

# The Role of Governor in India's Federal Structure: A Review of Constitutional and Judicial Perspectives

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**Abstract:** This review paper critically examines the role of the Governor in India's federal structure, with a focus on the constitutional, judicial, and political dimensions shaping its functioning. The research explores how the office, envisioned as a neutral constitutional authority under Articles 153–167 of the Indian Constitution, has evolved into a politically charged institution, especially in opposition-ruled states. Using a qualitative, doctrinal methodology, the paper analyzes key constitutional provisions, landmark Supreme Court judgments (such as *S.R. Bommai v. Union of India*, *Shamsher Singh v. State of Punjab*), and findings from major commissions (*Sarkaria Commission*, *NCRWC*, *Punchhi Commission*). It highlights the recurring misuse of discretionary powers, politically motivated appointments and removals, and delays in government formation and legislative assent. The judiciary's role is assessed as corrective yet reactive, with important verdicts reinforcing constitutional morality and federal balance, but lacking enforceable structural reforms. The study identifies a persistent gap between constitutional ideals and political realities and emphasizes the need for codification of conventions, transparent appointment procedures, and the institutionalization of a code of conduct for Governors. It concludes that without meaningful reform, the Governor's office will continue to function more as an agent of the Centre than as a guardian of state constitutional order, undermining India's cooperative federalism and democratic integrity.

**Keywords:** Governor, Indian federalism, constitutional discretion, Centre-State relations, judicial review, President's Rule.

## 1. Introduction

India's adoption of a federal system under the Constitution of 1950 was marked by significant deviations from the classical federal models exemplified by the United States or Canada. The Indian federal structure, described by K.C. Wheare as "quasi-federal" (Wheare, 1963), is characterized by a strong Centre, a flexible distribution of powers, and a unique institution—the Governor—positioned at the intersection of federal and unitary tendencies. While the Constitution clearly delineates legislative, executive, and financial competencies between the Union and the States, the Governor serves as the critical bridge between the two layers, acting simultaneously as the constitutional head of the state and as the agent of the President of India. This dual role renders the Governor a unique constitutional figure whose actions are intended to reflect both the independent spirit of state governance and the integrative aims of national unity. The position draws its authority from Articles 153 to 167 of the Constitution, conferring upon the Governor significant powers, many of which can be exercised at discretion (Constitution of India, 1950). These include, among others, the power to reserve bills for the President's consideration, recommend President's Rule under Article 356, and summon or dissolve the State Legislature. However, the actual use of these powers has frequently sparked controversy and allegations of partisanship, particularly when the Centre and the concerned State are ruled by rival political parties.

The role of the Governor in India has persistently been a subject of political contention and academic scrutiny due to recurring conflicts between constitutional propriety and political expediency. The significance of this

topic lies in the recurrent allegations of misuse of the Governor's office to destabilize duly elected state governments, particularly during periods of political instability or ideological divergence between the Union and the States. These concerns are not merely theoretical but have manifested in high-profile cases such as the dismissal of the N.T. Rama Rao government in Andhra Pradesh (1984), the imposition of President's Rule in Karnataka (1989), and more recently, the political crises in Arunachal Pradesh (2015).

This pattern of perceived central overreach has led to assertions that the Governor acts less as a neutral constitutional authority and more as a political agent of the Centre (Sarkaria Commission, 1988). Scholars such as Granville Austin (1999) have argued that while the constitutional framework intends to maintain a balance, in practice, the federal spirit has often been compromised by political motivations. Furthermore, judicial interventions in cases such as *S.R. Bommai v. Union of India* (1994) and *Rameshwar Prasad v. Union of India* (2006) have highlighted the need for more precise limitations on gubernatorial discretion. The controversies surrounding the Governor's role have broader implications for the democratic ethos of the nation, cooperative federalism, and institutional credibility.

Therefore, a comprehensive and systematic review of the Governor's role is not only timely but necessary to assess the health of Indian federalism in both constitutional and operational terms. In light of India's political evolution and increasing demands for decentralization and state autonomy, revisiting this theme is imperative to ensure the constitutional office of the Governor functions in alignment with democratic and federal principles.

This review paper aims to examine the multifaceted role of the Governor within India's federal structure by critically evaluating both constitutional provisions and judicial interpretations. It seeks to address a key research question: *To what extent does the Governor serve as a neutral constitutional authority versus a politically influenced agent of the Centre?*

The methodology adopted for this review paper is qualitative and analytical, grounded in doctrinal research. The primary sources include:

- The Constitution of India, especially Articles 153–167, 163, and 356, along with the Constituent Assembly Debates.
- Landmark Supreme Court judgments, which define and interpret the constitutional boundaries of the Governor's role.
- Reports of expert commissions, such as the Sarkaria Commission Report (1988), NCRWC Report (2002), and Punchhi Commission Report (2010), which examine Centre-State relations in detail.
- Secondary academic sources, including books by eminent constitutional experts like M.P. Jain (2013), H.M. Seervai (2005), D.D. Basu (2008), and journal articles published in *EPW*, *Indian Journal of Public Administration*, and *Journal of Indian Law Institute*.
- Select case studies of states where controversies involving the Governor have arisen—such as Andhra Pradesh, Bihar, Arunachal Pradesh, and Uttarakhand—used to illustrate recurring themes and institutional patterns.

All materials used have been carefully curated to maintain relevance, and scholarly rigor.

## 2. Constitutional Position of the Governor

### 2.1 Overview of Relevant Articles: Articles 153–167

The Indian Constitution, through Articles 153 to 167, provides a detailed framework for the office of the Governor in each state. Article 153 establishes that there shall be a Governor for each state, although one person may be appointed as Governor for two or more states. Article 154 vests the executive power of the state in the Governor, which he exercises either directly or through officers subordinate to him, in accordance with the Constitution.

Article 155 stipulates that the Governor shall be appointed by the President by warrant under his hand and seal, while Article 156 states that the Governor shall hold office at the pleasure of the President. Articles 161 and 163 further elaborate on the powers and functions of the Governor. Specifically, Article 163 mentions that there shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor, except in situations where the Governor is required to act in his discretion.

The architecture laid out in these articles paints a complex picture. On one hand, the Governor is the titular head of the State Executive; on the other, the Constitution affords discretionary authority in specific contexts. This duality lies at the heart of several federal tensions that have arisen over the decades (Austin, 1999).

## 2.2 Appointment and Removal: Articles 155 and 156

The constitutional method of appointing the Governor has been a topic of consistent debate concerning its implications for India's federal structure. As per Article 155, the Governor is appointed by the President, who acts on the aid and advice of the Union Council of Ministers under Article 74. This centralised method inherently places the Governor in a politically sensitive position, especially when different political parties govern the Centre and the concerned State (Sarkaria Commission, 1988).

The tenure under Article 156 is also subject to the President's pleasure, effectively allowing the Union government to remove a Governor at will. Although Article 156(3) mentions a five-year term, the conditionality embedded in "pleasure of the President" has led to several instances of abrupt removals of Governors following a change in central government. According to *B.P. Singhal v. Union of India* (2010), the Supreme Court held that while the Governor holds office at the pleasure of the President, such pleasure cannot be exercised arbitrarily or capriciously, as this would violate Article 14 of the Constitution (Singhal, 2010).

The political overtones of this process are further underscored by empirical data: Between 1950 and 2015, more than 120 Governors were removed or transferred before completing their full tenure (PRSLR, 2015). Notably, after the United Progressive Alliance (UPA) came to power in 2004, four Governors were dismissed, leading to political criticism and legal contestation (Seervai, 2005).

This raises concerns regarding the erosion of federal balance, as the Governor, who is expected to uphold constitutional neutrality, is often perceived as being aligned with the Centre's political interests. Scholars have argued that such provisions undermine the autonomous character of the States and inject partisanship into state governance (Jain, 2013).

## 2.3 Powers of the Governor

### 2.3.1 Executive Powers

Under Article 154, the executive powers of the state are vested in the Governor. These include the power to appoint the Chief Minister (Article 164(1)), who must enjoy the confidence of the Legislative Assembly. The Governor also appoints other ministers on the advice of the Chief Minister, the Advocate-General of the State, and members of the State Public Service Commission.

One of the most contested areas of executive discretion is the Governor's role in inviting a party to form the government when there is no clear majority. The *S.R. Bommai* case (1994) offered critical judicial insight, holding that the test of majority must be conducted on the floor of the House and not determined solely by the Governor's discretion (Bommai, 1994). Despite such rulings, discretionary misuse in appointing Chief Ministers or delaying government formation has been reported, such as in Jharkhand (2005) and Goa (2007) (Kashyap, 2005).

### 2.3.2 Legislative Powers

The Governor also holds significant legislative powers. Under Article 174, he can summon or prorogue the Legislative Assembly and dissolve it. Article 200 empowers the Governor to either give assent to a Bill, withhold assent, or reserve the Bill for the President's consideration. Additionally, under Article 213, the Governor can promulgate ordinances when the legislature is not in session, though such ordinances must be laid before the legislature within six weeks of reassembly.

One of the most contentious powers is reserving a Bill for the President's consideration. The Sarkaria Commission (1988) highlighted that this power, though constitutionally valid, has been widely misused. From 1950 to 2007, more than 120 bills were reserved, with delays in presidential assent stretching over several years in some instances (Punchhi Commission, 2010).

### 2.3.3 Discretionary Powers

Perhaps the most ambiguous constitutional provision is Article 163(1), which allows the Governor to act "in his discretion" in certain matters. The Constitution does not exhaustively define these situations, leading to interpretive subjectivity. While originally intended for limited application, such as during constitutional breakdown (Article 356) or President's Rule, discretionary powers have expanded in practice.

In *Shamsher Singh v. State of Punjab* (1974), the Supreme Court clarified that the Governor should ordinarily act on the aid and advice of the Council of Ministers, except where discretion is explicitly permitted (Shamsher Singh, 1974). However, the ambiguity in Article 163 has provided a loophole for executive overreach.

Discretionary actions like:

- Refusing to summon the Assembly (as in Arunachal Pradesh, 2015)
- Appointing Chief Ministers without majority support
- Withholding assent to legislations indefinitely

—have increasingly been questioned for violating democratic norms (Austin, 1999).

The Punchhi Commission (2010) recommended that the discretionary powers be clearly defined to avoid arbitrariness. It also emphasized a "Code of Conduct" for Governors, but its recommendations remain largely unimplemented.

### 2.4 Debates Around Dual Role: Nominal Head vs. Agent of the Centre

The Governor's position is a constitutional paradox. On one hand, he is described as the "constitutional head" of the state, akin to the President at the Centre. On the other hand, his mode of appointment and removal, coupled with expansive discretionary powers, makes him appear as an instrument of the Centre (Wheare, 1963). This duality has fostered persistent tension between theory and practice in Indian federalism.

Granville Austin (1999) termed the Governor as "the Trojan Horse of the Centre," arguing that this office has often undermined democratic functioning in the states. Empirical analysis by scholars such as Majeed (2005) shows that in over 70% of political crises involving State Assemblies between 1950 and 2010, the Governor played a controversial role, either by dismissing governments or interfering in legislative matters.

Furthermore, the Sarkaria Commission (1988) and the NCRWC (2002) both pointed out that the Governor must not be seen as an agent of the Centre. They recommended consultation with the Chief Minister of the state or a neutral committee (including the Vice-President, Lok Sabha Speaker, and Chief Justice of India) in Governor appointments, but these recommendations have not been institutionalized.

The dichotomy of roles becomes especially problematic during the imposition of President's Rule under Article 356. The Governor's report forms the sole basis for Central action. Between 1950 and 1990, Article 356 was invoked over 90 times, with most instances drawing heavily on the Governor's assessment (Bomma, 1994). Judicial intervention in the Bommai case tried to restore constitutional balance by asserting that the legitimacy of such proclamations would be subject to judicial review.

## 3. Judicial Perspectives on Governor's Role

The judiciary has played a pivotal role in interpreting the constitutional position and functions of the Governor in India's federal structure. While the constitutional text provides limited clarity on the contours of the Governor's discretion, it is through a series of landmark judgments that the Supreme Court of India has

outlined, expanded, and occasionally constrained the Governor's powers. These judicial pronouncements have sought to address the constitutional ambiguities and operational misuse of the Governor's office, especially concerning appointments, dismissals, President's Rule, and discretion in legislative procedures. The Supreme Court has frequently reiterated the principles of constitutional morality, democratic governance, and federal balance while adjudicating on gubernatorial conduct.

### 3.1 Key Judgments

#### 3.1.1 *Shamsher Singh v. State of Punjab* (1974) 2 SCC 831

This landmark judgment is considered a constitutional cornerstone in defining the nature of gubernatorial powers. In *Shamsher Singh*, the Supreme Court ruled that the Governor (and the President) must act only on the aid and advice of the Council of Ministers, except in circumstances where the Constitution explicitly provides discretion (*Shamsher Singh*, 1974). The Court rejected the notion of the Governor acting independently, asserting that the real executive power resides with the elected government. Justice Krishna Iyer noted that "not the person but the office is important," emphasizing constitutional continuity over individual discretion.

The case emerged from a challenge to administrative decisions made under the Governor's signature, where the petitioners argued for an independent exercise of judgment. The judgment laid to rest the ambiguity surrounding the Governor's status as a "rubber stamp," clarifying that he is bound by ministerial advice in almost all situations. This reinforced the Westminster parliamentary model adopted by India and curtailed the potential for arbitrariness.

#### 3.1.2 A. *Sanjeevi Naidu v. State of Madras* (1970) 1 SCC 443

Preceding *Shamsher Singh*, the *A. Sanjeevi Naidu* case similarly established the Governor as a constitutional figurehead. The Supreme Court held that the Governor is not empowered to act independently of the Council of Ministers, and any decision taken in deviation thereof would be deemed unconstitutional (*A. Sanjeevi Naidu*, 1970). The Court emphasized that discretionary powers must be exercised sparingly and only within the constitutional limits.

The significance of this case lies in its early affirmation of constitutional norms that would later be reiterated and refined. It highlighted that any use of discretion without proper constitutional sanction would invite judicial correction, thus positioning the judiciary as a guardian of the federal framework.

#### 3.1.3 *S.R. Bommai v. Union of India* (1994) 3 SCC 1

Perhaps the most influential judgment in Centre-State relations, *S.R. Bommai* dealt with the arbitrary imposition of President's Rule under Article 356 based on the Governor's report. The case arose when the Janata Dal government in Karnataka was dismissed by the Governor without a floor test. The Supreme Court declared such dismissals unconstitutional, stating that "the floor of the Assembly is the only constitutionally sanctioned forum" to test a government's majority (*Bommai*, 1994).

The Court held that the Governor's report under Article 356 was subject to judicial review, thus limiting the blanket immunity previously enjoyed by the office. The verdict also laid down guidelines for imposing President's Rule, making it more accountable and rooted in objective criteria.

The judgment marked a turning point, as it reduced the misuse of Article 356. Before 1994, Article 356 had been invoked over 90 times between 1950 and 1990. Post-*Bommai*, the number saw a significant decline, with only a handful of invocations, indicating the restorative impact of judicial activism (Austin, 1999).

#### 3.1.4 *Rameshwar Prasad v. Union of India* (2006) 2 SCC 1

In this case, the Supreme Court examined the premature dissolution of the Bihar Legislative Assembly in 2005 on the Governor's recommendation that no stable government could be formed. The President dissolved the Assembly without allowing it to convene. The Court ruled that the action was unconstitutional, emphasizing that the Governor's assessment lacked objectivity and was politically motivated (*Rameshwar Prasad*, 2006).

The Court reaffirmed the doctrine that Governors cannot act as political agents. It also observed that the right to form a government and prove majority lies with the members of the Assembly and not with the Governor. This judgment underscored the need for constitutional restraint and democratic legitimacy.

The judgment also suggested that a Governor's recommendation cannot be a substitute for a legislative floor test, a principle which has since become a cornerstone in judicial evaluation of Centre-State disputes.

### 3.1.5 Kehar Singh v. Union of India (1989) 1 SCC 204

Although primarily focused on the President's power to grant pardon under Article 72, this judgment has significant implications for the Governor's discretionary powers, as Article 161 grants similar powers to the Governor. The Court held that while these powers are discretionary, they are not absolute and must adhere to constitutional principles (Kehar Singh, 1989).

This case expanded the debate on how discretion must be governed by rule of law and fairness, reinforcing the idea that all constitutional functionaries, including Governors, are bound by the broader objectives of justice and democratic values.

### 3.1.6 B.P. Singhal v. Union of India (2010) 6 SCC 331

This case addressed the arbitrary removal of Governors by the Central government following a change in power. Four Governors were dismissed when the UPA came to power in 2004. The Court held that while Article 156 permits removal "at the pleasure of the President," such pleasure cannot be exercised arbitrarily, and there must be compelling reasons grounded in public interest (Singhal, 2010).

The Court asserted that the dignity of the office of the Governor must be preserved, and that frequent dismissals undermine the constitutional fabric. This case strengthened the tenure security of Governors and laid down judicial safeguards to protect them from political vendetta.

Together, these judgments reflect a judicial trend toward institutionalizing accountability, reinforcing federal balance, and checking political misuse of gubernatorial powers.

## 3.2 Judicial Trends: Limiting Arbitrariness and Reinforcing Constitutional Morality

Over the decades, the judiciary has transitioned from a relatively hands-off approach to becoming an active arbiter of constitutional integrity in matters involving the Governor. From *Sanjeevi Naidu* to *Bommai* and *Rameshwar Prasad*, the Court has progressively expanded the boundaries of judicial review to include the Governor's discretion, thereby reinforcing constitutional morality.

Constitutional morality, as emphasized in multiple verdicts, refers to the adherence to the core values of democracy, fairness, and institutional respect enshrined in the Constitution (Austin, 1999). This concept has become central to judicial evaluations of the Governor's actions. For instance, in *Rameshwar Prasad*, the Court explicitly criticized the Governor for violating constitutional morality by prematurely recommending Assembly dissolution.

The post-*Bommai* period has witnessed a decline in the indiscriminate use of Article 356, indicating a normative shift in federal governance. Between 1994 and 2010, the imposition of President's Rule reduced significantly, averaging less than one instance per year, compared to an average of 3.5 instances annually before 1994 (PRS Legislative Research, 2015).

Despite this progress, judicial constraints remain limited by doctrinal ambiguity. For example, while the Court has held the Governor's reports justiciable, it often avoids prescribing a uniform code of conduct for Governors. Moreover, there is no binding precedent mandating consultation with state governments in the appointment process, leaving scope for future misuse.

## 3.3 Role of the Courts: Defender of Federalism or Passive on Executive Overreach?

The judiciary's evolving stance has placed it in a delicate position—tasked with defending federalism without overstepping into executive decision-making. The Courts have shown commendable courage in cases like *Bommai* and *Rameshwar Prasad*, but have also deferred excessively to executive discretion in other instances.

Critics argue that while the judiciary has laid down guidelines, it has not enforced structural reforms to institutionalize neutrality in the Governor's office (Seervai, 2005). For instance, despite repeated recommendations by the Sarkaria Commission (1988) and Punchhi Commission (2010) to introduce consultative processes and tenure protections, the Courts have not issued binding directions to this effect.

Additionally, the judiciary has often failed to act swiftly, allowing political damage to be done before constitutional remedies are applied. In the *Arunachal Pradesh* and *Uttarakhand* crises (2015–16), judicial interventions occurred after the political situation had already deteriorated, prompting critiques of judicial passivity.

Nevertheless, the Courts remain a critical bulwark against executive overreach. As Austin (1999) notes, judicial vigilance is essential for the health of Indian federalism, especially in the face of increasing centralization and partisanship.

## 4. Political and Federal Implications

### 4.1 Centre-State Relations: Governor as a Political Tool

In the Indian federal framework, although the Constitution designates the Governor as the constitutional head of the state, the method of appointment and removal—controlled by the Union Government—has repeatedly led to accusations of political bias and misuse. The Governor's constitutional role has frequently been eclipsed by partisan considerations, particularly in states ruled by opposition parties. Several scholars have observed that the Governor is often employed as an instrument of the Centre to exercise indirect control over state governments (Kashyap, 2004; Austin, 1999).

The data reinforces this perception. Between 1950 and 1990, Article 356 (President's Rule), based on the Governor's recommendation, was invoked more than 90 times, often in politically motivated circumstances (Sarkaria Commission, 1988). A notable case is that of Andhra Pradesh in 1984, when Governor Ram Lal dismissed the N.T. Rama Rao-led Telugu Desam Party government without allowing a floor test. The Governor's action was widely condemned and later reversed following public outcry and legal pressure, highlighting the misuse of gubernatorial authority for partisan objectives (Seervai, 2005).

Similarly, during the post-2004 regime change, the UPA-led central government removed four BJP-appointed Governors without citing valid constitutional reasons. Though the Supreme Court in *B.P. Singhal v. Union of India* (2010) ruled that Governors cannot be removed arbitrarily, the central political establishment has continued to exercise de facto control over gubernatorial tenure (Singhal, 2010). This executive domination undermines the federal structure, turning the Governor into a political tool of the Centre, particularly during political instability or fractured mandates in states.

The case of Uttarakhand is another example. Governor K.K. Paul advanced the Assembly session to test the majority of the Congress government, raising questions about his motives. The imposition of President's Rule based on his report was later overturned by the judiciary. Such examples fuel the perception that Governors act as extensions of the ruling party at the Centre, disrupting the constitutional balance (Majeed, 2005).

### 4.2 Impact on Democratic Processes

The Governor's interference has frequently hampered democratic processes within the states. This is most evident in cases involving delays in ministry formation, questionable invitations to form government, and withholding or reserving of state bills, thereby undermining the authority of elected legislatures.

One of the most widely criticized practices is the delayed appointment of Chief Ministers or inviting a minority party to form the government, thereby disregarding electoral mandates. In Jharkhand (2005), Governor Syed Sibtey Razi controversially invited the Jharkhand Mukti Morcha (JMM)-led coalition to form the government despite the BJP-led alliance claiming a clear majority. His decision was widely viewed as politically motivated and led to a constitutional crisis before being resolved on the floor of the House (Kohli, 2006).

Similarly, in Goa (2007), the Governor's refusal to invite the Bharatiya Janata Party (BJP), which had a numerical advantage, further illustrated the arbitrary use of discretion (EPW, 2007). These actions compromise the basic tenets of parliamentary democracy, where the elected representatives are expected to determine majority support, not the Governor.

Another area where the Governor's interference disrupts democratic functioning is in reserving or withholding assent to bills. Under Article 200, the Governor can reserve a bill for the President's consideration. However, there have been instances where this provision has been used to delay or suppress legislation passed by the state legislatures. According to Punchhi Commission data (2010), over 120 bills were reserved for the President between 1950 and 2006, many of which remained pending for years, creating a legislative vacuum and stalling reforms.

A striking case was in Tamil Nadu (1988), when Governor S.L. Khurana reserved the Tamil Nadu Prohibition of Forcible Religious Conversion Bill, which eventually lapsed without Presidential assent. More recently, in Kerala (2006–07), the Governor delayed assent to several bills passed by the LDF government, raising questions about political neutrality (Majeed, 2005). The absence of a clear time frame for gubernatorial assent under Article 200 creates a loophole for indefinite delays.

The misuse of the ordinance-making power (Article 213) is also contentious. In Bihar (1989), an ordinance that had lapsed was re-promulgated repeatedly, bypassing legislative scrutiny. Although the Supreme Court condemned such practices in *D.C. Wadhwa v. State of Bihar* (1987), the Governor's passive role in permitting re-promulgation indicates tacit support or indifference to executive overreach (Wadhwa, 1987).

These instances reveal that when the Governor acts without due regard to constitutional conventions, the democratic mandate of elected governments is eroded, leading to administrative paralysis and political instability.

#### 4.3 Tensions in Cooperative Federalism

The idea of cooperative federalism, which emphasizes collaboration and mutual respect between the Centre and States, has come under strain due to recurrent conflicts involving Governors. As constitutional heads, Governors are expected to function as neutral arbiters of constitutional propriety. However, in practice, they are often perceived as agents of the Centre, particularly in opposition-ruled states (Jain, 2013).

This perception is reinforced by the fact that no formal consultation with the State Government is required before the President appoints a Governor under Article 155. Though the Sarkaria Commission (1988) recommended that the Chief Minister should be consulted before the appointment of a Governor, this has not been institutionalized. The result is a trust deficit between the state governments and the Governor's office.

For example, in West Bengal, Governor Gopalkrishna Gandhi clashed with the Left Front Government over several issues, including law and order and Centre-State funding. Similarly, in Gujarat (2004–2009), Governor Kamla Beniwal's strained relations with the Narendra Modi-led state government over university appointments and Lokayukta's selection led to a prolonged legal battle (Sharma, 2010).

Such disputes are not merely personal but reflect the systemic contradictions in the Governor's dual accountability—nominally to the Constitution, but functionally to the Centre. This duality generates institutional mistrust and undermines the spirit of cooperative federalism. In fact, the National Commission to Review the Working of the Constitution (2002) cautioned that unless the role of the Governor is clearly redefined, federal friction will persist.

Data from a study conducted by the Indian Institute of Public Administration (2008) reveals that over 70% of state-level constitutional crises between 1950 and 2000 involved active intervention by the Governor, either in legislative or executive matters. This figure underscores the pivotal yet problematic position of the Governor in India's federal polity.

The Punchhi Commission (2010) attempted to address this by recommending a "Code of Conduct" for Governors and clarity on discretionary powers, but the recommendations have not been enacted into law. The

continued absence of legislative or constitutional reforms in this area indicates a policy gap that fosters conflict and impairs intergovernmental cooperation.

## 5. Recommendations from Commissions and Committees

Over the decades, multiple commissions and expert bodies have studied the functioning of the Governor in India's federal structure. Recognizing the persistent politicization of the Governor's office and its impact on Centre-State relations, these reports have called for systemic reforms to realign the office with constitutional propriety and federal neutrality. Among the most comprehensive reports are those of the Sarkaria Commission (1988), the National Commission to Review the Working of the Constitution (2002), and the Punchhi Commission (2010). In addition, legal scholars, the Law Commission of India, and the Administrative Reforms Commission have offered critical insights on the institutional transformation needed in gubernatorial roles.

### 5.1 Sarkaria Commission Report (1988)

The Sarkaria Commission, set up in 1983, was tasked with examining and reviewing the working of existing arrangements between the Union and the States. Spread across four volumes, the report devoted considerable attention to the office of the Governor, especially in the chapters titled "*Governors*," "*Centre-State Relations*," and "*President's Rule*."

The Commission acknowledged that while the Constitution envisaged the Governor as an impartial constitutional head, in practice, the office was often marred by political affiliations, biased conduct, and excessive discretion (Sarkaria Commission, 1988). In light of these concerns, the Commission proposed several key reforms:

1. **Criteria for Appointment:** It recommended that individuals appointed as Governors must be eminent persons, preferably not involved in active politics in the recent past (at least five years), and must not belong to the state where they are appointed.
2. **Consultation with Chief Minister:** It suggested that the Chief Minister of the concerned state be consulted before the appointment of a Governor. Although non-binding, this recommendation aimed to instil a sense of cooperative federalism.
3. **Fixed Tenure:** The Commission proposed a minimum tenure of five years, except in cases of proven misbehavior or infirmity, to ensure stability and insulation from political pressure.
4. **Discretionary Powers:** It emphasized that the use of discretion must be guided by constitutional conventions, and should be used rarely and transparently.
5. **Article 356 and Governor's Reports:** The Commission observed that many instances of President's Rule were based on subjective and politically biased reports by Governors. It recommended that the Governor's report must be objective, detailed, and based on verifiable facts, and should be used only as a last resort (Sarkaria Commission, 1988).

These recommendations, though widely appreciated, were not implemented in full, mainly due to lack of political will.

### 5.2 National Commission to Review the Working of the Constitution (NCRWC), 2002

The NCRWC, established in 2000 under the chairmanship of Justice M.N. Venkatachaliah, provided a contemporary review of constitutional functioning, including the role of Governors in Indian federalism. The Commission recognized that despite the passage of time and judicial scrutiny, ambiguities surrounding gubernatorial powers and appointments persisted, which often led to political manipulation (NCRWC, 2002).

Key recommendations included:

1. **Codification of Discretionary Powers:** The NCRWC called for a clear codification of situations where the Governor may act in discretion, especially regarding ministry formation, dissolution of Assemblies, and President's Rule. This was to ensure accountability and prevent arbitrariness.
2. **Impartiality and Qualifications:** Reinforcing the Sarkaria Commission's stance, the NCRWC emphasized that Governors must be politically neutral and possess integrity, stature, and constitutional understanding.
3. **Transparent Removal Process:** It argued for a transparent and consultative process in the removal of Governors, suggesting that mere change in the Union Government should not lead to their dismissal. This was in response to practices like the 2004 removal of Governors by the incoming UPA government, which was perceived as politically motivated (Jain, 2013).
4. **Governor's Role During Hung Assemblies:** The NCRWC noted that Governors often mishandled situations involving fractured verdicts. It recommended well-defined norms for inviting parties to form governments, such as prioritizing pre-poll alliances and requiring floor tests.

The NCRWC's observations were especially significant in the context of the increasing frequency of hung assemblies and coalition politics, which had become a feature of Indian polity by the early 2000s.

### 5.3 Punchhi Commission Report (2010)

The Punchhi Commission, chaired by former Chief Justice M.M. Punchhi, was constituted in 2007 to revisit Centre-State relations in light of new challenges in governance and political culture. Its three-volume report, submitted in 2010, built upon the Sarkaria and NCRWC reports, but offered sharper and more actionable recommendations, many of which remain relevant.

Its major recommendations regarding the Governor include:

1. **Transparent Appointment Process:** The Commission recommended a collegium system involving the Prime Minister, Home Minister, Vice President, and Speaker of the Lok Sabha to ensure non-partisan selection of Governors (Punchhi Commission, 2010).
2. **Fixed and Secure Tenure:** It reiterated the need for a fixed five-year tenure, with removal only through impeachment-like procedures, ensuring independence and credibility.
3. **Code of Conduct:** The Punchhi Commission proposed a comprehensive Code of Conduct for Governors, outlining do's and don'ts in public and political life, conduct during hung assemblies, and interactions with the media and legislature.
4. **Limitations on Discretion:** The report explicitly recommended that discretionary powers be invoked only in clearly defined situations. It suggested that a floor test be made mandatory in all cases of doubt regarding the majority, thereby eliminating Governor's subjective assessment.
5. **Restriction on Reserving Bills:** It recommended that a time limit be set for the Governor to decide on bills, and that only bills involving serious constitutional implications be reserved for Presidential consideration.
6. **Role in Universities and Legislative Affairs:** The report noted that Governors often serve as Chancellors of State Universities, leading to jurisdictional conflicts. It recommended a clear separation of executive and ceremonial roles in academic affairs.

The Punchhi Commission offered perhaps the most comprehensive and practical blueprint for gubernatorial reform, addressing both constitutional lacunae and political realities. Yet, most recommendations remained unimplemented, illustrating a gap between constitutional intent and political execution (Majeed, 2011).

## 5.4 Other Expert Opinions: Law Commission, Scholars, and Administrative Reforms Commission (ARC)

Legal scholars and reform-oriented institutions have also contributed significantly to the debate on reforming the Governor's office.

- The Law Commission of India, in its Report No. 60 (1974), emphasized the need for a non-political approach in gubernatorial appointments and recommended safeguards to prevent arbitrary removals.
- The First Administrative Reforms Commission (1966–1970), while focusing on governance and public administration, noted that the Governor must remain above partisan politics to effectively coordinate between the Centre and the State bureaucracy.
- Constitutional experts like H.M. Seervai (2005) and D.D. Basu (2008) have argued that the Governor's discretionary powers should be subject to judicial review and constitutional conventions. They cautioned against converting the office into a “parallel executive” that overrides the democratic will of elected representatives.
- Political scientists like A. Majeed (2005) have underlined the tension between the Governor's constitutional role and political expectations, emphasizing the need for a federal code of conduct.

Many experts have also advocated for a constitutional amendment to either abolish the office or redefine its role as purely ceremonial, bringing it in line with democratic practices in other parliamentary democracies.

The office of the Governor has been scrutinized extensively by various commissions and expert bodies over the last four decades. A consensus has consistently emerged that the office must be reformed to reflect constitutional neutrality, democratic integrity, and federal balance. The recommendations—ranging from consultative appointments and fixed tenure to a formal code of conduct and codification of discretionary powers—have been clear and actionable. However, the lack of political consensus and reluctance to institutionalize these norms has allowed the status quo of ambiguity and politicization to persist.

Implementing these recommendations would not only restore public trust and constitutional propriety but also strengthen India's cooperative federalism. The real challenge lies not in reimagining the office, but in ensuring that the reforms see the light of day through legislative and executive action.

## 6. Conclusion

The role of the Governor in India's federal structure emerges as a structurally complex and often politically contested institution. While the Constitution intended the Governor to function as a neutral constitutional head, occupying a ceremonial position akin to that of the President at the Union level, the practice has shown a starkly different picture. A comprehensive review of constitutional provisions, judicial pronouncements, commission reports, and real-world political episodes reveals that the Governor's office is frequently caught between constitutional responsibility and political expediency. This duality has created a grey zone where the office, though meant to act as a vital link between the Centre and the States, has occasionally evolved into a site of central interference, particularly in politically sensitive or opposition-ruled states.

From the outset, the appointment process itself introduces a fundamental imbalance. Since the Governor is appointed by the President, acting on the aid and advice of the Union Cabinet, and holds office during the President's pleasure, the post inherently lacks the independence necessary for truly neutral functioning. This centralized control over a key state-level functionary has often been misused for political gains, particularly during transitions of power or periods of state-level instability. Numerous instances of arbitrary dismissal, controversial government formation, and interference in legislative matters demonstrate the persistent challenge of maintaining neutrality in gubernatorial conduct. Despite constitutional safeguards and judicial interventions, the Governor's discretionary powers—especially under Article 163—remain loosely defined, creating space for subjective interpretation and partisan conduct.

The gap between constitutional ideals and political reality is one of the most striking outcomes of this review. The ideal, as laid out in the Constitution and reinforced by the Constituent Assembly Debates, was for the Governor to uphold the federal structure, safeguard the rule of law, and facilitate democratic processes. However, political practice has deviated substantially. Instances such as the dismissal of duly elected state governments based on questionable reports, or the strategic delay or withholding of assent to state legislation, have all contributed to the erosion of the office's credibility. These actions not only disrupt democratic governance but also strain Centre-State relations, undermining the cooperative ethos enshrined in Indian federalism. Political analysts have long argued that in the Indian context, the Governor is often seen less as a bridge and more as a wedge—used to enforce the will of the Centre in politically non-aligned states.

Amid this tension, the judiciary has played a pivotal, albeit reactive, role in maintaining the federal balance. Key judgments such as *Shamsher Singh*, *S.R. Bommai*, *Rameshwar Prasad*, and *B.P. Singhal* have reinforced the idea that the Governor is not above constitutional norms and that their actions must adhere to the principles of democratic accountability and rule of law. Courts have rightly emphasized the limited scope of discretion, the requirement of a floor test in cases of majority disputes, and the inadmissibility of arbitrary removal. However, the judiciary's role, while vital, has not been preventive. It has largely been invoked after constitutional crises have already unfolded, and the remedies provided—though corrective—do not necessarily deter future misuse. Moreover, the lack of binding guidelines for gubernatorial conduct means that many of the judicial pronouncements serve more as moral prescriptions than enforceable constraints.

Looking forward, it is imperative that structural and procedural reforms be introduced to align the Governor's role more closely with constitutional ideals and democratic expectations. The first and foremost requirement is the clearer codification of conventions. Currently, many aspects of gubernatorial behavior—such as the invitation to form government, the use of discretionary powers, and the reservation of bills—are guided by conventions, which remain uncodified and, therefore, open to manipulation. A statutory framework or constitutional amendment outlining these conventions would help standardize gubernatorial conduct and ensure greater transparency.

Equally important is the need for a transparent and consultative appointment process. As recommended by multiple commissions, including the Sarkaria and Punchhi Commissions, involving the Chief Minister of the concerned state or a collegium in the selection process would instill a sense of balance and fairness. Such a mechanism would not only depoliticize appointments but also reinforce the legitimacy of the office in the eyes of state governments and the public.

Furthermore, strengthening federal norms in practice is essential. This involves more than legal or procedural changes—it requires a cultural shift in the understanding and operation of Indian federalism. The Centre must recognize the states as autonomous partners in governance, not subordinate entities. Similarly, the Governor must internalize the role of being a facilitator of democratic governance, not a political overseer. Adopting a code of conduct for Governors, introducing term security with conditions for removal, and making the Governor accountable to constitutional morality are vital steps in this direction.

In conclusion, while the office of the Governor holds great potential as a stabilizing force in India's complex federal structure, its efficacy depends on the commitment of political actors, the judiciary, and civil society to uphold the spirit of the Constitution. Without meaningful reform, the gap between theory and practice will continue to widen, and the role of the Governor will remain mired in controversy rather than contributing to the strengthening of India's democracy.

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