

## Post Covid-19: Federal-Provincial Relations in Pakistan

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### KEYWORDS

18<sup>th</sup> Amendment  
Centralization  
Cooperative Federalism  
Covid-19  
Decentralization

### ABSTRACT

The objective of this research is to examine the cooperation between the federal and provincial governments and analyze the response of the federal government to develop national unity during the Covid-19 in Pakistan. This research addresses the challenges and issues between the federal and provincial government in post Covid-19 and discuss the measures which are adopted by them. This study also highlights cooperative federalism that seems relevant to Pakistan. This research is set in a qualitative interpretative framework to address the aforementioned issues. This research concludes that Covid-19 affected the governance structure in four areas around the world such as authoritarianism, multilateralism, federalism and economic management. During the analysis two contradictory approaches emerged, first is the rights of federating units and the second is that federating units step aside and the federal government take charge to handle the situation.

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### Introduction

The Covid-19 pandemic raised economic, health and social challenges almost for all the countries around the world. More than half of the population in the world experience lockdown and containment measures in the first half of 2020. Governments react quickly at all levels to take measures such as wearing masks, lockdown, fiscal support to vulnerable etc. (OECD, 2020). The rapid spread of Covid-19 is also a test for a federal form of government in which power is constitutionally decentralized and divided between the center and the federating units. However, federalism reacts differently in times of peace and crisis. During peace time it creates leadership opportunities, brings up competition and protects diverse interests while in a time of crisis such as the recent pandemic, it faces challenges of collective action and response because of the devolved nature of authority (Bohrn, 2021).

For the containment of Covid-19, it is crucial to share decisions across the level of government and required intergovernmental

coordination. Governments adopted a wide range of coordination mechanisms, but uncertainty still exists. A new debate has begun among scholars and policymakers, either centralized or decentralized responses are successful to overcome the post-pandemic situation. Although both approaches have their implementation mechanism in case of emergency response or containment measures regarding the virus. More decentralized responses give more authority to the regional or provincial governments but create an uneven policy impact on the provincial level while centralized authority requires uniform measures at the same time throughout the entire country. Pakistan is a decentralized state especially since the 18<sup>th</sup> constitutional amendment and the power-sharing formula has been defined in the constitution.

Some federal states like Germany, Australia and Canada responded effectively to Covid-19. These countries started quick testing, contact tracing and developed a

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uniform set of policies, lockdown, restrictions under the jurisdiction. But all the federal states do not guarantee an effective response. In contrast, the United States of America (USA) response to the crisis was slow with limited testing services, lack of intergovernmental cooperation and diverse policies within the level of states. In the absence of federal guiding principles, some states developed their policies for collecting and reporting data on Covid-19 cases. The existence of partisan enclaves also affects the quick decision making in American federalism during the time of crisis. A political party that has no control on the national level, their officials seek to challenge federal initiatives and pursue their paths while a party having control on both federal and state-level cooperated. California, New York, Michigan, and some other states announced a health emergency before the federal government did and clamour the federal government to craft a national policy to deal with this menace of Covid-19. These states also caution against lifting the restrictions whereas those states who supported the Republican Party pursued the policies of the federal government and were slow to impose lockdown and eager to uplift the restriction (Tarr, 2020).

The conflictual, dysfunctional and combative response has been seen during the Covid-19 in President Donald Trump regime. He was relying on the support of small states and was not prepared to adopt a strong national policy. Nationwide cooperative efforts and response were undermined due to the competing interpretations of the constitution and glaring political divisions. Sparred over between the federal and state leadership on appropriate planning against disease, medical supplies, financial support and jurisdiction (Bohrn, 2021; Burki, 2020). These political differences hinder the

coordination and consensus between federal and state governments. This debate remains unresolved but has been settled for a time being in the USA (Tarr, 2020; Burki, 2020).

In some other federal states like Australia, Canada and Germany, central and state governments work together, cooperate and avoid partisan during the pandemic. Their strategy to overcome the pandemic was based on coordination, collaboration and negotiation between central and state authorities (Bohrn, 2021). Even, Australia and Germany assembled the crisis cabinets with representatives taken across the political spectrum. As a result, these federal states were able to quickly respond against Covid-19 and adopted uniform measures across the country (Tarr, 2020).

The federal system in Canada is highly decentralized and consists of three territories, ten provinces, and a federal government in which a high level of policy cooperation has been evident in post Covid-19, and it's all rooted in the executive cooperative system in Canadian federalism. Economic policies received strong support in the increased federal-provincial cooperation to manage the pandemic crisis. Canadian cooperative federalism model considers successful at the time of emergencies and security challenges (Migone, 2020). In the case of Australia, with the consensus of federal and provincial leadership "National Cabinet" has been set up to deal with the Covid-19 situation. The national cabinet takes a collective decision based on shared information by the experts to achieve the goals of cooperative federalism. Each jurisdiction is free to implement these decisions appropriately because every state and territory has a different level of Covid-19 infection (Twomey, 2020).

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In the South Asian region, Nepal, India and Pakistan are the federal states. Nepal adopted federalism under the 2015 constitution and abandoned centralization. Its federal system seems immature in post Covid-19 because sub-national governments were not clear about their role and responsibilities. As a result, Nepal faced a lot of challenges to actively respond to the pandemic. Covid-19 Crisis Management Centre (CCMC) was set up on federal, provincial and local levels. Although these three tiers work together but the centralized approach was adopted which did not allow sub-national governments to respond to pandemic independently. But overall pandemic provides an opportunity to further accelerate the process of federalization (Karki, 2020).

India another country having a large federal system in the world, adopted the policy of national lockdown, move towards a strong federal government with an authoritarian trend and changed the balance of federal structure (Burman, 2020; Burki, 2020). But Saxena, (2020) does not consider it an authoritarian trend and views India's response to the pandemic outbreak as on the close collaboration between the central and provincial governments. Due to the pandemic, cooperative federalism strengthens in India because no single jurisdiction had the capacity to deal with the crisis. Although according to the constitution, health care is the responsibility of the provincial government but in extraordinary circumstances, central government leads and supports the provincial government. Indian constitution allows the central government to issue directions to provincial governments. Some related provisions add to the constitution such as National Disaster Management Act, 2005 and the Epidemic Diseases Act 1897 (Saxena, 2020). The

pandemic can be controlled through centralized institutional arrangements with the cooperation and interaction of all state governments. In the context of Covid-19, countrywide cooperative institutional culture is not observed for the containment measures set by the federation and provinces.

Since the Covid-19 pandemic spread in Pakistan, the debate on the responsibilities and authorities of federal-provincial governments has become the center of attention. This debate is also related to the state integrity and future of federation in Pakistan (Rehman, 2020). Pakistan response to deal with the crisis is shaped by three factors: one, political competition between the federal and provincial government and confusion on their area of responsibility, second, capacity issue in terms of the inadequate healthcare system and ineffective bureaucracy, and third is resources constraints to deal with the pandemic (Javid, Ali & Javed, 2020).

### **Objective of the Study**

The objective of this research is to examine the cooperation between the federal and provincial governments and analyze the response of the federal government to develop national unity during the Covid-19 in Pakistan. This research argues that despite the fact the 1973 constitution based on cooperative federalism it is not truly implemented in Pakistan that may weaken the federal governance structure and national integrity of Pakistan. This research addresses the challenges and issues between the federal and provincial government in post Covid-19 and discusses the measures which are adopted by them. This study also highlights cooperative federalism that seems relevant to Pakistan. This research is set in a qualitative

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interpretative framework to address the aforementioned issues.

### **Conceptual Framework**

This study covers the federal-provincial cooperation and coordination in post Covid-19 pandemic in Pakistan. The concept of 'cooperative federalism' or 'marble cake federalism' has been used to understand the theoretical foundation of this research. Cooperative federalism gained importance during the 1930s in America (Zimmerman, 2001) but the originator of the "Marble Cake" metaphor is Grodzins (1966) in which policy responsibilities are intermingled in different levels of governments while the word 'cooperative' is the basic postulate in the political theory of federalism that federating units capitulate part of their sovereignty to work together for common good. It is practically difficult for the federal government to implement the national objectives in the absence of state cooperation (Zimmerman, 2001). However, multilateral bargaining and seeking consensus are the dominant features of cooperative federalism (Saurer, 2020).

Usually, the federal system is conceived as functions and powers divided into central and state governments which both are operating independently of each other. Now this concept has changed, the modern era gives rise to a new phenomenon named 'cooperative federalism' in which federal and state governments perform their functions jointly rather than exclusively (Gopal, 2014). In fact, administrative cooperation exists between the federal and provincial governments in cooperative federalism and provinces are partially dependent on payments from the federal (Saurer, 2020). Cooperative federalism is a key point in Pakistan's fight against Covid-

19. It is must in the Covid-19 crisis to take coordinated steps and adopt the unanimous policies in the country. It is effective to create harmony in the relief efforts and to tackle the situation.

### **Discussion and analysis**

Historically, politics in Pakistan is characterized by differences between the two sets of political elites, one is demanded more centralized state authority while another is seeking decentralized authority which is ethnically more representative. Domination of federal civil-military bureaucracy decisively tilted towards the centre (Kureshi, 2020). Pakistan's cooperative federalism is based on the 1973 constitution in which federal, provincial and local governments must collaborate. This governing system authorizes the provincial governments to generate revenue from taxation and further federal government assistance to provide resources from the national divisible pool through NFC (National Finance Commission) award. In the post Covid-19 scenario, this division of responsibilities has not worked as effectively as it should be (Mirza, 2020).

In the history of Pakistan, first time the issue of provincial autonomy has been resolved through the 18<sup>th</sup> amendment to empower the provinces in legislative and administrative matters and expand their resources for the betterment of the people (Gul, 2020). The trickle-down vertical devolution effect has not been yet evident at lower tiers of governments. Moreover, the scope of devolution of power differs from province to province. It is experienced in the last decade that the 18<sup>th</sup> amendment has not been implemented in its true spirit (Aziz, Naushad, Khan & Shahid, 2020). Almost all the subjects under the concurrent list

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administratively were transferred to the provinces, merely 7-8 ministries leaving for the federal government. This modified the legislative, administrative and political structure of the country to a fully federal system from the quasi-presidential<sup>1</sup> and quasi-federal<sup>2</sup> (Gul, 2020). So, this landmark constitutional amendment turned federal governance subjects into provincial subjects, expanded the role of provinces in policymaking and give financial autonomy (Kureshi, 2020).

This makes it possible for the provincial governments to craft their legislation to meet the challenges of governance in those areas which are critical to the Covid-19 response (Kureshi, 2020). To deal with the pandemic all provinces have relied on their legislation. Punjab formulated the Punjab Infectious Diseases (Prevention and Control) Ordinance 2020. Khyber Pakhtunkhwa (KPK) government has the National Disaster Management (Khyber Pakhtunkhwa) Amendment Acts of 2012 and 2019. For the prevention of epidemic diseases, Sindh follows the Sindh Epidemic Diseases Act, 2014. Balochistan and federal territory both relying on the West Pakistan Epidemic Diseases Act, 1958, additionally federal territory also relied on the National Disaster Management Act, 2010. (Sarwana, Ahmed, Channah & Noureen, 2020).

Though defenders and critics of the 18<sup>th</sup> constitutional amendment remain divided over its impact, the decentralized governance structure gives responsibility to the provinces to handle any crisis in their domains with minimum interference from the federal government. The recent pandemic put immense pressure on its governance structure particularly, on the health system and some other related departments such as police, civil

society, district administration that are equally involved in curbing the pandemic (Suleri, 2020; Mumtaz, 2020). However, health and social protection is the responsibility of the provinces, and each province can make a decision independently in these areas while border control and aviation are the subjects of the federal government (Shaikh, 2020). Pakistan is the only country in the world without a health ministry at the national level. Provincial governments are liable to deal with the Covid-19 crisis, but their response has varied widely according to their respective capabilities and strength. These differences have been visible during the containment of the virus and creating awareness in the general public. In these circumstances, it is a dire need that provinces take a front-line position against the disease, but their responses are far being from coordination and consensus which are essential elements of cooperative federalism (Mirza, 2020).

The confusion over the responsibilities intensified by the competition between federal and provincial governments controlled by opponent parties. Partisan enclave has evident in Pakistan's response to Covid-19. Pakistan Tehreek-e-Insaf (PTI) federal government was reluctant over its approach to deal with the crisis. Provincial governments belonging to other political parties such as Pakistan People's Party (PPP) in Sindh implemented their measures to restrict the spread of the coronavirus. The result was in the patchwork of responses while the crisis required a unified national approach; for instance, KPK and Sindh's rapid response were exemplified. This approach contrasted with those taken in Balochistan where the government was not effectively screening the pilgrims who

<sup>1</sup> all the executive powers vested in the President

<sup>2</sup> with the separate lists of federal, concurrent and provincial subjects

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arrived from Iran. In Punjab, the government refused to ban the annual people gathering of the *Tablighi Jamaat*, from where people infected each other, and the virus spread to other parts of the country. Provincial governments reallocated their existing budgets towards the upgradation of healthcare infrastructure and emergency response. They identified vulnerable households and provided them with social protection which included cash transfers and schemes for infrastructure projects. Following the provinces, the federal government also announced 1.2 trillion rupees for emergency relief and support to the vulnerable segment of society (Javid, Ali & Javed, 2020).

Since the 18<sup>th</sup> amendment provinces are exclusively responsible for the healthcare system including lockdown, banning public gatherings, to close educational institutions. Sindh provincial government took lead to initiate lockdown and building quarantine centres in response to the Covid-19 outbreak. Other provinces tried to follow it (Mandviwalla, 2020). Confusion and division among the public have been created on whether or not to observe the lockdown when soon the other provinces followed the Sindh initiatives and enforced partial lockdowns in their respective provinces. A varying degree of lockdown was implemented in all the provinces against the wishes of the Prime Minister, who resisted because of the negative impact on poor and daily wages workers. Prime Minister directly criticized the Sindh government which had closed markets, public spaces and transport (Batool, 2020; Syed & Ali, 2021)

All the provinces dedicated special wards and medical teams in hospitals to care for Covid-19 patients. Provincial governments introduced different schemes for providing financial relief to the people

such as distribution of *ration*, paid utility bills in instalments (Mandviwalla, 2020). The current federal-provincial divide on the healthcare response is rooted in Pakistan's administrative structure. After the 2010 constitutional amendment, the provincial governments became responsible for managing their respective healthcare sectors while the central government holds the mandate over interprovincial coordination and broader health policy, among other responsibilities. As the Covid-19 response required cross-sector decision making on border control, financial management, and various other sectors under the central government, it was essential to have a coordinated national policy (Batool, 2020)

After the devolution of power in 2010, all provinces increased their health budgets. However, some issues arose including three hospitals in Karachi that were run by the federal government. The Sindh government demanded to transfer their control to the province while the federal government has been resisting it. In 2019, the Supreme Court ruled that the federal government has the right to run hospitals in the provinces even after the devolution of authority. The Sindh government protested against this court ruling and considered rollback of the devolution. As a confidence-building measure, the federal government is willing to hand over the authority of the hospitals to Sindh. For once, it has seemed that the spirit of federalism would help engender more, rather than less, unity between center and province. However, during a pandemic in 2020, the federal government allocated funds to these hospitals and announced it would run them itself. On the other hand, the Sindh government stated that it has invested billions of rupees in these hospitals and allocated money from its provincial budget. A review petition has been

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filed by the provincial government in Supreme Court and is awaiting the decision. At this time, hospitals run through dual budgetary allocations (Brohi, Khan, & Zaidi, 2020). The centralized decision making of the federal government made things worse and refused to share authority, even though the constitution granted the health sector responds to the provinces, but court ruling strengthened federal control over the provinces (International crisis group, 2020).

Regarding Covid-19, federal and provincial governments differ in their policy preferences. Opposition political parties repeatedly offered to assist the government in combating pandemic. When political consensus was needed at the time of the pandemic, federal government relations with the opposition parties were strained. This antagonism is rooted in the 2018 general elections (International crisis group, 2020). Since the 2018 elections, PTI has run the federal government including three provincial governments while the PPP established its government in the province of Sindh. Although PPP leads the Sindh provincial government, the PTI has a strong following in Karachi – winning 13 of its 21 National Assembly seats in the 2018 elections (Kureshi, 2020). Tension escalated between the federal and the provincial government of Sindh when the policy differences emerged between both of them, former was seeking the situation normal and against the swift lockdown policy whereas later was pushed towards lockdown (Kureshi, 2020).

Therefore, political strife between the PTI and PPP leadership has impacted the efforts to Covid-19 response. For instance, PTI leadership planned to challenge an Emergency Relief Ordinance in the court on the ground that it is an interference in the mandate. This relief ordinance was passed by

the Sindh cabinet, to provide relief for the people of Sindh. The Sindh government was also facing challenges to import testing kits due to the delayed response from the federal government. As both governments challenged each other's policy imperatives, efforts were unlikely to produce any effective results against pandemic and created a worse situation of governance in the country (Batool, 2020).

On this center-provincial issue, the Supreme Court conducted a public hearing on state response to the Covid-19. Both federal and provincial government officials appeared before the court and explained their policies initiatives to contain the virus. The court emphasized the need for coordination, ordered to adopt a uniform policy for all over the country and condemn the federal vs. Sindh government tussle (Kureshi, 2020; Batool, 2020). Furthermore, Court observed that under the constitutional article 149(4), provinces are bound to follow the direction of the federal government. This observation is another debatable issue (Rehman, 2020). The federal government moved towards the nationwide 'smart' lockdown while the provinces also indicated following the direction of centre after the few weeks of political confrontation between PPP and PTI (Batool, 2020).

In coordinating the national response to Covid-19, neither the parliamentary committee on Covid-19, nor the National Disaster Management Authority (NDMA) led the response (Brohi, Khan, & Zaidi, 2020). A special session of parliament was called up to develop a national strategy to deal with the outbreak. But the Prime Minister did not attend that led to further criticism from his political opponents (Brohi, Khan, & Zaidi, 2020). The opposition parties then convinced the All Parties' Conference and did not invite the government. The Sindh

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government was particularly sensitive to any criticism of its health response because of a centre-province standoff that had been shaping up in recent years (Brohi, Khan, & Zaidi, 2020).

A National Command and Control Centre and National Command and Operation Centre (NCOC) were established which is a unique and distinct experience of governance to ensure coordination between the federal and provincial governments. The federal government constituted the National Coordination Committee (NCC) in March 2020 to formulate and implement the strategies to prevent the spread of Covid-19 (GOP, 2020). NCC session conducted which was attended by the chief minister of all provinces chair by Prime Minister to review the measures to tackle the Covid-19. The formation of NCC and NCOC was criticized and called it unconstitutional because, under the constitutional article 153 and 154, the CCI (Council of Common Interest) is the appropriate body to formulate consensus-oriented policies, responsible for inter-provincial harmony and address the national menace of Covid-19. CCI is the highest dispute resolution body and may create strong working relations between centre and federating units and among federating units. Opposition parties requested to call the meeting of CCI, but the federal government rejected the opposition demand (Sarwana, Ahmed, Channah & Noureen, 2020).

The meetings of CCI are not regularly commenced despite it is essential for the federal system. All the matters mentioned in part II of the federal legislative list are being decided in the cabinet meeting which is a clear violation of the constitution. To strengthen the federalism and parliamentary democracy in Pakistan, there is a need to strengthen the existing coordination mechanisms under the CCI instead of

creating a new forum (Rabbani, 2021). According to Hussain (2020), despite differences among the stakeholders, these forums are working hard in containing the virus and continue to develop coordinating efforts.

The collaborative and consultative arrangements by the constitution ensure that centre and federating units work in harmony and avoid overruling each other. Unfortunately, these optimal arrangements are not put into practice. Chronic problems between centre and provinces and among provinces came over the surface in the fight against coronavirus (Suleri, 2020). A national consensus is required in the campaign against Covid-19. These days national unity is necessary to meet this serious challenge. Somehow, unity is visible at various levels, but it is absent in the national decision making. Unity among political leaderships ensures that decisions at the top level are based on consensus among all the stakeholders and political forces. Practical national unity is required for different reasons such as inter-provincial harmony. As the Prime Minister stated that since the 18<sup>th</sup> amendment centre cannot impose its will on the provinces is laudable, but it does not mean avoiding the interprovincial consultation (Rehman, 2020).

Under the administration of Prime Minister Imran Khan, the federal government could not form national unity in post Covid-19 scenario and remain disorganized. The federal government is responsible for building a coordinated national action plan. Failure in formulating and implementing such a plan can weaken the federal government. The federal government could take a firm leadership role and develop a more coordinated strategy among provinces. In the time of the crisis, all levels of government should avoid political point-



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scoring rather than building up healthcare infrastructure to combat the virus (Batool, 2020). The inability of federal leadership does not mean the failure of federalism (Humayun, 2020). Political figures just raised the slogans of national unity but practically do nothing. As federal minister for information and broadcast stated, “At this time, we need national unity so that the coming challenges, which will be harder than of today’s, could be tackled effectively.” Similarly, prime minister and president of Pakistan emphasis on nation’s unity in their message, “The nation should demonstrate unity, discipline and passion in fighting the coronavirus pandemic that has engulfed the whole world”.

**Conclusion**

The concept of federalism is being tested in a way that how national government and federating units manage the Covid-19. During the research two contradictory approaches emerged, first is the rights of federating units and the second is that

federating unit’s step aside and the federal government take charge to handle the situation. Pakistan’s strategy to deal with the pandemic is messy and inconsistent from the very beginning. The conflicts between the federal and provincial governments undermine the state’s ability to respond effectively. The unfolding tragedy of Covid-19 is not only a trial of public-health policy and governance but also a test of political leadership which needs to bridge gaps in capacity and competence and build trust across various tiers of governance. To run the governmental affairs through the participation of all the federating units in decision making over foreign and internal matters, the supremacy of the constitution is required. To respect the spirit of the federal parliamentary democratic system, the promotion of a cooperative federation is required in Pakistan. It is the only answer to the recent complex governance structure.

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