



A Critical Evaluation of the Governor's Role in Indian Democracy

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Abstract : The principle of cooperative federalism in India regulates the relationship between the Union and State governments. Despite the Constitution specifying their distinct areas of jurisdiction, these two tiers of government function interdependently in practice. In this setting, the Governor occupies a pivotal position, acting as a vital link between the Union and the States. The Governor is expected to serve as a liaison, conveying the State's objectives and concerns to the Centre, similar to an elder statesman, while also communicating matters of national importance to the State level. The Governor's job has recently under intensified scrutiny. The job is sometimes perceived as a post-retirement role for senior politicians, where political affiliations overshadow constitutional impartiality. The practice of replacing Governors following a change in the Central Government has eroded public confidence in the neutrality and integrity of this role. Consequently, there have been sporadic calls for the reform or whole elimination of the gubernatorial position. In response to these challenges, the Sarkaria Commission and the Punchhi Commission have presented significant recommendations to improve the appointment process and operational effectiveness of Governors, emphasising the need for transparency, fairness, and adherence to constitutional norms.

IndexTerms - Sarkaria Commission, Punchhi Commission, Cooperative Federalism, Governor, Union, States,

I. INTRODUCTION

India's Federal Structure: A Distinct Combination of Federalism and Unitarism

The federal structure of India, as specified by the Constitution, establishes two levels of government: the Union (Central) level and the State level. Nevertheless, the Constitution appears to prioritise the strengthening of the Union over that of the States. This inclination must be understood within the historical context of the Constitution's draughting.

During that period, India encountered substantial challenges, including the Kashmir conflict, the Telangana peasant uprising, and the Razakar movement in Hyderabad. These upheavals posed a substantial threat to the viability of the nascent Republic. Moreover, India's significant socioeconomic diversity—marked by several religions, castes, and sects—suggested that internal strife might easily jeopardise peace and public order.

In this setting, the Constituent Assembly chose to create a strong Centre, prioritising national unity, integrity, and democratic stability over concerns over possible central overreach. The Founding Fathers thought that a robust central authority was essential for the establishment of democracy and the endurance of the Republic.

The Indian Constitution creates a unique federal framework. Some constitutional scholars describe it as "quasi-federal" because of its centralising tendencies, while others view it as "co-operative federalism" due to the interdependence between the Centre and the States. The Constitution incorporates both federal and unitary elements, setting it apart from conventional federations like the United States.

The framers recognised India's historical setting, where the absence of a strong central authority often led to foreign invasions and internal disunity. Thus, they resolved to establish a formidable Centre to protect the nation from external dangers and internal strife. The Union government was bestowed with exclusive jurisdiction over defence, foreign affairs, and significant financial authority, particularly in times of emergency.

Despite the strong Centre, the Indian Constitution recognises that both the Union and State governments hold sovereignty within their own spheres. The Governor, as the constitutional head of the State, holds a vital role within the federal framework. Article 153 of the Constitution mandates the appointment of a Governor for each State; however, a single individual may concurrently serve as Governor for multiple States.

II. REVIEW OF LITERATURE

The Governor's office in India has attracted considerable academic attention due to its unique function within the Indian federal system. Researchers have examined the constitutional, political, and practical dimensions of this position, notably regarding Centre-State relations and federal governance.

In his seminal 1968 study on the formation of the Indian Constitution, B. Shiva Rao analyses the deliberations of the Constituent Assembly, revealing that the role of the Governor was deliberately designed as a constitutional head, analogous to the President at the national level. The framers conceived the Governor's role as a neutral, ceremonial post with limited discretionary power.

Granville Austin (1999) identifies the Governor as a crucial figure within the federal structure, expected to function as a "bridge" between the Centre and the States. He criticises the politicisation of the position over time and argues that its misapplication has frequently caused discord in federal relations.

M.P. Jain (2003) provides an extensive analysis of the constitutional provisions related to the Governor and critically evaluates the scope of discretionary powers under Articles 163 and 356. He asserts that despite the job being primarily ceremonial, the Governor has acted as an agent of the Centre, especially during President's Rule.

D.D. Basu (2005) provides a juridical examination of the Governor's authority, acknowledging the possibility of discretionary misuse. He highlights several instances where judicial interpretation, notably in *S.R. Bommai v. Union of India* (1994), has curtailed the discretionary authority of Governors.

Subhash Kashyap (2011) critically observes that the Governor's office has deviated from its constitutional duties due to politicisation. He promotes initiatives to ensure that Governors function as impartial constitutional authorities rather than political instruments.

Rajeev Dhavan (2013) critiques the governor appointment procedure, deeming it a catalyst for discontent. He promotes a federal consultation system and underscores the importance of depoliticising gubernatorial nominations to restore the institution's authority.

The Sarkaria Commission Report (1988) thoroughly evaluated the role of the Governor and recommended that Governors should uphold political impartiality and be appointed through a collaborative process with the Chief Minister. It emphasised that the Governor's discretionary powers must be handled with prudence.

The Punchhi Commission Report (2010) elaborates on the Sarkaria recommendations and further suggests fixed tenures, transparency in appointments, and clear guidelines for the implementation of Article 356 and discretionary powers. It strongly warns against the Governor serving as a representative of the ruling party at the national level.

Modern Academic Assessment (Post-2014) Contemporary scholars like Sujit Choudhry and Arghya Sengupta have condemned the increasing propensity of Governors to adopt partisan positions, particularly concerning the selection of Chief Ministers and the endorsement of President's Rule. Maharashtra (2019), Karnataka (2018), and West Bengal (2021) are frequently cited as examples of overreach.

Judicial Interventions Notable judgements, such as *Shamsher Singh v. State of Punjab* (1974) and *Nabam Rebia v. Deputy Speaker* (2016), have shaped the legal understanding of the Governor's duties. The judiciary has consistently asserted that the Governor is obligated to act on the advice and recommendations of the Council of Ministers, with certain exceptions.

Evaluation Summary

The literature concerning the Governor's function reveals a consensus on the imperative of upholding constitutional morality and impartiality. The original concept aimed for a neutral constitutional head, although practical politics has often transformed the role into a centre of federal discord. There is a growing demand in academic and policy circles to modify the nomination, tenure, and functions of Governors to reinforce the tenets of cooperative federalism in India.

III. APPOINTMENT OF THE GOVERNOR: A CONSTITUTIONAL MANDATE AND CRITICAL ANALYSIS

The President of India appoints the Governor of an Indian State based on the recommendations of the Central Government. Article 155 of the Constitution stipulates: "The Governor of a State shall be appointed by the President through a warrant under his hand and seal." The procedure lacks a well-defined consultation method and evaluating standards, rendering it vulnerable to political influence.

Constitutional Qualifications

- The Constitution delineates only basic conditions for gubernatorial appointment:
- The person must possess Indian citizenship.
- Must be at least 35 years old.
- In eligible for membership in either House of Parliament or the Legislature of any State. Upon appointment, a current legislator is considered to have relinquished their position upon assuming office.
- The Constitution lacks a definitive procedure for assessing an individual's qualifications for this esteemed constitutional position, resulting in critiques on the politicisation of appointments.

COMMISSION RECOMMENDATIONS

Sarkaria Commission (1983–1988)

- The Sarkaria Commission, instituted to investigate Centre-State relations, proposed significant suggestions to uphold the autonomy and integrity of the Governor's office:
- The President should appoint the Governor following consultation with the Chief Minister of the relevant State.
- The consultation process should be properly included into Article 155 via constitutional revision.
- The individual designated for the position of Governor must:
 - Achieve prominence in a specific domain of public life.
 - Reside outside the relevant State.
 - Maintain a dispassionate stance, remaining uninvolved in the state's local politics.
 - Have not engaged actively in politics, especially in the recent past.
 - Minorities and marginalised communities must receive sufficient representation.
- Politicians from the ruling party at the national level should ideally not be selected as Governors in states administered by opposing parties.
- The Vice-President of India and the Speaker of the Lok Sabha may be informally consulted, although such consultation is not constitutionally mandated.

Punchhi Commission (2007–2010)

- Under the chairmanship of Justice M.M. Punchhi, this Commission underscored the necessity for impartiality in the gubernatorial position.
- The nominee must not have engaged in active politics, even at the municipal level, for a minimum of two years preceding the appointment.
- The Chief Minister of the State should possess an official role in the appointment procedure.
- It reaffirmed the necessity for the Governor to maintain non-partisanship, underscoring dignity, political impartiality, and autonomy.
- Pragmatic Divergences and Critique
- Notwithstanding these benevolent standards, the actual implementation has frequently deviated from the objective of these recommendations. Subsequent administrations at the Centre have consistently utilised the Governor's office to reward loyal politicians or to exert influence over states governed by opposition parties.
- Illustrations encompass:
 - Sh. H.R. Bharadwaj, a former Union Law Minister, was named Governor of Karnataka in 2009.
 - Sh. Janaki Ballabh Patnaik, a former Chief Minister of Odisha, was named Governor of Assam in the same year.
 - Such nominations, particularly of active or recently retired politicians, compromise the intended neutrality of the Governor's office and cultivate hostility in Centre-State ties.

Final Assessment

The appointment procedure for Governors in India remains ambiguous and heavily influenced by politics, notwithstanding numerous expert suggestions. Constitutional reforms, specifically a modification to Article 155, are essential to enhance openness, promote collaborative federalism, and facilitate non-partisan selection. The office of the Governor may only operate as a neutral constitutional authority and a conduit between the Union and the States by embodying the principles of the Sarkaria and Punchhi Commissions.

IV. DISMISSAL OF THE GOVERNOR — A COMPREHENSIVE EXAMINATION

1. Constitutional Provisions (Article 156)

The Governor serves at the discretion of the President (Article 156(1)).

The Governor may resign by submitting a written notice to the President (Article 156(2)).

The Governor's term is five years from the date of assuming office, as stipulated in Article 156(3).

A Governor remains in office beyond the five-year term until a successor takes over.

2. Characteristics of Removal

The expression “pleasure of the President” signifies that the Governor may be dismissed at any moment by the President.

Nevertheless, the Constitution does not delineate any criteria for such removal.

The dismissal of the Governor lacks an impeachment process, in contrast to that of the President.

3. Perspectives of Dr. B.R. Ambedkar

Ambedkar elucidated that presidential removal should not be customary.

Reasons for removal may encompass corruption, bribery, constitutional violations, or other legitimate justifications.

4. Judicial Interpretation In *Surya Narain Choudhary v. Union of India (Rajasthan High Court)*:

Determined that the five-year term stipulated in Article 156(3) is not obligatory.

It is contingent upon the President's discretion as stipulated in Article 156(1).

5. Expert Legal Analysis

H.M. Seervai noted that because the Governor serves at the President's discretion, formal processes such as impeachment are superfluous.

Presidential pleasure has been construed to signify unilateral dismissal without providing a clear rationale.

6. Effects of the 42nd Constitutional Amendment

Subsequent to the 42nd Amendment, the President is required to act in accordance with the counsel of the Council of Ministers. Consequently, the federal government exerts substantial influence over the Governor's tenure, diminishing the position to a mere political instrument.

7. Political Exploitation

The removal and transfer of Governors frequently align with shifts in central governments.

In 2004, the UPA Government removed the Governors of Haryana, Goa, Gujarat, and Uttar Pradesh, all selected during the preceding NDA administration, citing ideological disparities.

8. Supreme Court Position The Court may intervene if:

No reasons have been provided.

Reasons are inconsequential, capricious, fanciful, or malevolent.

Nonetheless, courts will not intervene solely because an alternative perspective exists or the rationale is inadequate.

9. Recommendations of the Sarkaria Commission

The Governor's five-year term should remain undisturbed save in exceptional and compelling circumstances.

If removal is suggested:

The governor should be informally informed of the reasons.

The Governor should be afforded a fair opportunity to answer.

Upon dismissal or resignation:

The Union Government should present a statement before Parliament elucidating the circumstances.

10. Recommendations of the Punchhi Commission

Condemned the capricious termination of Governors.

Deemed the treatment of Governors as a "political football" reprehensible.

Proposed:

A predetermined five-year duration.

Removal alone via impeachment by the State Legislature.

V. CONSTITUTIONAL STATUS OF THE GOVERNOR

The constitutional function of the Governor, in relation to the Legislature and the Executive, mirrors that of the President at the federal level. The Governor is the formal head of the State, while the real executive authority is held by the Chief Minister and the Council of Ministers. Article 163(1) of the Constitution mandates that a Council of Ministers, headed by the Chief Minister, must assist and advise the Governor in executing his responsibilities, except in cases when he is required to act at his discretion as outlined by the Constitution. Thus, while the Governor frequently acts on the advice of the Council of Ministers, he may, in specific circumstances, utilise his personal judgement.

In the landmark decision of *Ram Jawaya Kapoor v. State of Punjab*, the Supreme Court observed that "the Governor or the Rajpramukh functions as the constitutional head of the executive in the State, but it is primarily the Council of Ministers that executes the governance of the State."

Furthermore, in *Samsher Singh v. State of Punjab*, the Supreme Court emphasised that, unless in situations when the Governor is legally required to use discretion, he must adhere to the advice and recommendations of the Council of Ministers. He is prohibited from acting independently or against such advice in the exercise of his executive authority.

In *Hargovind Pant v. Dr. Raghukul Tilak*, the Court emphasised that although the President appoints the Governor—indicating the Union Government—this appointment does not categorise the Governor as a servant or employee of the Central Government. The Governor holds a significant constitutional role with considerable duties and obligations.

The framers of the Constitution intended for a strong central government to uphold the sovereignty, unity, and integrity of the nation. Consequently, the Central Government was granted superior jurisdiction in particular matters, resulting in a predominant influence over State activities.

Multiple constitutional clauses reinforce the Governor's role as a mediator between the Centre and the State:

Article 160 empowers the President to assign additional responsibilities to the Governor under extraordinary circumstances.

Article 164(1) grants the Governor the authority to appoint the Chief Minister.

Article 200 authorises the Governor to suspend laws passed by the State Legislature for the President's examination.

This centralised system has raised worries. The Governor's authority to withhold laws for the President without involving the State Legislature, along with his role as an intermediary for Presidential endorsement, has been criticised for undermining the autonomy of State governments. Critics argue that this jurisdiction should be limited to matters within the Concurrent List to prevent excessive central meddling.

The Governor plays a crucial role during constitutional crises. Article 356(1) stipulates that the President may impose President's Rule if persuaded, based on a report from the Governor or other sources, that the State government is incapable of operating in accordance with the Constitution. Article 167 mandates the Chief Minister to inform the Governor on the State's administrative affairs, enabling the Governor to notify the President when necessary. Additionally, Article 257 stipulates that the executive authority of the State shall not impede the executive authority of the Union.

The Centre is constitutionally obligated to ensure that governance in every State complies with the Constitution and to protect States from external aggression and internal turmoil. Thus, the existence of a Central representative—the Governor—in every State is imperative. The Governor is thus accountable for upholding constitutional ideals, promoting national unity, and ensuring effective public administration at the State level.

However, in reality, the Governor's role has sometimes been reduced to that of a political representative of the Centre. The Governor, appointed by the Union Government, may, under exceptional circumstances, operate more as an instrument of central political interests than as an impartial constitutional authority. The misuse of discretionary authority for partisan objectives has ignited considerable debate on the position's significance. In this context, the Governor is viewed not as a guardian of the State's interests, but as a simple tool of the ruling party at the Centre, hence legitimising calls for reassessing—or maybe abolishing—the gubernatorial position.

VI. CONCLUSION

In this context, the Governor's role is crucial as a mediator who can substantially facilitate the resolution of disputes between the Union and State administrations. The Governor performs this mediatory role in two primary ways. Primarily, as the exclusive constitutional authority responsible for guaranteeing the effective functioning of the federal government. Secondly, by adopting a role that, when performed with constitutional integrity, can transform potential conflict into constructive partnership.

However, there have been instances where the Governor has acted more as a representation of the Centre than as an impartial constitutional authority, particularly with Articles 356 and 201 of the Constitution. The Governor's exercise of discretionary authority necessitates utmost caution. Any decision made solely at his discretion must be unaffected by allegiance to the Union government. The Governor serves as the chief executive of the State as mandated by the Constitution and must act on the advice and recommendations of the Council of Ministers, unless the Constitution explicitly grants him authority in specific circumstances.

In instances of discord between the directives of the Centre and the State, the Governor is duty-bound by the oath of office to uphold the Constitution impartially. The evaluation of a State Government's confidence by the legislature should be ascertained within the House, rather than through the Governor's subjective assessment. The Supreme Court, in significant cases such as *Rameshwar Prasad (Bihar Assembly Dissolution Case, 2005)* and *Nabam Rebia v. Deputy Speaker*, has defined the constitutional boundaries of the Governor's authority, referencing the recommendations of the Sarkaria and Punchhi Commissions.

Experience suggests that the Governor's tenure, contingent upon the President's judgement, may compromise true independence and impartiality. The Governor's term may abruptly conclude if the President withdraws pleasure, often based on the advice of the Union Cabinet. This puts the Governor vulnerable to political influences and undermines the office's credibility. A compelling necessity arises to ensure the Governor's security of tenure. A fixed term—protected from arbitrary removal or reassignment—would enable the Governor to function with increased autonomy, free from fear of retribution.

Furthermore, the substitution of Governors appointed by a previous administration on the grounds of political bias should be restricted. The Prime Minister's and the Council of Ministers' recommendations, often swayed by partisan motives, should not result in the unjustified removal of Governors. Measures must be enacted to preserve the dignity and neutrality of the office. Unless in extraordinary and persuasive circumstances, the Governor's five-year term shall stay intact. The Sarkaria Commission's recommendations, particularly regarding tenure security, must be thoroughly considered in deliberations concerning the removal or transfer of a Governor.

In conclusion, the Governor's office must be reformed to function as a truly independent constitutional entity. This will strengthen the federal system and promote cooperative federalism, ensuring harmonious relations between the Union and the States.

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