



Reimagining Governor's Role in Indian Democracy

This editorial is based on "[Wilful violation: On the Tamil Nadu Governor's conduct](#)" which was published in The Hindu on 13/01/2025. The article brings into focus the Supreme Court's scrutiny of the Tamil Nadu Governor, highlighting concerns over gubernatorial overreach in withholding assent to state Bills. This crisis underscores the need to reassess the Governor's role in India's federal structure.

For Prelims: [Governor](#), [Supreme Court](#), [President](#), [President's Rule](#), [State Public Service Commission](#), [Advocate General](#), [Autonomous Districts](#), [S.R. Bommai judgment](#), [Article 361](#), [Sarkaria Commission](#), [Punchhi Commission](#).

For Mains: Key Constitutional Functions of the Governor in India, Key Concerns Related to the Office of Governor in India.

The [Supreme Court's](#) recent scrutiny of the [Tamil Nadu Governor](#) highlights a growing pattern of **constitutional overreach by gubernatorial offices**. The case revolves around the **Governor withholding assent to Bills** and **referring them to the President**, despite constitutional provisions mandating approval after a second passage by the State Assembly. **Prolonged delays and alleged obstruction of state legislation have intensified concerns about the misuse of gubernatorial powers**. While the Attorney-General cites conflicts with central laws, the core issue remains the **Governor's engagement in state governance**. This crisis underscores the urgent need to **reassess the role and authority of Governors in India's federal structure**.

What are the Key Constitutional Functions of the Governor in India?

- **Executive Head of the State:** The Governor serves as the chief executive head of the state, functioning as a nominal authority while also **acting as an agent of the central government**.
 - As per **Article 154**, all executive actions of the state government are carried out in the Governor's name, and under **Article 166**, rules for transaction of business are formulated by the Governor.
 - Additionally, the Governor appoints the [Chief Minister](#) and, on their advice, the Council of Ministers.
- **Legislative Role and Assent to Bills:** As the constitutional link between the state legislature and the Union, the Governor summons, prorogues, and dissolves the state assembly under **Article 174**.
 - A Bill must receive the **Governor's assent to become law**, similar to the President at the Union level, or it may be reserved for the President's consideration under Article 200.
 - The Governor plays a crucial role in the state's financial governance, as no Money Bill can

be introduced in the assembly without their recommendation under **Article 207**.

- They also ensure **state finances comply with constitutional and fiscal responsibilities**.

- **Discretionary Powers and Role in Hung Assemblies:** The Governor exercises discretionary powers in certain situations, such as **recommending President's Rule under Article 356** or inviting a party to form the government in case of a hung assembly.
 - They also **decide on matters where the Constitution grants them discretion**, independent of the Council of Ministers' advice.
- **Role in Appointments and Administration:** The Governor appoints key functionaries, including the **Advocate General**, and members of the **State Public Service Commission** under **Articles 165, and 316**.
 - They **appoint Vice-Chancellors of state universities**, which has been a contentious issue in recent years.
 - This function ensures the smooth administration of the state, but must be exercised in consultation with the state government.
- **Role in Implementing President's Rule:** Under **Article 356**, if the Governor believes that the constitutional machinery in a state has failed, they can recommend President's Rule.
 - This provision is meant as an **emergency** measure but has often been misused for political gains.
 - The Supreme Court has ruled that such recommendations must be justified and not arbitrary.
- **Judicial Powers:** The Governor of an Indian state holds pardoning powers under Article 161 of the Constitution, allowing them to grant **pardons, reprieves, respites, or remissions of punishment for offenses against state laws**.
 - However, this power is limited compared to the President's authority in cases of pardoning, as the **Governor cannot pardon death sentences or court-martial cases**.
 - This provision ensures a system of checks and balances while allowing humanitarian considerations in justice.
- **Special Responsibilities for Scheduled Areas and Tribal Welfare:** In the states of **Assam, Meghalaya, Tripura, and Mizoram**, the Governor has special powers over Scheduled Areas.
 - These states are administered as **Autonomous Districts** under the Sixth Schedule of the Constitution.
 - They can intervene in tribal administration to protect indigenous rights and promote welfare policies.

What are the Key Concerns Related to the Office of Governor in India?

- **Delay in Granting Assent to Bills:** Governors have **increasingly withheld or delayed assent to Bills passed by state legislatures**, undermining the legislative process and federal principles.
 - While **Article 200** allows Governors to reserve Bills for the President's consideration, excessive delays create legislative paralysis.
 - The Supreme Court has emphasized that the phrase **"as soon as possible"** in Article 200 must be followed in letter and spirit, yet delays of **over two years** have been observed in multiple states.
 - **Example:** In **Punjab (2023)**, Governor withheld assent to multiple Bills for two years, leading to the Supreme Court's intervention.
 - Similarly, in **Tamil Nadu**, the Governor delayed **12 Bills**, prompting judicial intervention.
- **Partisan Conduct and Central Influence:** **Governors**, appointed by the Centre, often act in ways that align with the ruling party at the Union, rather than being neutral arbiters.
 - This raises concerns about **political bias and misuse of discretionary powers** to destabilize opposition-led state governments.
 - **Example:** In **Arunachal Pradesh (2016)**, Governor actions led to the dismissal of the elected government, which was later reinstated by the Supreme Court.
- **Misuse of Discretionary Powers in Government Formation:** Governors often **exercise discretion arbitrarily** when inviting parties to form the government in case of a hung assembly.

- The **lack of clear guidelines** results in inconsistent decisions, sometimes favoring particular parties, thereby distorting the democratic mandate.
- **Example:** In **Karnataka (2018)**, the Governor gave a political party **15 days** to prove majority, later reduced to **24 hours** by the Supreme Court.
 - In **Maharashtra (2019)**, Governor Koshiyari's decision to swear in a **chief minister candidate** without proving majority led to an **80-hour government**.
- **Conflict Over University Appointments:** Governors, as **Chancellors of state universities**, often interfere in appointments, overriding elected governments.
 - This has led to **standoffs between state governments and Governors over Vice-Chancellor selections**, with courts frequently having to intervene.
 - The growing tussle has raised questions about **whether Governors should continue as university Chancellors**.
 - **Example:** In **West Bengal (2023)**, the Governor unilaterally appointed Vice-Chancellors, leading to a legal battle with the state government.
- **Lack of Accountability and Transparency:** Unlike the Chief Minister, who is accountable to the legislature, the Governor is only accountable to the President and can be removed **at the Union government's discretion (Article 156)**.
 - This creates a situation where Governors act **without facing any direct consequences for their actions**.
 - The **lack of impeachment provisions** further shields them from scrutiny, making them unaccountable despite holding significant powers.
- **Overreach in Administrative Matters:** Governors have increasingly interfered in day-to-day governance, bypassing the **elected Chief Minister and Council of Ministers (Article 163)**.
 - This overreach often leads to governance paralysis, where **Governors refuse to clear files, delay cabinet decisions, or publicly criticize state policies**.
 - **Example:** In **Delhi (2023)**, frequent clashes between the **Lieutenant Governor and the state government** over bureaucratic appointments led the Supreme Court to rule that **Delhi's elected government has control over services, not the LG**.
- **Arbitrary Use of President's Rule:** Governors have historically been instrumental in **invoking Article 356 (President's Rule)**, often on dubious grounds, leading to the dismissal of elected governments.
 - Although the **[S.R. Bommai judgment \(1994\)](#)** limited such misuse, recent instances suggest that **Governors continue to play a role in politically motivated dismissals**.
 - **Example:** In **Uttarakhand (2016)**, the Governor recommended President's Rule **just before a floor test**.

What Measures can be Adopted to Redefine and Enhance the Position of Governor in India?

- **Defining Time Limits for Governors Decisions on Bills:** Governors should be made to act on Bills within a **fixed timeframe** to prevent legislative paralysis and uphold federal principles.
 - The **Supreme Court in the Punjab case (2023)** ruled that Governors cannot indefinitely delay assent, reinforcing the need for clear timelines. '
 - The **Punchhi Commission (2010)** recommended a **six-month limit** for the Governor's decision on reserved Bills.
- **Limiting Discretionary Powers in Government Formation:** Governors' discretion in inviting parties to form governments after elections must be clearly defined to prevent partisan bias.
 - The **S.R. Bommai judgment (1994)** limited the Governor's role in dismissing governments, and similar guidelines are needed for **post-election scenarios**.
 - The **Punchhi Commission** suggested following a structured order: **pre-poll alliances > single largest party > post-poll alliances**, preventing manipulations.
- **Ensuring Neutrality in University Appointments: The position of the Governor can be reassessed as a Chancellor.**
 - The **Sarkaria Commission (1988)** recommended that Governors should **not be given statutory powers unrelated to their constitutional role**, and states should have a greater say in university governance.
 - Recently, **West Bengal, Tamil Nadu, and Kerala have passed Bills** reducing the Governor's role in appointing Vice-Chancellors.

- Establishing **state-level independent commissions** to handle appointments would depoliticize the process.
- **Revising the Appointment and Removal Process:** The appointment process must be more transparent to ensure Governors act independently rather than as agents of the Centre.
 - The **Sarkaria Commission** recommended that Governors should be appointed **after consulting the Chief Minister** to avoid political bias.
 - Similarly, the **Punchhi Commission** advised that Governors should **not have recent political affiliations** to ensure impartiality.
- **Holding Governors Accountable Through Judicial Review:** While [Article 361](#) grants immunity to Governors, their actions should be subject to judicial scrutiny to prevent unconstitutional conduct.
 - The **Rameshwar Prasad case (2006)** ruled that Governors' decisions can be reviewed if found to be **malicious or unconstitutional**.
 - A [constitutional amendment](#) to include a **parliamentary accountability mechanism** (such as a Governor's Annual Report to the Rajya Sabha) would increase transparency.
- **Clear Guidelines on Imposing President's Rule (Article 356):** The misuse of **Article 356** has repeatedly led to the arbitrary dismissal of elected governments, necessitating stricter safeguards.
 - The **S.R. Bommai case (1994)** mandated that **President's Rule must be justified and subject to judicial review**.
 - The **Punchhi Commission** advocated for **protecting states' rights by curbing the Centre's power during emergency**, recommending **targeted interventions in troubled areas instead of statewide emergency rule** and **limiting its duration to three months**.
 - **Sarkaria Commission** recommended that President Rule should be used as a **measure of last resort** when all available alternatives fail to prevent or rectify the breakdown of the Constitutional Machinery of the State
- **Creating an Impeachment Process for Governors:** Currently, Governors can only be removed by the **President**, leaving no mechanism for holding them accountable at the state level.
 - The **Punchhi Commission** suggested introducing an **impeachment process similar to that of the President**, where state legislatures can pass a resolution for removal. .
 - Also, the Supreme Court in **BP Singhal vs Union of India (2010)** upheld the "**pleasure doctrine**" but emphasized that a Governor's removal must have a valid reason.
 - While the court assumes the President's decision is justified, the Centre must provide reasons if challenged.

Conclusion:

The **Governor's role is vital but increasingly contentious due to delays in assent, political bias, and overreach**. The Supreme Court has emphasized adherence to constitutional principles and democratic norms. Reforms like time-bound decisions, limiting discretion in government formation, and ensuring neutrality in appointments are crucial. Strengthening accountability through judicial review and parliamentary oversight can prevent misuse.

Drishti Mains Question:

"The Governor's office in India has often been at the center of debates on federalism and constitutional propriety. Discuss the challenges associated with the role of the Governor and suggest reforms to ensure impartiality and accountability." (250 words)

UPSC Civil Services Examination, Previous Year Question

Prelims

Q. Which of the following are the discretionary powers given to the Governor of a State?

(2014)

1. Sending a report to the President of India for imposing the President's rule
2. Appointing the Ministers
3. Reserving certain bills passed by the State Legislature for consideration of the President of India
4. Making the rules to conduct the business of the State Government

Select the correct answer using the code given below:

- (a) 1 and 2 only
- (b) 1 and 3 only
- (c) 2, 3 and 4 only
- (d) 1, 2, 3 and 4

Ans: (b)

Mains

Q. Whether the Supreme Court Judgment (July 2018) can settle the political tussle between the Lt.Governor and elected government of Delhi? Examine. (2018)

Q. Discuss the essential conditions for exercise of the legislative powers by the Governor. Discuss the legality of re-promulgation of ordinances by the Governor without placing them before the Legislature. (2022)

PDF Refernece URL: <https://www.drishtiias.com/printpdf/reimagining-governor-s-role-in-indian-democracy>

