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DISCRETION OR DOMINANCE: THE GOVERNOR AND THE POLITICS OF CENTRE-STATE RELATIONS IN INDIA.

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Abstract

The office of the Governor represents a pivotal yet contested institution in India's federal framework, positioned at the intersection of constitutional authority and political practice. This article examines the role of the Governor in shaping Centre-State relations, questioning whether the office serves as a neutral constitutional arbiter or functions as an instrument of central influence. Drawing on judicial interpretations, landmark case studies, and recent political developments, the study highlights instances where the Governor's discretion has intersected with partisan considerations, particularly during periods of coalition instability or transitions in state governments. Such patterns underscore the tension between the constitutional ideal of impartiality and the realities of political centralization, raising critical questions about the balance of power, state autonomy, and democratic governance in India. Situating the analysis within the broader theme of "We the People of Bharat," the article reflects on how the Governor's office both mediates and contests the dynamics of federalism, revealing its implications for participatory democracy and the sovereignty of state institutions. By juxtaposing constitutional provisions with political practice, the study offers insights into the evolving role of the Governor, contributing to a nuanced understanding of India's federal polity and the ongoing negotiation between national authority and regional autonomy.

Key Words: Governor, Discretionary Power, Political Centralisation, Federalism, Constitutional Morality.

Introduction

Rooted in the spirit of *“We the People of Bharat,”* the principle of federalism reflects the collective aspiration for unity in diversity and balanced distribution of power between the Centre and the States. Within this framework, the office of the Governor was conceived as a vital constitutional bridge, intended to harmonize national cohesion with regional autonomy. Yet, in practice, this institution has often become the site of tension, controversy, and political manoeuvring. The article critically examines how the exercise of the Governor’s discretion has evolved, frequently blurring the line between constitutional neutrality and partisan allegiance. By revisiting landmark cases, constitutional debates, and contemporary instances of political intervention, it examines whether the Governor truly embodies the federal vision of 'We the People,' or whether the office has become a symbol of central dominance undermining India’s cooperative federal fabric.

The Governor and the Federal Idea in India

As the constitutional link between the Union and the State, the Governor's office holds a crucial place in India's federal structure. Its historical roots are in the colonial system of government, in which Governors served as Crown agents in charge of the provinces. Following independence, the Indian Constitution modified this position to provide the Governor with discretionary powers while establishing them in the constitutional framework, constituting a compromise between the federal principle and the requirement for an impartial arbitrator.¹

Constitutional Foundations: Designs, Powers, and Dilemmas of the Governor’s Office

The Governor, appointed by the President, is the constitutional head of a state, overseeing administration and legislation (Constitution of India, Articles 153–162) while acting on ministerial advice (Constitution of India, Articles 163–164). Though ensuring Union–State coordination, discretionary powers, and Presidential dependence raise questions of autonomy, highlighting tensions between cooperative and coercive federalism in India.

The Governor's function under India's parliamentary system is mostly ceremonial and constitutional. They are obligated to act with the "aid and advice" of the state's Council of Ministers. (Constitution of India, Article 163). This is a fundamental component of good governance, not just a formality. It guarantees that the actual authority is held by the elected

executive, who is answerable to the legislature and the people. The Governor is not meant to be a parallel centre of power, but rather a wise, apolitical leader. When a law passed by the state legislature is brought before the Governor, for example, the Governor can either grant assent, withhold assent (which is uncommon), or reserve the bill for the President's consideration. In the great majority of circumstances, the Governor follows the ministers' advice and automatically grants assent. In the same way, the Governor speaks to the legislature at the start of its annual session, but the entire speech is a policy declaration of the elected government detailing its goals and accomplishments. However, this constitutional convention is most critically tested in specific, high-stakes scenarios where the Governor is required to use personal discretion. The most prominent example is the appointment of a Chief Minister, particularly in a hung assembly where no single party has a clear majority. Here, the Governor must act impartially to ascertain who commands the majority support of the House, often by inviting the leader of the single largest party or coalition to form the government. Another key instance where the Governor's discretionary role assumes constitutional significance is the recommendation for the imposition of President's Rule. The imposition of President's Rule is ordinarily based on the Governor's report (Constitution of India, Article 356) to the President, indicating an alleged breakdown of constitutional machinery in the State, and not on the advice of the elected State Council of Ministers. In such situations, the Governor's report becomes a crucial constitutional document and must be grounded in objective material rather than political considerations. While Article 356 is intended as an exceptional safeguard to restore constitutional governance, its frequent invocation based on gubernatorial assessments has raised serious concerns regarding misuse and central overreach. Despite these discretionary spaces, the overarching principle remains that in all normal executive actions, from administering the oath of office to promulgating ordinances (on the advice of the cabinet), the Governor functions as the constitutional head, acting on the binding advice of the ministers.

The Governor acts independently of the Council of Ministers and uses "discretion" in extraordinary situations (Constitution of India Article 163(2)). Constitutional discretion is when the law allows the Governor to act independently; situational discretion is when judgment is needed in unclear political situations; and political discretion is when partisan concerns may affect choices. As evidenced by the remarks of Ambedkar, Munshi, and Alladi Krishnaswami Ayyar during the Constituent Assembly discussions, discretion should be used neutrally and sparingly to guarantee that the Governor serves as a constitutional protector rather than a political actor. Dr. B.R. Ambedkar stressed that the Governor's discretionary role must be

exceptional and confined to cases expressly provided by the Constitution, not a general political veto. Discretion was created to preserve federal balance and democratic legitimacy as a stabilizing tool.

The Concept of Discretion

Article **163** of the Constitution of India empowers the Governor to act on the advice of the Council of Ministers except in matters where he is required to act in his discretion. This discretion is limited and constitutionally defined, as clarified in *Shamsher Singh v. State of Punjab* (1974)ⁱⁱ. **Constitutional discretion** arises directly from the Constitution, such as reserving bills or recommending the President's Rule. **Situational discretion** emerges in contexts like a hung assembly or loss of majority. **Political discretion**, often influenced by the Centre, involves partisan use of powers, undermining federal balance.ⁱⁱⁱ

The Constituent Assembly intended the Governor to be a neutral, largely ceremonial head who acts on ministerial advice except in narrow, constitutionally-specified situations. The "**Dilemma of Dual Accountability**" concerning India's Governors arises from their dual role as both the nominal head of a state and as agents of the central government. While the Constitution designates Governors as the formal heads of state, executing executive actions in the state's name, they are appointed by the President and hold office at the President's pleasure, positioning them as representatives of the central government. This duality creates ambiguity in the chain of accountability, as Governors are formally accountable to the President, who appoints and can remove them, yet they also bear a moral and constitutional responsibility to the people of the state. This lack of clear accountability allows for potential misuse, where Governors may act in ways that align with the central government's interests, sometimes at the expense of the state's democratic processes. This structural ambiguity has been a subject of concern, as it can be exploited for political gain, affecting the balance of power between the state and central governments.

The Judiciary as a Federal Arbiter

As a key federal adjudicator, the Indian judiciary has always played a pivotal role in establishing the constitutional limits of the Governor's authority. This function is especially noticeable when Governors' activities are seen to be in opposition to federal and democratic values. In states like Kerala (1959), Punjab (1974), and Andhra Pradesh (1984), where judicial interventions have frequently prevented the possibility of abuse of this power, a distinct pattern

becomes apparent.^{iv} By means of these historic cases, the judiciary has not only settled immediate conflicts but also solidified its vital role as the final arbiter of the federal compact, guaranteeing that the Governor's office functions in accordance with its constitutional mandate rather than as a vehicle for political meddling. To understand this in a better way there is need to examine these landmark cases and controversies relating to the Governor's discretion.

The Kerala controversy of 1959, involving the dismissal of E.M.S. Namboodiri's communist government, was the first major test of Article 356. Acting on the Governor's report, the central government-imposed President's Rule, alleging a constitutional breakdown. Critics argued that the dismissal was politically motivated, as the government retained majority support. This episode highlighted the absence of judicial scrutiny at the time, allowing the Centre to misuse Article 356 to dislodge elected state governments. Later, the judiciary evolved to curb such practices, emphasising constitutional morality and procedural fairness.^v

In another landmark case of *Shamsher Singh v. State of Punjab* (1974), the Supreme Court clarified that the Governor, as the constitutional head of the state, must act on the *aid and advice* of the Council of Ministers except in narrowly defined situations. This judgment reaffirmed the parliamentary principle of collective responsibility and curtailed the scope of independent gubernatorial discretion, thus reinforcing the federal balance.

The Andhra Pradesh crisis of 1984, involving the dismissal of Chief Minister N.T. Rama Rao's ministry, by Governor Thakur Ram Lal, exposed the political misuse of gubernatorial powers. Acting without legislative verification, the Governor appointed a rival leader, N. Bhaskara Rao, as Chief Minister.^{vi} Public protests and political backlash forced his resignation, and NTR was reinstated after proving majority support on the floor. This controversy underscored the judiciary's later insistence on floor tests, as seen in *S.R. Bommai v. Union of India* (1994), to prevent the Governor's arbitrary interventions. Through these interventions, the judiciary established itself as the *federal arbiter*, ensuring that the Governor's actions remain constitutionally accountable and politically neutral.^{vii}

Patterns and Political Implications

Appointment practices for state Governors in India have, over recent decades, increasingly reflected political loyalty and ideological proximity to the Union ruling party rather than the impartial public-service background imagined by the Constitution. Scholarly commentators

and commission reports have repeatedly noted a shift from the framers' design, where Governors were expected to act as neutral constitutional guardians, toward appointments that reward party service, electoral loyalty, or ideological alignment.^{viii} This trend is visible in patterns of posting retired politicians, party functionaries, and opinion-makers as Governors, and is reinforced by short tenures and transfers that map closely onto changes at the Centre. Critics argue that such appointments convert Governors from constitutional referees into partisan agents who are more inclined to interpret discretionary clauses (for example, in Article 163, Article 200, and the conventions around inviting parties to form governments) through a political lens, thereby weakening the institutional wall between the Union and state governments. Empirical and normative treatments of this phenomenon, spanning analyses of appointment practices, the recommendations of the Sarkaria and Punchi commissions, and recent editorials in leading journals, trace how politicised appointments corrode the expected neutrality of the office and create incentives for gubernatorial intervention in favour of the Centre.

The Governor's reports and Article 356 have sometimes become tools for the Centre. They were meant as emergency safeguards. Instead, they are now used for political management. Historically, a Governor's report is the most common trigger for President's Rule. As seen in the landmark **S.R. Bommai case (1994)**^{ix}, the judiciary has found that the report's factual framing and its timing can decisively influence the Union government's action. Scholarship documenting the misuse of Article 356 demonstrates recurring patterns: the selective presentation of 'breakdown' narratives, reliance on contestable law-and-order claims, and the use of the Governor's correspondence or speakable "material" as a pretext for central takeover. Judicial interventions from S.R. Bommai to Rameshwar Prasad and subsequent rulings have narrowed some discretionary spaces and demanded clearer standards of review, but the routine political logic that animates recommendations for President's Rule persists, especially where Governors are politically proximate to the Union and where institutional checks remain porous. therefore, treat Article 356 not only as a constitutional emergency clause but also as a politically freighted mechanism whose operation depends heavily on who occupies the Governor's office and how they choose to represent state circumstances to the Centre.

Year	State and event	Governor's Role/ Political Context	Outcome
1959	Kerala Vimochana Samaram.	Governor, aligned with the Centre, reported against the first Communist government.	President's Rule was imposed under Article 356, dismissing the elected government.
1983- 85	Punjab Insurgency Period.	Governors during this period aligned with the ruling party at the Centre.	The extended President's Rule imposed raised concerns about federalism and democratic legitimacy.
2017	Goa- Post-Election Government Formation	Governor invited the BJP leader to form the government, despite Congress being the single largest party.	Raised questions about the Governor's Discretion and Political Bias.
2018	Karnataka- Post-Election Government Formation.	The Governor invited BJP leader to form the government, despite the party not having a clear majority.	Supreme Court intervened, which led to a floor test, highlighting concerns about the Governor's Discretionary Power
2025	Tamil Nadu- Withholding consent to bills.	The Governor withheld assent to 10 Legislative bills, delaying action under Article 200.	The Supreme Court ruled the actions unconstitutional, emphasizing the limits of gubernatorial discretion.

These (as mentioned in the above table) appointments of the Governors and intervention practices exact real costs for democratic legitimacy, state autonomy, and public trust in federal institutions. When Governors appear as extensions of the Centre rather than impartial constitutional actors, citizens and state governments view central interventions as partisan

incursions rather than legitimate constitutional corrections; this perception reduces the moral authority of both state and national institutions, fuels political polarization, and weakens cooperative federal practices. Autonomy in policymaking and administrative initiative at the state level suffers when Governors' actions, whether through obstruction of legislation, dismissal of state governments, or framing of reports that enable President's Rule, create an ever-present risk of central override. The cumulative effect is institutional distrust: opposition-led states interpret gubernatorial activism as political sabotage, alliance politics becomes brittle, and the normative bargain of asymmetrical but stable federalism frays. Leading commentators, therefore, call for reforms to transparent selection criteria, fixed minimum tenures, parliamentary scrutiny, and clearer judicial standards to restore the Governor's role as a constitutional safeguard rather than a vehicle for central dominance. Such reforms, argued across recent academic and policy literature, are presented as necessary to repair legitimacy, protect state autonomy, and rebuild trust in India's federal architecture.

Recent Trends of Controversial Gubernatorial Actions

1. Rameshwar Prasad v. Union of India (2005)^x

In 2005, the Governor of Bihar sent reports to the President alleging no party had a clear majority in the Assembly, and that defections were occurring. Based on that, the President's Rule was imposed and the Assembly was dissolved. Critics argued that the Governor's report was not based on objective evidence and was used to prevent the opposition from forming a government.

The Supreme Court reviewed the Governor's report, held that even though Governors have certain discretionary powers, those powers are subject to judicial review, especially if used in a mala fide manner or on irrelevant grounds. The Supreme Court emphasized that the Governor cannot block the formation of a government simply because of a personal belief that the majority was formed through improper or unethical means. It does not matter what the Governor or anyone else thinks about the coalition between parties, or whether a pre-poll alliance was abandoned. What matters is that the government has been legitimately formed according to constitutional procedures.

Further, as stated in Paragraph 166 of the judgment, the Governor cannot assume judicial powers for themselves and declare that the government's formation violates the Tenth Schedule. Such decisions are beyond the Governor's authority and must be determined through proper legislative or judicial processes, not unilateral discretion.

the Court struck down the Presidential proclamation dissolving the Bihar Assembly as

unconstitutional, emphasising that Article 356 cannot be misused just to curb political opponents.

2. Nabam Rebia and Bamang Felix v. Deputy Speaker, Arunachal Pradesh Legislative Assembly (2016).

This case arose from a conflict between rebel Congress MLAs and BJP MLAs in Arunachal Pradesh. The Speaker had disqualified certain MLAs under the anti-defection law, but at the same time, a motion to remove the Speaker was pending. Meanwhile, the Governor postponed an assembly session without giving prior notice, and several other decisions by the Deputy Speaker and the Governor were challenged in court.

The Supreme Court ruled that it is constitutionally impermissible for a speaker or Deputy Speaker to decide on disqualification petitions under the Tenth Schedule while a motion to remove the Speaker is pending.^{xi} Additionally, the Court held that the Governor cannot arbitrarily summon or relocate assembly sessions and must act within the bounds of constitutional propriety.

3. Goa and Karnataka (2017-18)

The post-election scenarios in Goa (2017) and Karnataka (2018), as mentioned in the revived debate over the limits of the Governor's discretionary power in forming governments after a hung assembly. These incidents revealed how political discretion can clash with constitutional morality and federal norms.

In Goa (2017), the Congress emerged as the single largest party with 17 seats in a 40-member assembly but failed to stake a claim quickly. The BJP, with only 13 seats, produced letters of support from smaller parties and independents, giving it a majority. The Governor invited BJP leader Manohar Parrikar to form the government. The Congress petitioned the Supreme Court, arguing that the Governor had acted unconstitutionally by ignoring the largest party. The Court upheld the Governor's discretion, emphasising that post-poll alliances demonstrating majority support must take precedence over the mere numbers of the single largest party.^{xii} However, it ordered an immediate floor test to ascertain a majority, reaffirming legislative primacy in determining confidence.

4. Maharashtra Floor Test Shifting Alliance. (2019- 22)

After the 2019 Maharashtra Assembly elections, a political tussle emerged over government formation. The **Governor of Maharashtra** played a decisive role by swearing in a Chief Minister based on letters claiming majority support, even before all newly elected MLAs had taken the oath. This prompted the **Supreme Court** to intervene and order a floor test to verify whether the government truly commanded a majority in the Assembly.^{xiii}

In 2022, the ruling coalition, **Maha Vikas Aghadi (MVA)**, faced a severe internal crisis when a faction of the dominant party rebelled. The Governor called for a floor test on short notice, citing a supposed loss of majority. Upon review, the Supreme Court ruled that the Governor had **overstepped constitutional bounds**, as there was insufficient evidence to conclude that the government had lost its majority.^{xiv} The Court clarified that **internal party disputes or discontent do not equate to loss of majority**, and emphasized that a floor test remains the only proper mechanism to determine majority support.

This episode illustrates the **limits of the Governor's discretion** in Assembly matters and reinforces the principle that **constitutional checks, like the floor test, are essential for maintaining democratic legitimacy and fairness.**

5. Delhi Ordinance 2023

In May 2023, the Central Government promulgated an ordinance that later became law, establishing the **National Capital Civil Services Authority (NCCSA)**. This authority effectively shifted control over the transfers, postings, and other service matters of Group A civil servants in Delhi away from the elected Delhi government, placing them under the administrative influence of the Lieutenant Governor and the Centre. This move was widely seen as a **dilution of the Supreme Court's 2018 ruling** in the *Government of NCT of Delhi v. Union of India*^{xv} case, which had affirmed that the Delhi government exercises control over services, subject to the exceptions of police, land, and public order. The Aam Aadmi Party (AAP) government immediately challenged the ordinance as unconstitutional, arguing that it **violated the federal framework** (Constitution of India, Article 239AA)^{xvi}. The party contended that the elected government's authority over services is a core aspect of its governance powers, and any attempt by the Lieutenant Governor or the Centre to circumvent this authority undermines **democratic accountability and the federal structure.**

The case was brought before the Supreme Court, which allowed the Delhi government to amend its petition now that the ordinance had been converted into law. Recognizing the **constitutional gravity** of the issues relating to the division of powers, control over civil services, separation of powers, and federalism, the Court referred the matter to a **Constitution Bench**. This decision highlights that the questions raised go beyond mere administrative disputes, touching upon **fundamental principles of representative governance and Centre-State relations** in India.

The case underscores the ongoing tension in the National Capital Territory between the Centre and the elected government, particularly concerning the **limits of the lieutenant Governor's discretion** and the balance of power in India's quasi-federal system. The outcome of this case is expected to have **far-reaching implications** for federal governance and the autonomy of elected governments in Union Territories with legislative assemblies.

6. Tamil Nadu Governor Case (2025)

In April 2025, the Supreme Court of India delivered a significant judgment in the case of *State of Tamil Nadu v. Governor of Tamil Nadu*, addressing the prolonged withholding of assent to ten bills by the Governor of Tamil Nadu. The Court declared the Governor's actions as "illegal" and "erroneous," emphasizing that the Constitution does not permit an absolute or pocket veto by the Governor. It invoked its powers under Article 142 to deem the bills assented to, thereby ensuring their enactment.

The Court's intervention was prompted by the Tamil Nadu government's contention that the Governor's inaction violated constitutional norms. The Supreme Court clarified that the Governor must act within a reasonable time and cannot indefinitely withhold assent to bills passed by the state legislature. It also established timelines for the Governor's actions under Article 200, mandating that assent must be granted or withheld within a specified period.

These ruling underscores the judiciary's role in upholding the constitutional framework and ensuring the timely enactment of legislation, reinforcing the principle of legislative autonomy within the federal structure of India.

Critical Analysis

The office of the Governor must be re-anchored in the foundational spirit of "We the People of Bharat," which envisions a constitutional order based on shared sovereignty and moral

governance. As articulated in scholarly discourse, constitutional morality demands that constitutional functionaries act as guardians of the document's spirit, not as agents of the party in power at the centre. It requires a commitment to the principles of the constitutional text that transcend majoritarian impulses. For the Governor, this translates into a role defined by neutrality, impartiality, and a duty to the Constitution itself, rather than to the central government that appointed them. Upholding this neutrality is not merely a procedural norm but a democratic imperative that ensures the federal balance is respected. Democratic accountability is breached when the Governor's office becomes a tool for political interference, undermining the mandate of the state legislature and eroding public trust in the constitutional system itself.^{xvii} Therefore, a Governor's actions must be guided by the moral compass of the Constitution, ensuring they act as a bridge for cooperative federalism, not a wedge for partisan control.

Strengthening Federal Institutions

Various high-level commissions have extensively charted the path to reforming the Governor's office, yet their recommendations remain largely unimplemented. The Sarkaria Commission (1988) provided a foundational blueprint, advising that the Governor be appointed only after substantive consultation with the state's Chief minister to ensure a figure detached from local politics. It also recommended strictly limiting the Governor's discretionary powers, particularly regarding the summoning and dissolution of the assembly. Building on this, the Punchi Commission (2010) called for a more transparent selection process, potentially involving a committee comprising the Prime Minister, Home Minister, and Speaker, and advocated for security of tenure to insulate the Governor from arbitrary removal. The implementation of these reforms has faced significant political resistance. The very discretion these commissions sought to curtail remains a source of leverage for the central government, creating a persistent gap between expert consensus and political will. This resistance underscores a fundamental tension, where the convenience of executive override trumps the long-term health of federal institutions. Recent trends indicate a significant shift in the exercise of the Governor's discretionary powers in India, moving from constitutional safeguards to increasingly political use. While the Constitution envisages these powers as exceptional measures to maintain governance, their frequent deployment for partisan purposes has raised concerns about the erosion of federalism and democratic legitimacy. Judicial interventions have played a critical role in defining and limiting the scope of these powers, emphasizing that Governors must act impartially and within constitutional bounds.

For instance, recent Supreme Court rulings have clarified that Governors cannot unilaterally stall legislative processes or override the authority of elected state governments, reaffirming that they are constitutional heads rather than political actors. These trends highlight the tension between the intended neutral role of the Governor and the pressures of contemporary politics, underscoring the need for reforms that ensure adherence to constitutional principles and safeguard the autonomy of state governments. Ensuring that Governors exercise discretion responsibly is essential for maintaining the balance of power in India's federal system and upholding the legitimacy of democratic governance.

A sustainable solution requires moving beyond individual conduct to strengthening the federal institutions designed to foster cooperation. Bodies like the Inter-State Council and the Zonal Councils, as mandated by the Constitution, must be activated as vibrant forums for dialogue and conflict resolution, rather than remaining dormant. Furthermore, the Conference of Governors should be institutionalized as a platform for sharing best practices and developing a consensus on the role's constitutional boundaries. Crucially, there is an urgent need for the codification of the Governor's so-called "discretionary powers." Vague conventions are insufficient; a clear code of conduct, detailing the specific circumstances and justifications for actions like reserving a bill or recommending President's Rule, is essential. This codification, coupled with robust accountability mechanisms like mandatory reporting to parliament, would introduce much-needed transparency. Ultimately, the goal is to cultivate a culture where federalism is cooperative rather than coercive, where the Governor facilitates dialogue between New Delhi and the states, ensuring the Indian republic functions as a union of partners, not a hierarchy of command.

Conclusion

The evidence of recent trends leads to an inescapable conclusion that the office of the Governor, conceived as an impartial constitutional safeguard, has been persistently politicized, becoming a primary site of contention in India's federal dynamics. This article has demonstrated a recurring pattern where the Governor's discretionary powers, particularly concerning government formation, assembly sessions, and bill assent, are exercised not as a neutral check and balance but as an instrument of political dominance by the central government. This persistent gap between the constitutional ideal of impartiality and the political reality of central control reveals a fundamental tension at the heart of the Indian polity. The Governor's office has thus become both a test and a mirror of India's federal maturity; its misuse reflects a

weakening of cooperative federalism, while its reform would signal a recommitment to constitutional principles. Reaffirming the federal balance is not a matter of political concession but is integral to the spirit of "We the People of Bharat," from whom all constitutional authority flows and for whose diverse aspirations the Union was constituted. The way forward, therefore, demands an urgent and deliberate restoration of the Governor's position. This necessitates moving beyond partisan convenience to establish the Governor as a true constitutional sentinel of democratic federalism, a figure who upholds the Constitution in letter and spirit, facilitates dialogue between the centre and the states, and ensures that the Indian republic functions as a union of partners, firmly anchored in constitutional morality rather than political expediency.

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