

Practices and Key Aspects of Intergovernmental Relations in Nepal: Major Challenges and Way Forward in Advancing Federalism

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Abstract

After the promulgation of the constitution through the Constituent Assembly in 2015, Nepal became a federal state by establishing seven provinces. Following the resolution of a decade-long conflict and a long political movement for complete democracy, Nepal implemented the three levels of government system as part of its federal model. The fundamental characteristics of federalism and intergovernmental interactions are outlined in Nepal's constitution. However, there are some gaps in the constitution that need to be addressed for its broader acceptability and make it functional. The major constitutional principle governing intergovernmental relations (IGR) is coordination, cooperation and coexistence. However, the schedule list in the constitution includes an overlapping model for IGR, resulting in some powers and rights that overlap with provincial jurisdiction and concurrent powers. As a political system, federalism is hierarchical in terms of power and models with different IGR policies offered by various federal models that are specific to each country. The unique socioeconomic conditions and cultures of Nepal have implications for IGR, as do variables and governance practices. Both vertical and horizontal relations among governments are equally important factors to consider in the functioning of federalism.

Keywords: Federalism, intergovernmental relations, vertical and horizontal relations, principles and structures

Introduction

Federalism is a system with at least two levels of government in which the constitution facilitates interaction between the federal, provincial and local levels. These interactions are the primary focus of the Intergovernmental Relations (IGR) concept, which is largely based on the constitution. The traditional emphasis of IGR is now under question due to a paradigm shift in governance. Informal relationships within the political system sometimes can evolve into formal and unofficial systems

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for establishing coordination and cooperation. Since policy issues often necessitate collaboration among government levels for effective implementation, coordination between them is crucial.

Concept of Federalism and IGR

The government is a structure that establishes rights makes laws and governs the country. Every government is ruled by a specific set of constitutions that outline how it will run and perform its duties. The power distribution provisions in the constitution determine whether a government is unitary or federal. In contemporary politics, the state uses the government to achieve its objectives. People understand the state through both official and nongovernmental sectors. The three main duties of the government are maintaining law and order, ensuring service delivery, and providing opportunities to its population. The type of political system a state adopts determines the type of government. Governments can be decentralized, divided into units, unitary, or federal. In a unitary system, the government may be divided into central and local levels. The central and local governments can cooperate in a unitary nation by devolving power, allowing them to communicate as they carry out their respective duties.

The National/Central/Federal and Sub-National/Constituent Units are the terms used to describe different layers in federal system. Federalism is a practice that divides a country into two or more levels of government, each of which has nominal control over a certain area and its inhabitants. But if several tiers of government are in charge of the states, then there are formal and unofficial connections between them in the political, legal, administrative, financial, and other spheres. As a result, the state governments engage with one another to function and continue to exist. These relationships are generally practiced by creating political institutions and processes. Therefore, all states, whether federal or unitary, have an IGR of certain norms. To execute these roles and responsibilities, interactions and dialogues of the central and its constituent units are imperative. Therefore, Anderson (1960:3) argues that intergovernmental relations are important interactions between governmental institutions of all types "(cited in the University of Pretoria, n. d.).

IGR is generally seen as the cooperation between different levels of government. In this context, IGR plays a significant role in federalism, as it requires interactions and interdependence between levels of government, whether formally or informally to uphold their constitutional jurisdictions. These relationships are crucial for the implementation and enforcement of shared responsibilities at various levels of government. IGR involves interactions and interdependence among different tiers of government in a federal country. Therefore, intergovernmental relations serve as a "bridge-building role" in coordinating and facilitating cooperation for power-sharing within the federal system (Krane and Leach, 2007).

Most countries with a federal system have formal processes for IGR to cooperate with the governments, coordinate activities, and resolve misunderstandings. This fosters a trustworthy environment among state agencies in federalism. Ideally, IGR functions collaboratively, coercively, equitably, hierarchically, and symmetrically. For example in cooperative federalism, instead of redrawing lines between government layers, a complete and coherent set of IGR institutions governs the inevitable concurrency of government responsibilities (Wanna et al. 2009). Consultation, coordination, and a willingness to accept changes between governments, are necessary for concurrent jurisdictions.

IGR involves various interdependencies and influences among public officials at all levels of government, with a focus on financial, policy, and political issues (Krane and Wright 1998, p. 1168). The four major epochs of IGR with administrative implications are legal and political, welfare state interdependence, government/non-governmental organization partnerships; and collaborative networks (Agranoff, 2010).

Operational Definitions of IGR

According to Anderson (1960), IGR is a crucial aspect of interactions among governmental institutions. It occurs between governmental units within the political system and involves all types and levels of government. IGR serves as a means of interaction among different agencies at different layers to promote coherence, coexistence, and cooperation (Wright, 1988). They enjoy the constitutionally delegated powers in their respective geographical area (Cameron, 1994), and facilitate in realizing common objectives through cooperation (Opeskin, 1998). In the words of (Opeskin; 2001:129), IGR commonly refers to relations between central, regional, and local governments and facilitates the attainment of common goals through cooperation. Because of its diverse modalities, IGR involves many forms. Realizing this essence of IGR, (Poirier: 5) mentions IGR is officially grounded in legal and constitutional premises. In its most elementary context, Anderson's (1960) definition of IGR as an important body of activities or interactions between governmental units is concurred by Wright (1988) while further emphasizing the importance of these interactions.

For Cameron (1994), it has more to do with geographical jurisdictional perspective and defines it as the geographical delineation of powers. Unlike Cameron, there is a different reading on growing realities of politics in federalism. To Elazar (1987), the concept is not merely a replacement of historical concepts such as federalism and unitarianism, but a supplement allowing for the growing realities of politics and administration. However, a summary of IGR's conceptual flexibility shows that it is focused on the relationships between different levels, influenced by the macro political system and socio-economic and geopolitical diversities.

In federal systems, considerable intergovernmental consultations, collaborations, and coordination have typically been necessary in the exercise of constitutional functions by governments. The institutions and procedures for intergovernmental cooperation have performed two crucial tasks: they have helped to resolve disputes and have made it possible to adjust to shifting conditions. These procedures have typically involved interactions between the federal government and constituent unit governments as well as among the constituent units.

Watts (1989) and Sproule-Jones (1993) have noted that four aspects have appeared to the fore from various studies on IGR. , In the United States and in Switzerland, the federalism involves the separation of powers between the executive and legislature, while there is the fusion of the two in the parliamentary federations of Canada, Australia, and Germany.

Second, some literature including of Dye (1990) and Kenyon & Kincaid (1991) have laid emphasis on the significance of competition of federal and state governments, and among state governments unlike some earlier studies of IGR that concentrated on cooperative federalism,. Breton (1985) has argued citizen preference is likely to be improved by such competition. But the essence is that cooperative and competitive relations in intergovernmental negotiations are inherent in the federal system. So balance of cooperation and competition is expected in each federal system.

Third is the complexity of democratic accountability in intergovernmental administrative and fiscal relations. This issue has been raised in Canada by Breton (1985) and in Australia by Wood et al. (1989).

The fourth focus has been the analysis of the role and impact of political parties as emphasized by Riker (1964, 1975). These studies indicate the impact of political parties on operation of federations which is more complex than Riker had suggested.. This study will address the executive and legislative functions of various governments from Nepalis perspective and the strategies for improving intergovernmental cooperation.

Ideal Principles of IGR

IGR is primarily derived from the constitution, and IGR is the systematic actions of governmental actors. The constitution serves as a guide for politicians, bureaucrats, and the general populace. IGR won't run smoothly if the political system is dysfunctional. The following are the ideal guiding principles for IGR in the federal system, as stated in "Intergovernmental Relations in the Federal System": 1) Effectiveness: IGRs must be institutionalized so that they can meet policy objectives. Meaning that it has the capability to avoid duplication. 2) The next is transparency which is information on policy objectives and decision-making should be made

public to ensure clarity on the basis for decisions and actions. 3) Accountability: The government must be accountable to the public and the decisions are put to public scrutiny. 4) Efficiency-IGR should deliver well to achieve objectives that are free from political capture. 5) Independence: The decisions must be taken by avoiding political or private interventions that are undue (Business Council of Australia, 2006).

According to Deil S. Wright (1982), there are three models in IGR: Inclusive Authority, Coordinate Authority, and Overlapping Authority models. Robert Agranoff and Radin Beryl elaborate Deil S. Wright's third one 'Overlapping Authority'. It provides a view to interconnect such relations and a basis to moving beyond. Hence, they examine overlapping model of policy, program, and practice among federal units of government (Agranoff and Radin, 2015). Deil S. Wright (1988) in his book, "Understanding Intergovernmental Relations" shares detailed views on the concept. Several dimensions of IGR offer basis for analysis about institutions and processes on IGR. In the views of Phillimore (2013), these include vertical, horizontal, and sectoral dimensions, and a degree of formality.

Some theoretical perspectives

Scholars have identified different approaches to interpret IGR. The systemic approach, known as the behavioral approach, is a major factor of IGR (Ostrom; 1965). Roux et al. (1996:172) mentions democratic, constitutional, normative, and financial approaches as the prime approaches. Aside from these, policy paradoxes and formal and informal relational approaches between governments must be investigated. Four basic approaches, according to Roux et al. (1996), are mentioned below:

Democratic approach

Democracy is a coordinated political system in addition to being a majoritarian one. Coordination between the different layers of government is important for this to work properly. The political system will erode if the democratic system does not cooperate with the political systems in federalism. Democratic method places a strong emphasis on each government's right to self-determination. It should give priority for effectiveness and efficiency in the public service, which necessitates conflict resolution and promotes interdependence. This results in a competitive advantage because resources are gathered together and hence best exploited.

Constitutional approach

IGR's foundation is the constitution. It consistently demonstrates workings and organization of government. Since the constitution was viewed as a tool for exercising IGR and attaining harmony, this approach admits hierarchical order in of governments.

Financial approach

Overall operation of a government depends on its financial position. It is the authorized source of the government's spending power. IGR is described from the financial approach and its core concern is what duties various government spheres have and what financial resources are assigned to them. Finance-allocating institutions continue to be a major concern for the government.

Normative operational approach

The normative approach includes a wide range of components for running the government. It promotes IGR's ideological and moral course. It is important to take material, cultural, social, institutional, and political values into account as argued by Roux and others (1996). Under this scope, technical challenges, regional consideration and resource distribution also matter much.

Models and Dimensions of IGR

Governmental ties at the federal, provincial, and municipal levels may be based on hierarchical control, there may be some cooperation between the three, or there may be some overlap. Deil S. Wright (1990) presents the following models for study in this regard:

Inclusion

This is based on hierarchical principle and symbolizes a centralized system. The choices made by the federal or union government, which have a national reach, are the only ones on which the state and municipal governments rely. Hierarchy rules in this situation; the federal government rules over the province governments, and the province governments rule over the local governments. In this context, province and local governments are perceived as being weak in the hands of a strong federal government in charge of a centralized system.

Coordination

The coordination of activities of all units is at the core of the coordination model. Every unit must operate as per the fundamental principles of the constitution and recognized legal provisions. Although the actual working characteristics of the ties of the federal, province, and local governments are not detailed in this model, they are in one particular example.

Overlapping-Authority Model

According to this concept, each unit has a set maximum operating power, but the units are still interdependent. The interconnection of the units is evident. Each unit has a specific range of autonomy within those sectors. The nature of the relationships

between the units is primarily one of exchange or bargaining. Even the outward signs of cooperation or rivalry between various divisions are evident. The coordinative-authority paradigm is crucial because Nepal is still in the early stage of federalism. The basic emphasis of this model will be working on many forms of coordination that have been used by various sorts of governments. The dominant power model will also be used to determine whether types of province governments' scheduled rights and powers coincide with those of the federal government. In addition to the above, Wright (1988) identifies five dimensions of IGR. They include the number and types of governmental units and their legal foundation; the number and types of public officials by jurisdiction and unit; the patterns of interaction among officials representing various jurisdictions and governmental units; the range of involvement by all public officials; and the policies and programs implemented through intergovernmental arrangements (Krane and Leach, 2007: 492). Based on the above-mentioned discussions, some dimensions of IGR can be summarized as follows:

Vertical Relations

Along this vertical axis, vertical linkages between the governments are planned. The interaction between the federal and provincial administrations occurs vertically under federalism.

Horizontal Relations

Governments at the same level as the federal and provincial levels interact horizontally. To carry out their duties and fulfill their tasks, bodies like the executive, legislature, and judiciary in the federal government may interact between two or more organs. In the same way, two or more provincial or local governments may continue to work together for conflict resolution, legislation, and policymaking.

Bilateral Relations

Bilateral relationships are those between two governments. For instance, the federal and provincial governments may discuss their problems and decide on how to handle them.

Multilateral Relations

A multilateral intergovernmental forum is one in which more than two states participate to discuss their shared interests. These kinds of connections exist between the three layers of federalism to uphold their shared jurisdiction. The gathering of province heads and the sharing of legislative expertise among various governments is a good illustration of multilateral interactions.

Formal and Structured Relations

The provision of a legal structure or mechanism for advancing the relationships and interactions between the layers of governments may be mentioned in the constitution. Formal structure is always based on constitutions, acts, laws and bylaws. These elements interact either within policies or mechanism among structured institutions, leading the process of government functionaries.

Informal and ad hoc Relations

When regular summits between or among governments lack a formal structure, their informal and ad hoc relations advance. Intergovernmental meetings only occur in these relationships when necessary, and they frequently take place without any planning. Informal relations can be observed in practices such as bilateral political visits of the province, meetings of institutional heads, meeting of the Ministry of Internal Affairs, summits of the speakers, and meetings of provincial attorneys and prosecutors. The regular informal meeting help deepen their internal relations.

Mechanism of IGR

IGR is constantly looking for ways to carry out its policies. The kind and level of power of each government affects how the governments interact. The mechanisms increase the necessity of IGR. The following mechanisms are given respectively.

Executive

Executive mechanisms play a key role in the IGR of all federations. This role is dominant in countries with a Westminster system of government because it dominates the parliamentary process (Sharman 1991:24). The executive is involved in an intergovernmental mechanism, which range from the creation of legally binding written agreements to informal communication between government officials.

Formal Cooperative Agreements

Voluntary agreements are generally mutually beneficial, since each party only participates if it benefits them. This fundamental principle underlies the logic of collective action by governments in a federation (Olson 1965). If governments act together, they can find solutions to problems that cannot be solved if each government acts alone. The mechanism for coordinated action is formal intergovernmental agreements.

Informal Cooperative Relations

Informal relationships between federal and province government departments can be more important than the formal intergovernmental agreements. To effectively achieve policy objectives, the complexities of modern governance often require coordinated efforts at all levels of government. This collaboration occurs primarily

within functional portfolios. At the highest level, this cooperation occurs through each central and local government. At the intermediate level regular intergovernmental meetings of departmental officials may be held within a portfolio. At the most basic level, there may be interactions between government officials from multiple departments'. It is clear that for each federation, variables specific to each federation, including historical, institutional, and societal considerations, will determine the nature of agreements between government officials. Provincial political leaders and bureaucrats visit each other on a bilateral basis to conduct the majority of the informal collaboration.

Legislative Mechanisms

The Legislature plays a vital role in giving legal force to measures unveiled by the executive. Intergovernmental agreements between federal and provincial governments often require local legislatures to act together to achieve uniformity and harmonization. Federations with a relatively large number of constituencies (such as the United States of America, Nigeria, and Switzerland) will inevitably have more difficulty coordinating legislative action than federations with a small number of units. Size may therefore influence the type of mechanism used. There are many different ways in which legislative programs can influence intergovernmental arrangements (Opeskin 1998).

Judicial Mechanisms

Decisions of the executive and legislative branches can be closely scrutinized by the judiciary. Conflicts arise within a political system as the federal and provincial governments have overlapping powers and rights. Thus, the judiciary has to consider such controversial issues. The importance of the court can be understood in two ways: by finding a legal framework or by referring to the rights that the central and regional courts recognize as belonging to the institutions of government in and of themselves.

Political Mechanism

A political mechanism is a group of elected representatives. Essentially, this mechanism is formed through political processes. Politicians within this mechanism settle their disputes within provincial government based on political agendas rather than policies. They resolve political issues through understanding and negotiations among the different political stakeholders.

Bureaucratic Mechanism

The bureaucratic mechanism is commonly used to implement IGR. The mechanism is established to address policy conflicts and ensure effective implementation. Led by bureaucracy, the bureaucratic mechanism interacts with the political mechanism.

Intergovernmental Relations in Nepal

Nepal entered the democratic era in 1950, but it was not institutionalized by the constitution. The first democratic government, led by B.P. Koirala in 1959, was unable to meet the people's aspirations as King Mahendra removed Koirala in 1960 and promulgated the Panchayat Constitution in 1962, centralizing political power in the royal palace and promoting mono-cultural nationalism (Lawoti, 2007). The coup by King Mahendra was anti-democratic, and the party-free unitary constitution of 1963 only sought to institutionalize the Panchayat system instead of providing efficient government. The Decentralization Act of 1984 was enacted to transfer authority from a unitary system to the municipal level.

The constitutional monarchy replaced the despotic monarchy after the People's Movement in 1990, but power remained centralized in a unitary form of government. In 2006, the people's movement led to a federal republic system, which was then incorporated into the 2015 constitution of Nepal. These changes resulted from various political upheavals, including movements, mass protests, armed conflicts, and demonstrations. Nepal had long practiced a unitary form of government, with decision-making power and state resources highly centralized. Given its diversity in geography, population, history, culture, language, religion, and social system, it was believed that a federal structure would be more appropriate for a country like Nepal (Khanal, 2009).

Despite the shift to democracy post-1990, marginalized regions and communities were not meaningfully included in state affairs, leading to a focus on inclusion and participation in decision-making and state power in Nepali politics, especially after the mass revolution in 2006 (Baral, 2013). Federalism was seen as essential for proportional representation and power distribution among all segments of the population, but it was acknowledged that the system would be complex and costly due to each federal unit having its structures and expenditures (Sharma, 2014). After a prolonged struggle for participatory and inclusive democracy, Nepal was finally declared a federal republic.

The concept of federalism in terms of ethnic states was championed by the CPN-Maoist party during the armed insurgency from 1996 to 2006. Before its amendment, the Interim Constitution of 2007 did not mention federalism. The Madheshi forces initiated the Madhesh movement against the Interim Constitution, leading to its amendment to include federal provisions (Hachhethu, 2009; Baral, 2013). The Constituent Assembly formed after the 2008 election failed to draft a constitution or adopt federalism based on ethnicity and geography. However, the second Constituent Assembly succeeded in enacting a new constitution that embraced the federal political system (Baral, 2075 BS).

Constitutional and Legal Provisions

Article 232 of the Constitution of states that on the relations between the federation, provinces, and local levels. The foundation of IGR is based on three principles: cooperation, coexistence and coordination. The Government of Nepal has the authority to issue necessary directives to all provinces on matters of national importance and issues requiring coordination among provinces. It is the responsibility of each province to comply with such directives.

The federal government has the power to suspend province governments if the provinces engage in actions that could seriously impact Nepal's sovereignty, territorial integrity, and autonomy, the President may reprimand the province, suspend or dissolve the Council of Ministers of the Province and the Provincial Assembly as needed. Provinces are expected to cooperate in implementing legal provisions or judicial and administrative decisions made by other provinces.

Existing Practices and Challenges of IGR in Nepal

Federalism refers to the division of powers and resources among the federal government, provincial governments, and local government. Nepal's federalism is centralized. The division of powers and resources at the federal, province, and municipal levels is known as federalism. All three tiers of government have legislative and executive powers. Under the IGR of self-rule and shared governance, the constitution mentions separate and concurrent jurisdiction at each level of government. Beyond the structured and delegated powers and responsibilities of the provincial and local governments, all powers, including central authority over financial matters, lie with the federal government. Similarly, Nepal's federalism is symmetrical and reciprocal, with the provinces cooperative and interdependent; however, these governments are interdependent following the principle of "cooperative, coexistence and coordination".

Nepal currently faces a huge challenge in implementing the provisions of the constitution at the three levels of government. Federalism, on the other hand, can flourish under fully democratic practices but it requires "democracy and rule of law" as non-democratic regimes usually do not allow substantive autonomy for the constituent units (Anderson, 2008:4). As federalism is a new institution in Nepal's democracy, this is also an opportunity to change the centralist mindset through effective service delivery at the local level. At the same time, mismanagement of the new federal structure may lead to complex conflicts (Gyawali, 2018).

All three tiers of government have their own identity and existence, but they need to cooperate and coordinate with each other to function smoothly as per their constitutional responsibilities. Furthermore, new structures need to be created to carry out functions within their jurisdictions. Provincial governments are expected to play

a role in coordinating between the federal and local governments (Poudel 2018). In addition to logistical support, both levels of government could not survive without the political and financial support of the federal government. However, the complexities of federalism could be simplified through transparent and systematic principles, laws, structures and procedures of intergovernmental relations (Paudel and Sapkota, 2018). Thus, IGR is a means to manage collective and cooperative efforts, capacities, leadership, and resources in a particular area and align them as effectively as possible with the development and service goals of the government (Layman, 2013).

The constitutional laws of Nepal are what connect the vertical relationships of IGR, but they are not always strictly followed. It is imperative that the constitution be implemented accurately. The order and directive from the federal government to the provinces do not always adhere to the principle of federalism. The Three-tier Governmental Relations Act was enacted by the federal government in 2021. The Inter-Province Coordination Committee conference has yet to commence, and several lawmakers and high-ranking federal government officials have expressed their disagreement with the provinces. Vertical institutions in Nepal are robust but they are hesitant to mediate conflicts with the provinces. Both the Constitution of Nepal and IGR Act include provisions for fostering relationship with local and province governments. Meetings of the Inter Province Council have not been held regularly at the centre level and the province coordination committees at the province level are also facing challenges.

The chief ministers, chief attorneys, deputy speakers, and ministers of internal affairs have met and traveled on bilateral and international visits. In addition to these visits, experience sharing at the level of policies and programs is also carried out. These, however, are not governed by provincial laws and regulations. The chief ministers, chief attorneys, deputy speakers, and ministers of internal affairs have met and traveled on bilateral and international visits. In addition to these visits, there is also an exchange of experiences at the policy level. However, these exchanges are not governed by provincial laws and regulations. The lack of horizontal relations has been increasing among the provinces due to horizontal laws. On 28 December, 2024, Lumbini and Karnali provinces signed a 19-point agreement. This is a historic event in Nepalese federal practice on IGR and serves as a lesson to all other provinces in the country. The agreement focused on road and infrastructure development between the two provinces.

The main obstacle IGR has is establishing amicable relationships with the federal government by the provinces during its early years in Nepal. The fundamental laws needed to carry out the provinces' schedule rights have not yet been passed by the federal government. The provinces' bureaucratic framework is still in need of completion. They are developing the administrative framework for the provinces.

The distribution of resources does not adhere to the federalist spirit. The resources available to provinces are scarce. The ability of provinces to distinguish out as a distinct government is also one of their greatest obstacles.

Conclusion

Federalism in Nepal is evolving. The IGR serves as a basic source of structure and procedure. The issue of IGR cannot be scrutinized only being based on legal, structural and institutional mechanisms as it requires a serious need for coordination, collaboration and cooperation but more than that the intention of the federal government has become crucial in our context. The provincial governments seem under the influence of the federal government. And the part of coordination, collaboration from political and bureaucratic levels is not that enough although some efforts have been initiated. Also, the budget distribution process of the federal government to the provincial governments is improper.

The provincial governments are subject to federal interference with their authority. The provincial government's system for providing services is inefficient and there have been massive criticisms against the practice of federalism citing the failure of the provincial government to ensure better service delivery. Concerning IGR in Nepal, formal processes are ineffective. This is also being influenced by socioeconomic considerations, as people no longer trust provincial administrations. Similar divisions exist in Nepali society about the federal system and governance, with a sizeable segment of the populace retaining a critical view on the presence of the provincial government. Provincial governments, on the other hand, have not made an effort to demonstrate their importance and significance. So, amid challenges, the IGR is gradually developing through formal and informal procedures and processes but again coordination among various levels of government is a major indicator for the success of federalism.

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