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## Evolving Concept of Federalism in Pakistan: Cooperative Federalism

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**Abstract:** This paper is an attempt to explore the federal structure (Center-Province Relationship) of Pakistan from a historical perspective and spotlight on how it underwent from a strong centralized federation to a decentralized federal structure after the 18th amendment, which was made in the 1973 constitution during the year 2010. In addition, the focus is made on the controversies on the 18th amendment, although the majority of provinces are of the opposite opinion. The last portion of this piece is devoted to the concept of Cooperative federalism, its evolution and its pros and cons, as is evident in certain countries like USA, Mexico, India and Canada. Can it be a fit model for a polity like Pakistan is a question that invites debate at all levels, especially by political leadership, policymakers, civil society and academia.

### Historical Overview of Federalism in Pakistan

When Pakistan came into being in 1947, it was ruled under the Indian act of 1935, and the founder of the nation asserted a federal form of government. The ruling elites knew that Pakistan was composed of a multi-ethnic and heterogeneous population, and it was felt difficult to unite the whole nation under an extremely centralized government.

The act of 1935 was enforced in the country until 1956 when president Iskandar Mirza abrogated it and created a presidential system with full centralization. In 1958 the system gave way to semi-presidentialism, followed by civil-military equations from 1970 to date (Kundi, 2002).

Regionalism in Pakistan is a history of state-building, nationalism and ethnic politics where centralizing elites have presented themselves as representatives of Muslims of the Indian subcontinent while marginalizing minorities on the basis of their distinct culture e.g., Bengalis, Baluchs.

The colonial times saw Christian missionaries working to promote their religion and ethnicity. After the creation of Pakistan, Bengalis gained prominence in all walks of life except in armed forces, bureaucracy, and business (Singh, 2003).

Bengali was recognized as the state language but it did not translate into political power for minority groups because Urdu was made compulsory at universities to unify people under one nation. This has had a significant impact on Pakistan's politics, economy and society (Christine Fair, 2013).

Historically, the government of Pakistan has been dominated by the elite from Punjab province, who control not just most of the economic and political resources but also monopolized the ruling seats for decades. They discriminated against minorities and deprived them of equal representation in bureaucracy and armed forces which resulted in the civil war in 1971.

This war also proved the incompetence of the ruling elites in safeguarding territorial integrity. This lack of good governance and equitable distribution of resources led rise to regional

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movement in erstwhile East Pakistan which later on became Bangladesh ([Javid, 2012](#)).

The military regime that came into power by ousting elected prime minister Zulfikar Ali Bhutto further marginalized Muslim Bengalis who were already seething under the repression of West Pakistani rulers.

The regime was dominated by people from Punjab, who once again monopolized all the important state positions, thus promoting Punjabi domination. During this period, nationalist parties in Baluchistan were banned and their leaders were tortured, killed or forced to leave the country ([Mukhopadhyay, 1971](#)).

### **9/11 Incident and Federalism**

After the 9/11 incident, the military government under the leadership of General Pervaiz Musharraf was forced to remove the ban on nationalist parties. In 2002 general elections from Baluchistan and Sindh, nationalists won majority seats in the National assembly which elected Zafarullah Jamali as the prime minister, who later formed a coalition government with MQM chief Altaf Hussain (Musharraf, 2006).

MQM was born out of the Mohajir movement which wanted to represent the interests of Urdu-speaking people who migrated from India and settled down in Karachi after the partition. MQM wanted to secure most of the seats for Mohajirs but London-based party chief Altaf Hussain realized that his leadership was at stake if he didn't field non-Mohajir candidates in Sindh. Thus, he agreed to share general seats with ANP and JUI(F) which put nationalist parties at an advantage over MQM for the first time since its formation in 1984 ([Frotscher, 2008](#)).

ANP leader AsfandyarWali Khan became president after Jamali completed his constitutional term. After Khan's speech in the National assembly, PML(Q) leader Chaudhary Shujaat Hussain invited all other parties to join his ruling coalition. This resulted in the formation of a grand coalition government where ANP was given the Ministry of Sports, followed by the Ministry of Food and Agriculture.

The outcome of this political development was that nationalist parties formed a strong block in the parliament that would challenge MQM on regional and ethnic politics. This coalition resulted

in the introduction of the 18th constitutional amendment by the PML(Q) government which devolved power to the provinces, thus depriving MQM of its strong foothold in Sindh.

The National assembly elections were held in 2008, where ANP, PPP, PML(Q), JUI(F) and MQM won majority seats in their respective provinces. ANP formed a government in Khyber Pakhtunkhwa province with PPP's support but both parties, later on, parted ways due to ideological differences ([Ahmed, 2020](#)).

ANP was positive towards giving rights to Baluchistan because it would weaken MQM's nationalist politics in Sindh. Baluch nationalists were on good terms with ANP because they enjoyed equal representation in provincial assembly and bureaucracy under ANP rule which was totally dismantled by the subsequent PPP government after 2008.

It is important to note that the ANP which gained popularity among the people of KP for its nationalist views, welcomed Sardar Attaullah Mengal, who was forced to leave Baluchistan due to the atrocities of General Musharraf's military regime. After Mengal's return, the ANP government formed a provincial cabinet with him which further strengthened the nationalist block in Senate against MQM ([Mehmood, Regional Political Parties: Challenge to Political Stability in Pakistan](#)).

MQM became part of the ruling coalition after the 2008 elections but it resigned two years later because PML(Q) was no longer supporting it. This made PML(N) as the key ruling party in Sindh after the 2011 elections, where they formed a provincial government with the help of MQM.

Punjab became a stronghold of the ruling PML(N) after the 2008 national assembly elections, where PPP decided to support the 'king's party' for making a federal government.

PPP faced the worst defeat in Punjab, where people voted for candidates of the ruling party only. Around 80 seats out of 371 general seats were won by independent candidates which later formed their own group in the National assembly called PML(Q) B. This was a major change that altered the political landscape of the country.

After the 2008 elections, the ANP-MQM coalition shared most of the General seats in the

Senate which were enough to defeat PML(N) candidates. However, PPP supported the joint opposition of PML(Q), MQM and JUI(F) led by Fazlur Rehman Dreshak.

ANP's strong block in Senate allowed them to shoot down many bills of PML(N) led government. One such example is the 18th constitutional amendment that changed the political structure of the country and gave power to provincial governments [\(Zaidi, 2017\)](#).

Similarly, ANP was successful in blocking a bill that aimed at amending article 203C which allowed FATA residents to get National identity cards and passports. This blocked possibility for MQM-P, who wanted to bring their nationalist politics to Sindh by encouraging FATA people to migrate to Karachi.

After the 2008 elections, ANP became an important coalition partner of PPP which allowed ANP to control provincial policymaking bodies like the senior minister committee, Provincial Development Working Party (PDWP) etc. However, Balochistan was still underdeveloped because of a lack of resources and poor governance.

The passage of the 18th amendment in the constitution of Pakistan and its pros and cons is another debate that has become controversial among scholars and political analysts. PPP's former President Asif Ali Zardari wrote a book called 'The Story of Struggle' where he claimed all amendments as his party's achievement.

On the other hand, PML(Q) gave credit for the 18th amendment to General Musharraf because he was the one who allowed this amendment to bring reforms to the governmental system. However, the fact is that PPP was the leading ruling coalition after the 2008 elections and it had enough seats in the National assembly to get the 18th Constitutional Amendment approved.

Trends to becoming cooperative federalism by Pakistan ruling parties can be traced back to 1999 when President Musharraf created the NFC award. When PPP came into power in 2008, they tried to work for the creation of regions or provinces to establish 'South Punjab Province'; however it faced major opposition from nationalist parties in the National assembly.

However, the 18th Constitutional Amendment reflects an ideological divide between nationalist and regionalist parties. PML(N) had to face an existential threat due to its cooperative approach towards smaller provinces, and this forced it to adopt nationalist agenda [\(Rana1, 2020\)](#).

The role of the PPP in creating governance institutions that are aimed at promoting populism is also important because it reflects a desire for decentralizing power among different segments of the population.

However, the success of populist politics is an important research question because it reflects the failure of the PPP provincial government to achieve economic stability and overcome challenges like the energy crisis and poor infrastructure.

The covid-19 has paved the way for restructuring federalism in Pakistan and it is seen that cooperation at the center and province-level is more effective for the smooth functioning of the state. Thus cooperative federalism is suitable for a country like Pakistan, which experienced the worst trauma in 1971 in the form of the separation of East Pakistan.

## **Concept and Suitability of Cooperative Federalism For Pakistan**

Cooperative federalism, also known as "marble-cake federalism" or "shared rule federalism," is an arrangement in which the national government and subunits of government (states, localities) share power over the same political issues.

Under cooperative federalism, subnational governments can take action only if specifically authorized to do so by the national government, and national officials can take action only if authorized to do so by sub-national governments [\(Bohte, 2000\)](#).

The philosophy of cooperative federalism is that citizens should be free to choose their own political institutions and arrangements through devolution or decentralization - or both - without having it imposed on them by elites in the capital city.

Thus, this philosophy aims to ensure that devolution happens in a way that is supported by the people it affects so that there are no political or economic disincentives to decentralization.

Cooperative federalism has been used in many countries around the world, including Australia, Canada, Germany, India, Switzerland and the United States.

## Various Definitions Of Cooperative Federalism

### (A) Cooperative Federalism

- The system by which sovereignty is divided and shared between national and sub-national governments, with the latter having some autonomy but ultimately acting as agents of the former.
- Cooperation between two or more government levels in pursuing common goals through mutual support of each other's policies toward those goals ([Deering](#)).

### (B) Cooperative Federalism Definition

- A form of government in which sovereignty is shared between two or more levels, with none subordinate to any other; mutual cooperation and support for common goals; policies at each level are determined by locally elected officials.

### (C) Cooperative Federalism

This is a form of government divided and shared between national and subnational governments, with the latter having some autonomy but ultimately acting as agents of the former. Cooperation between two or more government levels occurs in pursuing common goals and this is done through mutual support of each other's policies towards those goals.

### (D) Cooperative Federalism

A form of government divided and shared between national and subnational governments, with none subordinate to any other; mutual cooperation and support for common goals; policies at each level are determined by locally elected officials.

### (E) Cooperative Federalism

Is a form of government where sovereignty is shared between two or more levels, with none subordinate to any other; mutual cooperation and

support for common goals; policies at each level are determined by locally elected officials.

## Historical Overview of Cooperative Federalism

The concept of cooperative federalism in the United States evolved from multiple Supreme Court opinions and congressional acts surrounding statehood, decentralization, and concurrent jurisdiction.

In 1790, Congress passed a law that allowed territorial governments to establish their own judicial systems, but that also imposed upon them appointed Federal district judges who had original jurisdiction over cases encompassing both Federal and state law. In order to encourage members of territorial legislatures to become state legislators, Congress created the Area Planning Act in 1935.

This act allowed administrators and consultants from the US Department of Agriculture's (USDA) Agricultural Adjustment Administration (AAA) to work with local communities and prescribe land use planning for rural areas that would be later approved by state and county officials. The AAA also encouraged state planning agencies to form by offering Federal funds ([Watts](#)).

In 1937, the Supreme Court established what is known as the "Green v. County School Board" ruling which declared that racially segregated public schools were unconstitutional (no such ruling had been made regarding de jure racial segregation).

As a result of this ruling, the USDA's Division of Suburban Resettlement created an advisory committee that worked with local leaders to develop units of local government that would be considered "suburban," which allowed states and localities to keep some building funds for public elementary and high schools. The establishment of these units became the foundation for regional school systems.

This system evolved into the present-day District of Columbia Court of Appeals for territorial cases, and the Supreme Court takes appeals from that court in some cases (for example, territorial courts striking down Congressional Acts). This gave rise to a conflict

between the different levels of government because both were trying to pass laws within their jurisdiction.

### **The Pros and Cons of Cooperative Federalism**

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The main purpose of cooperative federalism is that makes the people happier with their democracy. In a sense, it puts power into more hands rather than just one. In the United States, it allows individual states to have more say in what goes on within their own borders and how they wish to handle certain issues ([Newman, 2016](#)).

The main problem is that it can slow down the process of governance. Even if all levels of government are trying to work together, they all have their own priorities and sometimes, this may clash with or hinder each other's efforts to come up with a solution for a certain problem.

Another problem is that it can be costly if not done correctly. If one level or branch of government fails to cooperate, the rest may have to step in and overspend just to get something done.

This is what happened with Hurricane Katrina. The Federal Government had to intervene and spend money after the state and local failed to do so on their own.

The final problem with cooperative federalism is that it sometimes takes away from the democratic process. This happens when one branch of government holds a lot of power and because of this, other branches may feel as if they cannot do their job properly because they are always second-guessing them or waiting for them to do what needs to be done. In a way, it can be seen as anti-democratic.

In its most simplistic form, cooperative federalism consists of two or more levels of government (e.g., national and sub-national) working together to implement a policy or program. Cooperation occurs through regular consultation between the different levels of government.

The degree to which cooperation can occur varies greatly, depending on the country. For example, in Brazil, contentious issues are required to be submitted to compulsory arbitration before being considered by the courts ([Newman, The](#)

### **[Promise and Limits of Cooperative Federalism, 2016](#)**

The Brazilian Constitution requires that international treaties ratified by Brazil have precedence over national laws, thus allowing an emerging trend of soft law instruments governing public-private partnerships within cooperative federalism frameworks.

### **Contemporary Examples of Cooperative Federalism**

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Not only is the US dealing with cooperative federalism but many other countries are experiencing it as well. For example, China has a structure that encourages local governments to compete with each other for foreign direct investment through lower taxes and easing administrative requirements on FDI recipients.

This system is based upon regional competition between sub-national jurisdictions competing for foreign investment. Countries such as Japan and the United States have a more top-down approach, with a national framework determining general strategies while leaving room for lower levels of government to implement them.

In many cases, Cooperative Federalism has been used to achieve good results from different branches or levels of government working together in order to solve a problem. However, as is the case with anything, Cooperative Federalism also has limitations and can be abused if used improperly.

Cooperative Federalism is when two or more levels of government work together to implement policies. This has many pros and cons, but in the end, it is determined if it is properly implemented. It can slow down the process of governance, be costly, take away from the democratic process, and, lastly, can hinder each other's efforts to come up with a solution for a certain problem ([Ronald J. Krotoszynski, 2012](#)).

In essence, Cooperative Federalism is simply when multiple levels of government work together to solve a problem or create a policy. While this can be used in many different ways and for many different things, there are also problems that arise from it. Multiple levels of government can sometimes get in the way of each other, take away from the democratic process, and cost more to



implement. However, like anything else, it can be implemented correctly and used to successfully resolve problems or create policies.

## Contemporary Examples of Cooperative Federalism

### (A) Japan

- Japan is an example of Cooperative Federalism because it has a central government with the power to set national goals, while subnational entities implement said policies. This form of government is also known as vertical separation of powers (the precedence of center government).
- Coordination between Tokyo and prefectural governments plays a vital role in policy implementation.

### (B) China

- In China, the central government has most of the power and is able to fast-track development plans as it sees fit. However, local leaders are also given some autonomy over their jurisdictions as long as they still follow what is put forth by Beijing.

### (E) The United States

- The federal government in the US has most of the power, while state and local governments are given some autonomy to implement national policies as long as they are not contradicting them.

This form of government can also be called cooperative federalism because states are encouraged to work together on certain issues that affect all of them, such as environmental policy.

## (F) Cooperative federalism in Australia

(A) is unequal and an imbalance of power exists across the different levels.

- The government in Australia has a federalist structure and this means that there are three levels: national, state and local governments. However, each level has its own set of responsibilities and powers which may result in conflicts between them with regard to specific policies, given that

they are frequently passing laws that affect the others.

## Cooperative Federalism in Canada

- Canada has a federalist structure which means that it has both state and national governments, but each one of them has its own powers. For example, the provinces are in charge of certain matters like education, while the central government is responsible for others like infrastructure. This form of government is also called shared federalism.

## Cooperative Federalism in India

- India is an example of Cooperative federalism because it has a central government with the power to set national goals, while subnational entities implement said policies. This form of government is also known as the vertical separation of powers. Cooperation between Delhi and state governments plays a vital role in policy implementation.

## Critiques of the Concept of Cooperative Federalism

Usually, the central government can easily manipulate state governments because they do not have much power.

- This form of government is criticized because although states are given some autonomy, there are other levels (national and local) that do not act independently which compromises the federal system. Thus, it would be better if states had more power to make their own decisions because this would allow them to do what's best for their jurisdictions.
- Colonialism and the history of the different regions also play a role in how states are organized today. For example, India has 29 states which means that it still has remnants of its past as a colony of Britain which divided it up into smaller pieces.

(C) States will always have to cooperate with each other because of this form of government.

- A critique is that since states are encouraged to work together on some matters, the central government would be able to make

them act as if they were all one country which goes against their independence. This could be very problematic in terms of local cultures and traditions being threatened by overarching legislation.

**(D)** It allows the central government to have more power over state governments because it sets national goals which they must follow.

- Under this form of government, states are encouraged to agree with the national policies that are given to them which means that there is an imbalance of power between them and the central government. This can lead to issues in the future when, for instance, there is a law that states must follow but don't agree with it.

**(E)** One level of government does not have enough power over another because the central government's powers are very limited.

- This form of government can be problematic in some countries because while national governments are responsible for creating policies, the power is shared with state governments. Thus, each of them can influence legislation making it difficult to accomplish anything on a national scale.

### **Future Directions for Cooperation Federalism**

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- It would be better if state governments could act independently instead of having to work together because this would allow for more creativity and innovation in the creation of policies.
- However, it might be difficult to implement Cooperative Federalism at a local level because each municipality has its own jurisdiction which means that they can decide how their government is organized. For example, it would be difficult to coordinate with the different levels of government when there are many such as national and local (municipal).

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