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GOVERNOR'S DISCRETION AND LEGISLATIVE DELAYS: A CONSTITUTIONAL CONUNDRUM IN INDIA

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ABSTRACT

The constitutional part of Governors in India has been questioned for a very long time, particularly in moments of political unpredictability, the Supreme Court in *Nabam Rebia v. Deputy Speaker* (2016) accentuated that limited scope of gubernatorial discretion, consequently interventions in 2023–25 reveal that dogged uncertainties surrounding gubernatorial inaction over the verdicts, the “silence” of Governor, whether in rescheduling assent to bills, summoning assemblies, or stand-in on cabinet advice states a unique constitutional problem whereas on one hand, the judicial review is a foundation stone of constitutionalism, confirming that arbitrarily, the discretionary powers are not exercised, and on the other hand. Convincing a Governor to act within judicially set timeframes, risks intruding upon the separation of powers in a delicate balance, existing scholarship also has examined gubernatorial discretion, although little attention has been paid to the justiciability of dithering itself, therefore this research cross-examines whether courts can legitimately outspread review to gubernatorial silence, and if so, then under what doctrinal limits? By analysing constitutional statement, precedent and comparative practice, the study pursues to tell whether judicially enforceable timelines are well-suited with India’s federal design? Therefore, the autopsy highlights that the critical gap in constitutional jurisprudence, and the struggle between safeguarding democratic accountability, and antibacterial the autonomy of the constitutional offices.

KEYWORDS: Constitutional, Governor, Constitutionalism, Comparative Practice.

INTRODUCTION

The office of the Governor in India occupies, a self-contradictory position within the constitutional framework, and also conceived as a vital link between, the Union and the States, as well as the Governor is officially entrusted with discretionary powers, but is expected in the practice, and to act on the aid and advice of the Council Ministers¹. Whereas, the frequent

¹ Bingham, L. (2007). THE RULE OF LAW.

tensions have its dichotomy generated, and particularly in the moments of political unpredictability, when these gubernatorial discretions, or its absence can conclusively shape its democratic outcomes. While in this case the Supreme Court has frequently emphasized the limited nature of gubernatorial discretion, as the most notably in *Nabam Rebia v. Deputy Speaker* (2016)², the recent judicial interventions between 2023 and 2025 accentuate that the scope of review over gubernatorial inaction remains disconcerted, unlike over acts of discretion, gubernatorial “silence” revealed delays in granting assent to bills (Art.111 of Constitution of India), summoning of assembly³, or acting on cabinet’s advice boons a unique constitutional dilemma. On one hand, there is judicial review in indispensable to avoid constitutional paralysis, and ensure that executive authority is exercised in accordance with democratic principles, and on the other hand, prescribing judicially enforceable timelines for gubernatorial action menaces transgressing the doctrine of separation of powers, and undermining the autonomy of constitutional offices.⁴ Thus, the tension raises fundamental questions: Can courts compel Governors to act within a timeframe without overstepping their institutional role? And, should judicial review extend to inaction, or does silence fall within the realm of political, somewhat legal, accountability?

The scholars have examined gubernatorial discretion basically through the lens of over decision such as the dismissal of governments, and the imposition of President’s Rule, or the summoning of assemblies. However, the justiciability of inaction has received comparatively little attention. The absence of doctrinal clarity is particularly conspicuous given the frequency with which gubernatorial inaction has precipitated constitutional crises in recent years. The Supreme Court’s orders in cases involving delayed assent to state legislation and prolonged inaction on cabinet advice illustrate the judiciary’s willingness to intervene, yet they stop brief of articulating a principled framework for reviewing silence.

This research seeks to fill that gap, by interrogating the constitutional, doctrinal, and comparative dimensions of gubernatorial inaction, therefore it examines whether judicial review can legitimately outspread to silence, and if so; under what limits? The study places the Indian experience within its broader comparative context, and drawing on Common-wealth jurisdictions such as Australia and Canada,⁵ where vice regal discretion has been

² Singh, M. P. (2017). Discretionary powers of the President and governors in India in constitution and practice. *Indian Journal of Public Administration*, 63(3), vii–xviii.

³ Developing human rights jurisprudence. (1998).

⁴ Tushnet, M. (1999).

⁵ Internationalisation and trade in higher education. (2004).

correspondingly contested, by analysing constitutional text, and judicial precedent, and normative theories of accountability. The paper aims or tends to clarify whether judicially enforceable timelines are compatible, with India's federal design and democratic ethos.

Ultimately, the inquiry highlights a life-threatening tension at the heart of Indian constitutionalism; the necessity to safeguard democratic accountability without, eroding the autonomy of constitutional offices, and addressing this tension is not merely a matter of doctrinal modification but of preserving the slight balance between law, and politics that underpins the constitutional order.

RESEARCH METHODOLOGY

The study uses a doctrinal research technique, with aspects of comparative analysis and qualitative research technique, to investigate "Governor's Discretion and Legislative Delays: A Constitutional Conundrum in India". This method enables through an analysis of the institutional responsibilities, and powers of the judiciary, and the executive with the articles mentioned in the Indian Constitution.

REVIEW OF LITERATURE

BOOKS:

1. Constitution of India by B N Shukla
2. Comparative Constitutional Law by Justice G B Patnaik, Yasobant Das, Rita Das
3. The Governors' Guide by S S Upadhyay

ARTICLES:

1. The role of the Governor in India's constitutional framework has long sparked argument over the balance between the discretion, and democratic accountability. Therefore, under Articles 163 and Article 200 of Indian Constitution, the Governor may assent, withhold assent, return, or reserve state bills for presidential consideration.
2. Scholars such as Austin in 1966, and Seervai in 1991 note that while these powers were envisioned as formal safeguards, they have often become tools of political influence, particularly in opposition ruled states.
3. Judicial scrutiny has evolved suggestively; Earlier courts treated the Governor's discretion as largely non-justiciable like in case of, *Shamsher Singh v. State of Punjab*

in 1974, but recent rulings especially in the case of Supreme Court's 2025 decision held that Governors cannot indefinitely delay bills, and must act within a "reasonable time."

RESEARCH GAP

The constitutional role of the Governor in India has been the focus of the sustained judicial and academic attention, which is particularly in relation to the scope of discretion, and the limits of the judicial review⁶. Landmark decisions such as in the judgement of *Shamsher Singh v. State of Punjab* (1974), and *Nabam Rebia v. Deputy Speaker* (2016)⁷ have clarified that gubernatorial discretion is exceptional as well as ordinarily subject to judicial scrutiny⁸; More over recently, the Supreme Court's interventions in 2023 to 25, especially in cases concerning delayed assent to bills, and prolonged inaction on cabinet advice, have been highlighted in the judiciary's willingness to address constitutional paralysis; Yet, these interventions have not sugar-coated into a coherent doctrine on the justiciability of gubernatorial silence.

The existing scholarship has largely examined the Governor's powers in contexts of obvious action, such as dismissal of governments, and imposition of President's Rule, or the summoning of assemblies. By this contrast, the main problem of inaction, where the Governor neither assents, rejects, nor reserves a bill, or flops to act on cabinet advice remains under theorized, Therefore, the absence of explicit constitutional timelines exacerbates, this uncertainty of leaving courts to improvise remedies without a principled framework.

This lacuna raises two unresolved questions: those are first, whether courts can compel Governors to act within a timeframe without violating the separation of powers? And second, whether the judicial review should spread to silence as a form of constitutional abdication? Comparative constitutional literature on vice regal inaction in the other Westminster systems like; Australia, Canada, the UK, has not been systematically applied to the Indian context, Consequently, there is a persistent need for doctrinal clarity, and prescriptive guidance on how to reconcile democratic accountability with the autonomy of constitutional offices.

RESEARCH OBJECTIVE

The primary objective of this research is to unsympathetically examine the constitutional, and the doctrinal limits of judicial review over the gubernatorial inaction in India, while the courts

⁷ Chauhan, A. (2025). *Constitution of Bharat*. BFC Publications.

have restricted in the cases of overt gubernatorial discretion, the justiciability of silence which is established in overdue assent to bills, the failure to summon assemblies, or protracted inaction on cabinet advice remains unsettled. Therefore, this study seeks to:

1. Clarify the constitutional position by scrutinising the text, structure, and intent of Articles 153 to 162, 163, 174, 200, and 201, together with Constituent Assembly, Debates, and commission reports, to determine that whether gubernatorial inaction can be construed as a breach of constitutional duty?
2. To evaluate judicial practice by investigative landmark precedents such as in (*Shamsher Singh, Nabam Rebia, Rameshwar Prasad*⁹, and Supreme Court orders from 2023 to 25) to assess how courts have loomed the problem of gubernatorial silence, and whether they have articulated consistent principles?
3. Interrogate the separation of powers quandary by exploring, whether courts can legitimately coerce Governors to act within a time frame without discouragement the autonomy of constitutional offices.
4. Incorporate comparative perspectives from other Westminster style systems, (Australia, Canada, the UK)¹⁰ to categorise how vice regal inaction has been lectured, and what lessons might be drawn for India.
5. Propose of a standardising framework for judicial review of gubernatorial inaction that balances democratic accountability with the institutional autonomy, offering doctrinal clarity, and policy guidance.

RESEARCH QUESTIONS

Primary Question

1. Can Indian courts legitimately bring Governors to act in a constitutionally reasonable time frame without violating of the principle of separation of powers?
2. To what extent should judicial review extend to gubernatorial “silence” or inaction, particularly in the contexts of such as, assent to bills (Articles 200 to 201) and summoning of assemblies under Article 174?
3. Does prolonged gubernatorial procrastination amount to a constitutional breach, and if so, then what remedies are presented within the existing constitutional framework?
4. What lessons can be pinched from comparative Westminster systems (e.g., Australia,

⁹ Pankaj, A. (2018). Discretionary Powers of Governor—III: An Interpretation from Federal Perspective. *Indian Journal of Public Administration*, 64(1), 49–72.

¹⁰ Craft, J., & Howlett, M. (2012).

- Canada, the UK) regarding the judicial oversight of vice regal inaction?
5. What normative framework can be reconciling the need for democratic accountability, with the autonomy of constitutional offices in India?

STATEMENT OF PROBLEM

In the Constitution of India imagines the Governor as a constitutional head, guaranteed in most circumstances by the aid and information of the Council of Ministers. Yet, the practice of gubernatorial inaction that whether in delaying assent to bills under Articles 200 to Article 201, postponing the summoning of assemblies under Article 174¹¹, or withholding action on cabinet assistance has generated recurring constitutional crises; Unlike overt exercises of discretion, such silence is not neither addressed in the constitutional text, nor has it been consistently hypothesised in judicial doctrine.

The Supreme Court has intervened in the selected cases, those are from *Shamsher Singh v. State of Punjab* in 1974 to *Nabam Rebia v. Deputy Speaker* in 2016, and more recently in orders between 2023 to 25, to restriction misuse of gubernatorial authority; However, these interventions have principally addressed active decisions rather than prolonged inaction. The absence of explicit constitutional timelines leaves courts with incomplete guidance, and raising the unresolved question of whether judicial review can encompass to compel action without disheartenment of the separation of powers.

This doctrinal indistinctness creates an unrelenting research problem that how should Indian constitutional law conceptualize and regulate gubernatorial inaction, if “silence” is treated as a constitutional breach, the courts may be required to implement timelines, risking judicial overreach, if silence is left unchecked, the democratic accountability and legislative functioning may be undermined by the lack of a principled framework to reunite these contending concerns represents a significant gap in the constitutional jurisprudence and scholarship.

RESEARCH LIMITATIONS

This study is subject to several limitations that must be acknowledged; first, the scrutiny relies primarily on constitutional text, and judicial precedent, and secondary commentary, while these

¹¹ Scheppele, K. L. (2006).

sources provide a strong doctrinal foundation, and they cannot fully apprehension the political dynamics, and informal conventions that often shape gubernatorial conduct in practice and secondly, the jurisprudence on gubernatorial inaction remains sparse and fragmented. Therefore, the Supreme Court's interventions in 2023 to 25, though significant, are inadequate in number and scope, which pressures the ability to generalize doctrinal trends. Thirdly, the comparative analysis draws on experiences from other Westminster systems such as Australia, Canada, and the United Kingdom, while these jurisdictions suggest valuable insights, and their constitutional contexts differ in important compliments, limiting the direct transposability of their solutions to India and fourthly, the study does not incorporate empirical fieldwork, such as interviews with constitutional performers or the legislators, which could have enriched the analysis of how gubernatorial inaction is perceived and accomplished in practice. And lastly, the research is circumscribed by the availability of reported judgments, and the scholarly commentary; unpublished or pending cases may additionally shape the contours of this debate; These limitations, however, do not weaken the significance of the inquiry; rather, they highlight the requirement for continued academic and judicial engagement with the unresolved problem of gubernatorial silence.

Constitutional Framework of the Governor's Role

Historical background of the governor's office in India:

The office of the Governor traces to colonial administration; under the Government of India Acts of 1858 and 1919,¹² where Governors acted as Crown representatives with extensive reserve powers, whereas in the Government of India Act, 1935 familiarized provincial autonomy; but engaged significant discretionary authority, plus the power to withhold assent, and the act of independency of ministerial advice at Independence, the Constituent Assembly reserved the office to preserve unity in a federal system, but the consciously reimaged it within a responsible government framework. The debates rejected direct election, and entrenched the Governor as a nominated constitutional head, which meant to be neutral, and non-partisan, and largely guaranteed by the advice of the council of ministers. Post-Independence commissions most notably Sarkaria and Punchi recapped that the Governor is a constitutional sentinel, not an alternate political centre, and urged restraint in the use of residual, or "situational" discretion the Constituent Assembly Debates, Vol. VIII (June 1, 1949) – Dr. B.R. Ambedkar: "The Governor under the Constitution has no functions which he can

¹² Banton, M. (2015). Administering the Empire, 1801-1968.

emancipation by himself. No functions at all.”¹³

Articles 153–162: Executive structure and powers:

1. Article 153: Talks about establishes a Governor for each state, enabling one person to serve multiple states,¹⁴
2. Article 154: Talks about the powers vested; the state’s executive power in the Governor, which is exercisable directly, or through subordinate officers, but are subject to the Constitution,
3. Article 155–156: Provides presidential appointment, and the tenure of president “during the preference” of the President; ¹⁵ and the removal is not at the state’s behest but centrally controlled,
4. Article 157–159: It sets qualifications, conditions, and the oath to preserve, and protect, and defend the Constitution and the law, ¹⁶
5. Article 160: It permits the President; to make provisions for the release of functions in contingencies, ¹⁷
6. Article 161: Talks about Empowers the Governor to grant pardons, and reductions for offences against the state laws (distinct from the President’s Article 72 power),
7. Article 162: Defines the extent of the state’s executive power; as the coincident with its legislative competence, that subject to constitutional limits.

Article 163: Aid and advice and the enclave of discretion:

1. Text and structure: The Governor turns on the aid and advice of the Council of Ministers excluding “in so far as he is by or under this Constitution required to exercise his functions in his discretion.” ¹⁸
2. Judicial reading: Courts have narrowly construed this discretion, treating it as exceptional and textually grounded slightly than open-ended; the cabinet’s advice is ordinarily binding, with non-justiciability attaching only to the idiosyncratic satisfaction in limited, specified areas.

¹⁴ Cary, W. L. (1974). *Federalism and Corporate Law: Reflections upon Delaware*.

¹⁵ Percival, R. V. (2001).

¹⁶ McConnell, M. W. (2018).

¹⁷ McCrudden, C. (2008).

¹⁸ Manglik, R. (2024).

Article 174: Sessions, prorogation, and dissolution:

Constitutional role: The Governor summons, prorogues, and dissolves the Legislative Assembly; in practice, these powers are exercised on ministerial assistance, saving in narrow scenarios necessitating neutrality (e.g., loss of majority claims where floor testing is the constitutional norm) is the constitutional role of the government;

Contestation: Misuse risks legislative paralysis or political advantage; courts have emphasized floor-test remedies and limited space for unilateral gubernatorial decisions.

Articles 200–201: Assent to bills and reservation for the President;¹⁹

Article 200: On the bills presented, the Governor may assent, and withhold assent, and return if not, or reserve for the President’s consideration, the provision does not specify but implies constitutional sensibleness and fidelity to responsible government,

Article 201: The President may assent or withhold assent, and directions may be issued for reconsideration; Prolonged reservation, or withholding can initiation accountability questions without explicit textual deadlines.

Intended balance between discretion and cabinet advice:

The constitutional scheme envisages the Governor as a formal head, lending continuity and constitutional misunderstanding while the elected government uses substantive executive authority, “Aid and advice” are the rule; “discretion”²⁰ is the exception, narrowed to areas expressly anticipated by the Constitution or necessarily implied to uphold constitutional order, the functional non-involvement is central: the Governor should neither be a rival power centre nor a unreceptive conduit for illegality or constitutional subversion.

Where democratic legitimacy, and constitutional constancy collide e.g., unclear majorities, constitutional breakdown, the Governor’s role is to simplify constitutional processes typically through floor tests, or reasoned referrals, or reservation in circumscribed situations rather than to choose political outcomes, commissions and the case law meet on a guardrail: discretion must be goal-directed, sparing, reviewable for bad faith or inessential considerations, and fastened in the text, structure, and conventions of responsible government.

¹⁹ Expounding the Constitution.

²⁰ Bingham, L. (2007). THE RULE OF LAW.

Doctrinal debates on aid and advice versus discretion:

Core jurisprudence and its trajectory-

1. Shamsheer Singh (1974):²¹ This judgement affirmed that the Governor is ordinarily destined by ministerial advice; discretion is limited to situations which is provided by the Constitution, and the decision constitutionalized the Westminster logic within Indian federalism.
2. S.R. Bommai (1994): In this judgement the reigned in misuse of Article 356²² and highlighted floor tests to ascertain majority, obliquely limiting unilateral gubernatorial judgments on political questions.
3. Rameshwar Prasad (2006): This judgement annulled dissolution based on extraneous material, that is reinforcing gubernatorial reports which are not beyond scrutiny, and must meet ethics of constitutional fidelity.
4. Nabam Rebia (2016): This case tightened the tether on discretion in legislative affairs, holding that the Governor cannot act as an alternate power centre in summoning, or setting legislative agenda absent constitutional necessity.
5. B.P. Singhal (2010): This judgement elucidated the removal “at pleasure” is not unfettered; but constitutional offices require reasons linked to constitutional decorum, underscoring non-partisanship.

Key points of contentions are:

1. The scope of “discretion” is, whether it is purely text bound, or comprises implied reserve powers for constitutional necessity; Prevailing doctrine text anchored, scarcely tailored discretion with judicial review for mala fides and irrelevance,
2. Conventions as constraints: Westminster conventions; act on advice, and political neutrality, and floor-test primacy function as constitutional norms, debate perseveres on their enforceability by courts vs. political remedies,
3. Inaction as discretion: Whether the delayed assent, or non-summoning, or protracted reservation constitutes an exercise of the discretion, and abdication, or justiciable,
4. Inaction: The tightness lies between preventing constitutional unresponsiveness, and avoiding judicial micromanagement,
5. Judicial remedies: The courts tend to command processes e.g., floor tests, consider, and decide orders, rather than outcomes, gesticulating a proceduralized review that

²¹ Ka, R., & Gossman, B. (2022).

²² Singh, M. P. (2001).

preserves separation of powers while shortening constitutional drift.

Judicial Engagement with Gubernatorial Powers

Landmark Cases and Doctrinal Foundations

The Supreme Court has consistently accentuated that the Governor is a constitutional head, that is ordinarily bound by the aid, and the advice of the Council of Ministers. In the case of *Shamsher Singh v. State of Punjab* in 1974, a seven-judge bench held that the Governor's discretionary powers are "extremely limited", and must be exercised in agreement with ministerial advice, except where the Constitution expressly provides otherwise. This decision deep-rooted the Westminster principle of responsible government within the Indian federalism. In the case of *Rameshwar Prasad v. Union of India* in 2006, the Court overturned the premature dissolution of the Bihar Assembly, and holding that gubernatorial reports are subjected to judicial review, and cannot be based on unimportant, or mala fide considerations, the judgment underlined that the Governor's role is not beyond scrutiny, even when acting under Article 356 of Indian Constitution.

The most momentous articulation came in the recent case study of *Nabam Rebia v. Deputy Speaker* in 2016, where the Court struck down the Governor's decision to advance an assembly session without cabinet advice. The Court held that the Governor cannot act as an independent political performer in the legislative affairs, the reaffirming that discretion is barely circumscribed and reviewable.

Recent Supreme Court Interventions (2023 to 25)²³

autonomy of constitutional offices; Judicial scrutiny has intensified in recent years, particularly around gubernatorial inaction which is in the case of *State of Tamil Nadu v. Governor of Tamil Nadu* (2025), the Court talked about prolonged delays in granting assent to bills under Article 200, and it was held that while the Constitution does not prescribe a timeline, the Governor is under a constitutional obligation to accomplish within a "reasonable period," and the indefinite silence undermines the legislative sovereignty. Earlier orders in 2023 to 24 connecting opposition ruled states similarly directed Governors to decide on cabinet advice, or assent requests without unwarranted delay, signalling a judicial willingness to treat inaction as justiciable.

²³ Schlosberg, D., & Carruthers, D.

Limits of Judicial Review in Cases of Silence

Despite these interferences, the limits of judicial review remain unsettled, whereas the Courts have generally narrowed themselves in issuing procedural directives such as, delegating consideration of the cabinet's advice, or necessitating decisions within a "reasonable time" rather than compelling specific outcomes, therefor this imitates an awareness that excessive judicial intrusion risks undermining the. Yet, the absence of a principled framework leaves vagueness: when does it delays become unconstitutional, and what remedies are appropriate? The jurisprudence thus far suggests that, while gubernatorial silence is not immune from review, judicial remedies will remain procedural and time-bound, rather than substantive.

Consequences of Gubernatorial Silence

The practical significances of gubernatorial inaction are philosophically, the prolonged delays in assent can result in legislative paralysis, where aptly enacted laws remain unenforceable; Similarly, the negation to summon, or prorogue assemblies²⁴ under Article 174 of Indian Constitution can pressurised executive deadlock, that stall governance, and undermining democratic mandates. The recent controversies, such as the Supreme Court's scrutiny in the case of *State of Tamil Nadu v. Governor of Tamil Nadu* in 2025, demonstrated how gubernatorial silence can be weaponized in the politically differentiated contexts, particularly in opposition ruled states. The Court itself has acknowledged the jeopardy that indefinite inaction could "paralyze state legislatures" and corrode federal balance.

Comparative Perspectives

In Australia and Canada: Reserve Powers of Governors and Vice-Regal Officers

In Westminster derived systems, such as Australia and Canada, the Governors and the Governors General recollect certain reserve powers, exceptional authorities exercised without, or contrary to, ministerial advice, these includes the power to appoint, or dismiss a Prime Minister, refuse a dissolution of Parliament, or maintain on a vote of confidence, the most famous example is the 1975 Australian constitutional²⁵ crisis, when the Governor General Sir John Kerr dismissed Prime Minister Gough Whitlam, invoking reserve powers to resolve a budget deadlock. Earlier, in 1932, the Governor of New South Wales dismissed Premier Jack Lang, and in Canada, while reserve powers exist, they are hardly exercised; the 2008 prorogation crisis tested the Governor General's discretion when Prime Minister Stephen

²⁴ Patterns of empire: the British and American empires, 1688.

²⁵ Mayer, K. R., & Schweber, H. H.

Harper sought to suspend Parliament to avoid a no confidence vote, scholars note that these powers are justified by principles of responsibility, necessity, and the rule of law, but their use is politically anxious and often controversial.

Possible Frameworks for Judicial Engagement

- 1) Minimalist Approach; (Judicial Nudging, Not Compulsion)
Courts question declaratory orders reminding Governors of their constitutional duties,
 - i) Intervention is inadequate to “nudging” without prescribing timelines, or outcomes, and
 - ii) Advantage: preserves separation of powers; And disadvantage: risks ineffectiveness if Governors persist in delay.
- 2) Procedural Approach (Mandating Timelines Without Dictating Outcomes)²⁶
 - i) Courts recognize that indefinite silence is unconstitutional, and need action within a “reasonable time,”
 - ii) Judicial review emphasizes on process, not substance: the Governor must decide, but the content of the decision remains beyond review,
 - iii) This approach mirrors comparative practice in Westminster systems, where courts implement procedural obligations while respecting vice regal autonomy.
- 3) Constitutional Morality Approach (Emphasizing Accountability Over Autonomy)²⁷
 - i) Courts summon the principle of constitutional morality, to hold that gubernatorial silence undermines democratic accountability,
 - ii) Judicial review encompasses to ensuring that Governors act in good faith, consistent with the spirit of responsible government,
 - iii) This approach accentuates that constitutional offices exist to facilitate, not obstruct, democratic governance,
 - iv) Risk: may invitation charges of judicial activism; If courts appear to police constitutional morality too expansively.

Towards a Framework for Judicial Review of Inaction

A Structured Test: The “Threshold of Constitutional Necessity”²⁸

To address gubernatorial silence, courts could approve three parts of the test grounded in the

²⁶ Hicks, D. (2011). Performance-based university research funding systems. *Research Policy*, 41(2), 251–261.

²⁷ McCrudden, C. (2008). Human dignity and judicial interpretation of human rights.

²⁸ Nussbaum, M. C. (2000). Women and human development: the capabilities approach. *Choice Reviews Online*, 38(01).

principle of constitutional necessity:

1. **Triggering Condition** – Judicial review is galvanised only when gubernatorial inaction frustrates a constitutional mandate, e.g., assent to bills under Article 200 of Indian Constitution, summoning of the legislature under Article 174, or acting on cabinet advice under Article 163; Mere administrative delay would not suffice.
2. **Reasonableness of Delay** – Courts evaluate whether, the delay surpasses a “reasonable time,” judged contextually the urgency of legislation, impact on governance, and the absence of justification, this circumvents rigid timelines while still imposing constitutional discipline.
3. **Necessity of Intervention** – Judicial directions are warranted only when procrastination risks, constitutional paralysis, or undermines democratic accountability, this guarantees that review is exceptional, not routine.

SUGGESTIONS

1. **Codify Timelines for Assent:**
Parliament or The State Legislatures should consider indorsing statutory, or constitutional amendments to prescribe a “*definite timeframe*” within 30-60 days, which Governors must act on bills; This would close the constitutional gap that currently allows indefinite delay.
2. **Clarify the Scope of Discretion:**
The Constitution or judicial guidelines should undoubtedly define the partial circumstances, where the Governor can exercise discretion such as; bills affecting national interest, or reserved subjects to avert misuse for political reasons.
3. **Judicial Enforcement of Timelines:**
Courts may progress *structured judicial review* standards complementary federal comity with democratic accountability, by permitting mandamus petitions when Governors exceed reasonable time limits without justification.
4. **Training and Constitutional Orientation:**
The appointment process should be supplemented by *orientation programmes* for Governors on constitutional conventions, accentuation neutrality, cooperative federalism, and timely assent procedures.
5. **Strengthening Cooperative Federalism:**
The Centre and States should commit consultative mechanisms, through the Inter-State Council, to resolve Governor or State conflicts, reinforcing the spirit of federal balance

intended by the Constitution.

CONCLUSION

This study has required to illuminate a neglected dimension of Indian constitutional law: the badly-behaved of gubernatorial inaction, while judicial and scholarly attention has traditionally focused on overt movements of discretion such as, dismissal of governments, or the imposition of President's Rule; This paper has contended that silence can be equally consequential, by conceptualizing procrastination as a form of decision, the research establishes how gubernatorial delays in assenting to bills, summoning assemblies, or acting on cabinet advice can incapacitate democratic governance, and destabilize federal balance.

The contribution of this study dishonesties in framing gubernatorial silence, as a justiciable constitutional dilemma, and propositioning a structured framework for judicial review grounded in the principle of constitutional necessity; in doing so, it highlights the judiciary's embryonic role in safeguarding democratic accountability, while respecting the autonomy of constitutional offices. Yet, the investigation also underscores the unresolved tension between the law, and politics: courts are constitutionally appreciative to prevent paralysis, but excessive intervention risks transforming them into supervisory authorities over executive discretion. Therefore, this tension remains at the heart of the Indian constitutionalism.

Future scholarship must excavate this inquiry by examining the lived practice of gubernatorial procrastination across states, the political dynamics that form it, and the comparative lessons from other Westminster systems at the level of constitutional reform, India may require to consider codifying reasonable timelines for gubernatorial action, or clarifying conventions through parliamentary legislation, thereby plummeting reliance on judicial improvisation. Ultimately, the challenge is to strike a balance between the accountability, and autonomy ensuring that constitutional offices attend as facilitators of democracy rather than hindrances to it.

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