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ROLE OF THE GOVERNOR IN STATE POLITICS: CONSTITUTIONAL MORALITY VS POLITICAL INTEREST

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Abstract

This research paper explores the evolving and contentious role of the Governor in India's state politics, particularly through the lens of constitutional morality versus political interest. While the Constitution envisages the Governor as a neutral constitutional authority upholding democratic governance and federal balance, recent trends demonstrate a deviation from this ideal. The paper defines constitutional morality as Dr. B.R. Ambedkar envisioned. It contrasts with instances where Governors have acted with partisan motives, especially during government formations, withholding assent to bills, and recommending President's Rule under Article 356. Through doctrinal research methodology, this study analyses key constitutional provisions, judicial pronouncements such as S.R. Bommai and Nabam Rebia, and recommendations of expert bodies like the Sarkaria and Punchhi Commissions. A comparative study with Australia, Canada, and the United Kingdom reveals that India lacks essential conventions and safeguards, thereby increasing politicisation. The paper proposes reforms including fixed tenure, transparent appointments, codification of discretionary powers, and judicial review. Ultimately, it asserts that institutionalising constitutional morality is imperative for strengthening cooperative federalism and preserving democratic ethos in India.

Keywords: Governor, Constitutional Morality, Political Interest, Federalism, Discretionary Powers, Article 356, Judicial Review, Sarkaria Commission, Punchhi Commission.

1. Introduction

The Governor, as envisioned by the Indian Constitution, serves as the constitutional head of the state, entrusted with a critical role in upholding the democratic and federal ethos of the Republic. Appointed by the President under Article 155¹, the Governor occupies a unique space functioning at once as a ceremonial dignitary and a constitutional authority vested with discretionary powers. This duality, while essential to the structure of Indian federalism, has often invited scrutiny and controversy.

In recent years, particularly since 2014, concerns have intensified regarding the increasing politicisation of the Governor's role. Multiple instances have surfaced where gubernatorial actions aligned more with partisan objectives than with the Constitution's letter and spirit. This disquiet has prompted a renewed focus on the foundational concept of **constitutional morality**, a principle championed by Dr. B.R. Ambedkar, which emphasises a strict, principled adherence to constitutional norms, irrespective of transient political interests.

In contrast, the intrusion of **political interest** into the constitutional domain often manifests through discretionary decisions that favour the ruling party at the Centre—be it in post-election government formations, the invocation of Article 356² (President's Rule), or the reservation of state bills for presidential consideration under Article 200³. Such acts raise fundamental questions about the Governor's impartiality, autonomy, and accountability.

This research paper seeks to critically examine whether the conduct of Governors in contemporary India aligns with the constitutional vision or has been compromised by political considerations. The study poses several critical inquiries: To what extent are Governors exercising discretionary powers in a neutral and constitutionally sound manner? Are these powers being misapplied to influence state politics? What institutional safeguards and reforms are necessary to uphold constitutional morality?

Utilizing a doctrinal methodology, the paper undertakes a close analysis of constitutional provisions (Articles 153–162, 163, 164, 200, and 356), authoritative judicial decisions, and findings from significant commission reports—including the Sarkaria Commission (1988)⁴,

¹ INDIA CONST. Art. 155.

² INDIA CONST. Art. 356.

³ INDIA CONST. Art. 200.

⁴ Sarkaria Commission Report on Centre-State Relations, Vol. I (1988).

the Punchhi Commission (2010)⁵, and the National Commission to Review the Working of the Constitution (NCRWC)⁶. It also incorporates a comparative lens by evaluating practices in other federal democracies such as Australia, Canada, and the United Kingdom, where similar constitutional roles are subject to clearer conventions and stronger accountability mechanisms.

2. Constitutional Position of the Governor

The constitutional status of the Governor in India draws heavily from colonial antecedents, particularly the Government of India Act, 1935, which laid the foundation for a dual executive structure. Under this Act, the Governor functioned as the executive head of the province, albeit under significant control from the British Crown. This legacy was retained with modifications in the Indian Constitution to suit a democratic federal republic.

Articles 153 to 162 and 163 to 164 of the Indian Constitution codify the Governor's position. *INDIA CONST. Art. 153* mandates the appointment of a Governor for each state. Under *art. 154*, the executive power of the state is vested in the Governor. Article 155 states that the President shall appoint the governor. *156* provides that the Governor shall hold office during the pleasure of the President, further highlighting the Centre's influence.

One of the most debated provisions is *art. 163*⁷, which grants discretionary powers to the Governor in certain situations. Article 163(1) provides: "There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion." Theoretically, this provision preserves the Governor's autonomy but also opens the door to subjective interpretations and potential misuse.

Although the Governor is formally the constitutional head of the state, absolute executive authority lies with the elected Council of Ministers as per *art. 164*. However, the Constitution allows the governor to exercise independent judgment in specific circumstances, such as inviting a party to form the government when there is no clear majority, recommending

⁵ Punchhi Commission Report on Centre-State Relations (2010).

⁶ National Commission to Review the Working of the Constitution (2002).

⁷ INDIA CONST. Art. 163.

President's Rule under *Article. 356*, and reserving Bills for Presidential consideration under *art. 200*.

The principle of responsible government and parliamentary democracy implies that the Governor should act only on the advice of the Council of Ministers. Nonetheless, the vague contours of discretionary powers and the lack of codified guidelines often result in Governors acting in ways that are perceived to be politically motivated. For instance, Governors have been accused of delaying the swearing-in of governments, calling for floor tests arbitrarily, or withholding assent to Bills, thereby impacting the smooth functioning of state legislatures.

The process of appointment and removal of Governors aggravates these concerns. As per the existing legal framework, the President appoints the Governor, typically based on the advice of the Union Council of Ministers. This has led to the perception that Governors are political appointees loyal to the ruling party at the Centre. Moreover, since Governors hold office at the pleasure of the President, there is little security of tenure, making them vulnerable to arbitrary removal, a practice repeatedly critiqued by commissions and courts.

These institutional dynamics have led to increasing allegations that Governors act not as impartial constitutional authorities, but as political agents of the Union government. Numerous incidents, such as the controversial appointments of Chief Ministers, dissolution of Assemblies, or the refusal to assent to state laws, have sparked debates about the erosion of federal principles and democratic accountability.

Hence, while the Governor's role is constitutionally significant and potentially beneficial for upholding the rule of law, the practical execution of this role has often contradicted the spirit of federalism. The debate over the Governor's role must be critically examined within this tension between constitutional design and political practice.

3. Constitutional Morality: The Guiding Ethic

As articulated by Dr. Ambedkar, the notion of constitutional morality implies a commitment to the substantive values of the Constitution: liberty, equality, the rule of law, and the democratic process. It calls for restraining the use of legal powers inconsistent with the constitutional ethos.

In *Navtej Singh Johar v. Union of India*⁸, the Supreme Court elaborated that constitutional morality requires the state to uphold the constitutional promise of dignity and equality. Similarly, in the *Sabarimala* judgment (*Indian Young Lawyers Ass'n v. State of Kerala*⁹, (2019) 11 S.C.C. 1), constitutional morality was invoked to uphold gender justice over religious orthodoxy.

Justice D.Y. Chandrachud has emphasised the critical role of constitutional morality in preserving the legitimacy of institutions. In *Kesavananda Bharati v. State of Kerala* and *S.R. Bommai v. Union of India*¹⁰, the judiciary underscored the essential nature of constitutional values and federalism.

For Governors, constitutional morality is not merely an abstract ideal but a foundational duty. The office demands fidelity to democratic mandates, which means that the Governor must respect the electoral verdict of the people and facilitate the formation of the government accordingly, regardless of personal or political preferences. The use of discretionary powers, though permissible, must be exercised with restraint, transparency, and adherence to constitutional conventions.

The Governor must avoid partisan considerations in situations such as recommending President's Rule, delaying assent to Bills, or selecting the chief minister in hung assemblies. Any deviation from impartiality undermines public trust and disrupts the federal equilibrium. For example, inviting a minority party to form the government when a majority coalition exists goes against the principles of constitutional governance. Likewise, stalling state legislations aligned with the popular mandate compromises legislative autonomy.

Constitutional morality also compels the Governor to act as a guardian of democratic integrity, not as a political operative of the Centre. Such restraint is indispensable to preserving the federal balance and institutional dignity in a country as diverse and politically complex as India. Upholding constitutional morality ensures that the Governor acts within the letter and spirit of the Constitution, thereby reinforcing constitutionalism as a lived reality rather than a mere textual ideal.

⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1.

⁹ *Sabarimala v. State of Kerala*, (1973) 4 S.C.C. 225

¹⁰ *S.R. Bommai v. Union of India* (1994) 3 S.C.C. 1,

4. Political Interest & Misuse of Discretionary Powers

While the Constitution allows certain discretionary powers to the Governor, their misuse has raised critical questions about political interference and the erosion of constitutional values. Discretionary powers, although provided for exceptional circumstances, are increasingly invoked for partisan ends, undermining the federal spirit and democratic legitimacy. The three most significant areas of concern include the imposition of President's Rule, reservation of Bills for Presidential assent, and the discretion exercised in post-election scenarios.

4.1. Article 356 – President's Rule

Article 356 of the Constitution, often described as the “death warrant” of state governments, empowers the President to assume control over a state in the event of a breakdown of constitutional machinery. However, this can only be done based on the recommendation of the Governor. Since Independence, Article 356 has been invoked over 125 times, with many instances reflecting political motivations rather than genuine constitutional crises.

In *S.R. Bommai v. Union of India*, the Supreme Court issued landmark guidelines to curb the arbitrary use of Article 356. The Court emphasised that the strength of a government must be tested on the floor of the Assembly, not by the subjective satisfaction of the Governor. Yet, despite these judicial safeguards, instances of politically motivated dismissals persist, particularly when the ruling party at the Centre seeks to dislodge Opposition-led state governments.

Examples include the controversial dismissal of governments in Arunachal Pradesh (2016) and Uttarakhand (2016), later reversed or critiqued by the judiciary. The Punchhi Commission (2010) observed that Governors must act cautiously and not be influenced by political pressure while making grave recommendations.

4.2. Article 200 – Reservation of Bills

Article 200 grants the Governor the power to reserve specific Bills passed by the state legislature for the President's consideration. This provision was intended as a constitutional check, not a tool for executive overreach. However, in recent years, this discretionary power has been used by some Governors to delay, obstruct, or undermine the legislative agenda of elected state governments.

One prominent example is the delay in granting assent to the Tamil Nadu NEET Exemption Bill, which sought to remove the national medical entrance exam for state students. Despite being passed multiple times by the legislature and reflecting widespread public sentiment, the Bill was withheld by the Governor for months, only to be eventually forwarded under public pressure. A similar situation occurred in Kerala, where the Governor delayed assent to the controversial Police Amendment Bill, causing institutional friction between the Raj Bhavan and the state government.

Such actions not only disrupt legislative functioning but also challenge the representative will of the people. The Supreme Court in *K.K. Bhattacharjee v. State of Tripura* reiterated that while the Governor has discretion under Article 200, it must be exercised judiciously, with transparency and reasons recorded.

4.3. Post-Election Scenarios

Perhaps the most politically charged use of gubernatorial discretion occurs during post-election scenarios where no party has secured a clear majority. The Governor is tasked with inviting a leader to form the government, ideally based on the likelihood of commanding a majority support in the Assembly. However, this process has frequently been marred by allegations of bias and manipulation.

- **Goa (2017):** The Congress emerged as the largest party but was not invited to form the government. Instead, the BJP, with fewer seats, was invited and succeeded in forming the government with post-poll alliances. The Governor's failure to give Congress an opportunity drew significant criticism.
- **Karnataka (2018):** The BJP was invited to form the government despite not having a majority. After a high-voltage legal and political drama, the government collapsed within days following a floor test mandated by the Supreme Court.
- **Maharashtra (2019):** In a dramatic and secretive move, the Governor administered oath to a BJP-led government in the early hours, bypassing established procedures. The Supreme Court later ordered an immediate floor test, resulting in the government's resignation before proving a majority.

In *Rameshwar Prasad v. Union of India*¹¹, the Court strongly warned against arbitrary and mala fide actions by Governors, affirming that discretion cannot be used as a political weapon.

¹¹ *Rameshwar Prasad v. Union of India*, (2006) 2 S.C.C. 1.

The Punchhi Commission echoed similar concerns, urging that objective criteria and not political expediency must guide the exercise of discretion in government formation.

These events underscore the need for codified norms and judicially enforceable guidelines to govern gubernatorial discretion. Absent such safeguards, the Governor's office risks being perceived not as a neutral constitutional authority but as a tool for political manoeuvring by the Union government.

5. Comparative Analysis

A comparative analysis of similar federal systems such as Australia, Canada, and the United Kingdom offers instructive insights. These jurisdictions have developed strong conventions and institutional safeguards that preserve the neutrality and dignity of constitutional heads, providing valuable lessons for India.

5.1. Australia

In Australia, the Governor-General at the federal level and State Governors are bound by well-established constitutional conventions to act strictly on the advice of elected ministers. Political neutrality is deeply entrenched in the system, and any deviation is met with sharp public and institutional criticism. Though constitutionally valid, the 1975 dismissal of Prime Minister Gough Whitlam by Governor-General Sir John Kerr created a major political crisis and remains a singular example of gubernatorial overreach. The incident led to widespread debate and greater restraint in subsequent exercises of discretionary authority, reinforcing the convention that the Governor's role is mainly ceremonial and bound by ministerial counsel.

5.2. Canada

In Canada, Lieutenant Governors represent the Crown at the provincial level and exercise powers similar in theory to those of Indian Governors. However, their actions are firmly constrained by legal norms and long-standing conventions prioritising ministerial advice. While reserve powers technically exist, they are rarely invoked due to the risk of political backlash and the embedded culture of institutional restraint. Public and political expectations of impartiality, along with established precedents, ensure that Lieutenant Governors rarely act independently in a controversial manner. This strict adherence to democratic norms strengthens federalism and enhances public trust in governance.

5.3. United Kingdom

Although not a federal country, the United Kingdom offers a symbolic example through its constitutional monarchy. The British monarch (now King Charles III) acts solely on the advice of the Prime Minister and the Cabinet. Over time, unwritten conventions have evolved to ensure that the Crown does not interfere in political matters. The monarch does not play an active role in government formation or legislative processes, and any deviation from ministerial advice would trigger a constitutional crisis. This strict non-interventionist approach preserves the symbolic nature of the monarchy while maintaining the legitimacy of democratic institutions.

5.4. Indian Scenario

In sharp contrast, Indian Governors operate in a legal and political vacuum where conventions are weak and codified safeguards are largely absent. The Governor holds office at the pleasure of the President under Article 156, which, in practice, means that Governors can be removed or transferred arbitrarily by the Union government. This lack of tenure security makes them susceptible to political influence.

Further, the Centre controls the appointment process without consulting the concerned state government. As a result, there have been numerous instances where Governors were appointed based on political affiliations or were former politicians, undermining the impartiality expected from such a high constitutional office.

Unlike the codified conventions in Australia and Canada, India has no statutory or enforceable framework governing the discretionary powers of the Governor. The ambiguity surrounding Articles 163, 200, and 356 leaves room for subjective interpretation, which has led to repeated controversies, such as the arbitrary use of President's Rule, delay in giving assent to Bills, or questionable decisions during government formation in hung Assemblies.

6. Suggested Reforms & Way Forward

The persistent tension between constitutional morality and political interest in the functioning of the Governor's office has attracted intense criticism and led to several recommendations for reform by expert bodies. These reforms aim to enhance transparency, safeguard federal principles, and restore the integrity of this high constitutional office.

6.1. Sarkaria Commission (1988)

The Sarkaria Commission was the first major institutional attempt to address Centre-State relations comprehensively. It made several important recommendations concerning the office of the Governor:

- Governors should be eminent persons in public life, and not be actively involved in politics, especially not with recent political affiliations.
- The Chief Minister of the concerned state must be consulted before appointing a Governor, to ensure trust and cooperative federalism.
- The majority of a government must be tested only on the floor of the legislature and not based on subjective reports submitted by Governors.
- These recommendations were grounded in the principle that the Governor must act as a neutral constitutional head and not as a political agent of the Centre.

6.2. Punchhi Commission (2010)

- The Punchhi Commission emphasised institutional safeguards and codification of the Governor's role:
- It recommended a fixed five-year tenure for Governors to ensure continuity and independence in decision-making.
- Discretionary powers must be clearly defined and limited by appropriate guidelines to prevent arbitrary use.
- Governors, including Rajya Sabha nominations, should not be eligible for political office after demitting office to preserve impartiality.
- The Commission noted that the absence of explicit norms has allowed Governors to operate in legally grey areas, often to the detriment of state autonomy.

6.3. 2nd Administrative Reforms Commission (ARC)

- The 2nd ARC also supported the depoliticisation of the Governor's office and made the following suggestions:
- The appointment of Governors should be handled by a collegium consisting of the Prime Minister, the Home Minister, the Chief Justice of India, and the Leader of Opposition in the Lok Sabha.
- Governors must be accountable to Parliament through regular reporting, and their discretionary decisions must be open to legislative scrutiny.

- Strong conventions and better communication between the Centre and states were encouraged to prevent breakdowns in constitutional functioning.

6.4. Proposed Reforms: Toward Constitutional Accountability

- In addition to the recommendations of the above commissions, further reforms must be adopted to realign the Governor's office with constitutional morality:
- **Codification of Discretionary Powers:** Parliament or the Supreme Court must develop a binding framework that outlines when and how Governors can exercise discretion, particularly under Articles 356, 200, and in post-election scenarios. This will reduce ambiguity and promote consistency.
- **Transparent Appointment Mechanism:** Establishing a bipartisan or federal appointment collegium can insulate the Governor from undue political influence. The Inter-State Council or a new constitutional body could play a key role in this process.
- **Judicial Review and Justiciability:** While Article 361 of the Constitution grants immunity to Governors from legal proceedings, judicial review of gubernatorial actions—not persona—must be strengthened. Courts must be able to examine whether discretionary acts align with constitutional principles.
- **Impeachment-like Removal Process:** Governors should not be removed arbitrarily at the pleasure of the Centre. Instead, an independent and structured mechanism similar to the impeachment of judges should be adopted, ensuring due process and preserving dignity.
- **Cooling-off Period for Political Appointments:** Governors should be barred from accepting any political or constitutional position for at least two years after leaving office to safeguard neutrality.
- **Mandatory Reporting and Legislative Oversight:** Governors must submit periodic reports to the state legislature or the Rajya Sabha on their discretionary actions, providing reasons and justifications to enhance transparency and accountability.

These reforms collectively aim to restore faith in the office of the Governor as a constitutional sentinel rather than a political instrument. By aligning practice with principle, and law with morality, the Governor can serve as a protector of federalism and democratic values.

7. Conclusion

The role of the Governor has evolved into one of the most contentious and scrutinised aspects of India's federal polity. Originally envisioned as a neutral constitutional head who would link the Union and the States, the Governor today is frequently seen as a political instrument of the central government. This perceived transformation marks a significant departure from the ideals of constitutional morality towards the entrenchment of political expediency.

This research concludes that the Governor's actions must be guided by constitutional morality, an ethic that prioritises fairness, democratic legitimacy, and respect for the spirit of the Constitution. Governors must resist the temptation to act on partisan considerations and adhere to judicial precedents, conventions, and institutional principles, especially during political uncertainty, such as hung assemblies or the invocation of President's Rule.

Legal clarity is indispensable to achieving this goal. The lack of codified conventions, unclear boundaries for discretionary power, and an opaque appointment and removal process have made the Governor vulnerable to political misuse. As detailed through comparative analysis and institutional reports, other democracies have safeguarded neutrality through conventions, tenure protection, and insulation from political reward—tools India must urgently consider adopting.

While political interest may never be entirely divorced from constitutional function, the dominance of political motives over constitutional values fundamentally undermines the legitimacy of democratic institutions. A polity governed by law must ensure that even the highest constitutional functionaries remain accountable to the Constitution, not political patronage.

Thus, the office of the Governor must be reimagined, rooted in transparency, impartiality, and institutional accountability. Structural reforms, combined with judicial and parliamentary oversight, are the way to restore public faith in the federal balance. Reinforcing constitutional supremacy, safeguarding the rule of law, and respecting democratic mandates are not just reforms but imperatives in the journey towards a robust, inclusive, and just democratic republic.