensuring the goal of legal norms, impeding the enforcement of legal norms, and
overemphasizing one side of behaviors the law requires but dismissing the other side of behaviors that violates the law.

Moreover, organizational and legal norms interact with each other, and they shape employees’ behaviors and influence compliance during the process of socialization, specifically during the management process. Thus, organizational socialization and management processes were discussed, and how they shape the formation of different organizational norms and mediate the function of legal norms and influence compliance was examined. Several key aspects are discussed here, including the owners’ preferences and personal beliefs or norms, organizational structure, the capacity for internal monitoring, the size of the organization, and the characteristics of employees and customers.

Chapter 8 focused on what shapes compliance behavior at the individual level by discussing the regulated actors’ subjective explanations for their compliance behaviors and by analyzing variables suggested in the existing literature as key individual compliance variables, including plural subjective deterrence, personal norms, descriptive norms, perceived obligation to obey the law, practical constraints, and recognition of legal requirements. To allow for analysis at this level, compliance behaviors in this chapter were coded into a dichotomy of compliance and violation in contrast to the complexity of classifying compliance in previous chapters.

Plural subjective deterrence was the most common reason mentioned in the subjective explanations for both compliance behaviors and violation behaviors. The second important reason raised by interviewees was personal norms. Operational benefit and recognition of legal requirements were the next most common reasons mentioned to explain compliance behaviors, while practical constraints, descriptive norms, not being responsible for compliance, and recognition of legal requirements were the next most common reasons mentioned to explain violation behaviors. Not being responsible for compliance is a new factor raised in this research. It refers to the regulated actors not seeing themselves as responsible for compliance behavior.

Variable association analysis identified descriptive norms, personal norms, and plural subjective deterrence as the variables most significantly associated with compliance behaviors. Perceived obligation to obey the law was overwhelmingly negative and not obviously associated with compliance behaviors. Practical constraints were negatively associated with compliance behaviors, as predicted.
Individuals’ recognition of the legal requirement in terms of whether they know it is law was overwhelmingly negative and did not show association with compliance behaviors.

Some general implications are discussed in the concluding chapter, Chapter 9, which answers the last research question. An integrated model to study compliance is proposed. First, in this model, knowing legal norms is not a necessary precondition for compliance. Second, legal knowledge is considered in a broader sense and called comprehensive legal knowledge, which is composed of doctrinal legal knowledge and legal practice knowledge and is the result of interaction between the two kinds of knowledge. Third, compliance behaviors, instead of legal norms, are taken as the starting point for compliance research. Researchers should note that compliance behaviors are responses to “the law” the regulated actors perceive subjectively, or their comprehensive legal knowledge, which may differ from doctrinal law or doctrinal legal knowledge. Consequently, understanding how this “perceived law” is formed and knowing what the “perceived law” is are crucial for understanding and predicting compliance behaviors. Fourth, if the regulated actors are organizations, one must understand how organizational norms transmit and compete with legal norms. Organizational members’ compliance behaviors are shaped by the combination of legal norms and organizational norms through organizational socialization and management processes. Fifth, the processes are interrelated at three levels. Processes at regulatory level and organizational level influence and are influenced by variables at individual level. All variables functioning in or produced by regulatory and organizational processes come together at individual level and produce the final compliance behaviors. For instance, the plural subjective deterrence and descriptive norms that function at individual level are directly linked to “what the law is” in the perception of the regulated actors, and they are the vital outcome of regulatory and organizational processes. Personal norms underline the entire process of comprehensive legal knowledge formation at regulatory level and keep conflicting with final comprehensive legal knowledge if they deviate from what comprehensive legal knowledge considers proper.

In addition to the integrated model for studying compliance, implications are discussed for other aspects of compliance study, such as implications about compliance at different times in the business life cycle (start-up versus regular
operation), about compliance pluralism, for the process approach in compliance research, of comprehensive legal knowledge formation, and of differentiation between enforcement agency and legal norms. Furthermore, methodological implications are reviewed. Some new insights about how to address China’s compliance challenge are also addressed at the end of the thesis.