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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the

society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



CRITICAL ANALYSIS ON THE CONSTITUTIONAL RAPPORT OF STATE GOVERNMENTS AND GOVERNORS – THE CONTROVERSIES SORROUNDING ON THE POST OF GOVERNOR

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ABSTRACT

The purpose of the Government is to enable the people of the nation to live in safety and happiness. Governors exists for the interest of the governed, not for the Governors.

- **Thomas Jefferson**

The framers of the constitution considered that a strong centre was necessary because of historical and other circumstances. The Governor may use specific powers at his or her discretion, such as reserving a bill for the President's consideration. While some problems are the result of the governor's policy decisions, others are the result of his or her financial or personal actions. Governors have been charged of abusing their authority, frequently with the help of the national ruling party. When there is a disagreement, the Constitution doesn't specify how the state and the governor should interact in public. The Governor is solely answerable to the Centre and not the people directly. Governors, frequently meddle in the operations of state governments, particularly those run by rival political parties, which politicizes the position. Maybe the most controversial constitutional office, perhaps it is time to re-evaluate at the very least, what governors can and cannot do. The Sarkaria Commission recommended that governors have a set term to avoid arbitrary removals, which would improve their independence and objectivity. As the Punchhi Commission suggested, requiring the Chief Minister to be consulted prior to the selection of governors can support cooperative federalism and trust. Since 1980, several governments have continued to replace the governor with the newly elected central government. The governor should be chosen from among men, women, or transgender people of some distinction and experience whose objectivity is beyond question.

Keywords: Governor, President's consideration, Sarkaria Commission, Punchhi Commission.

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LIST OF ABBREVIATION

1. Art. – Article
2. CoM – Council of Ministers
3. CM – Chief Minister
4. Sh – Shri
5. LA – Legislative Assembly
6. UPA – United Progressive Alliance
7. VHP – Vishva Hindu Parisad
8. PIL – Public Interest Litigation
9. US – United States
10. HC – High Court
11. BJP – Bharatiya Janata Party
12. JDP – Jharkhand Disom Party
13. PM – Prime Minister
14. V. – versus
15. AP – Andhra Pradesh
16. SC – Supreme court
17. UP – Uttar Pradesh
18. UDF – United Democratic Front
19. Ors. – Others
20. Anr. – Another
21. SAD – Shiromani Akali Dal
22. J&K – Jammu & Kashmir
23. JDS – Janata Dal (secular)
24. NEET – National Eligibility Entrance Test
25. WB – West Bengal
26. Retd – Retired
27. SCC – Supreme court cases
28. AIR – All India Report

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5. R. S. Nayak v. A. R. Antulay
6. Pradyut Bordoloi v. Union of India
7. Shamsher Singh v. State of Punjab (1974) 2 SCC 831
8. SR Bommai (Janata Dal) in 3 SCC 1 (1989).
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1. INTRODUCTION

³Two political systems—one at the regional level and one at the national level—can coexist through the institutional mechanism of federalism. The framers of the constitution considered that a strong centre was necessary because of historical and other circumstances. The governor's job became quite important in centre-state relations. The governor had little influence over centre-state relations as long as the Congress party held a monopoly on power and was the dominant force in both the federal government and the states. Whether the governor is in control of a state or a territory, disputes can arise in the position at any level of government.

⁴The Governor is referred to as the "de jure" head of a State and is chosen by the President of India.⁵The governor's duties include calling state assemblies, approving and dissolving them,⁶issuing ordinances,⁷approving bills, and ⁸selecting the chief minister and his council of ministers. ⁹The Governor also selects the State Public Service Commission members, the State Human Rights Commission head, and the state's advocate general. ¹⁰The governor asks the political parties to support their claims to form the government during a hung assembly. ¹¹If the governor believes that the legislative assembly no longer trusts the chief minister, he has the authority to order the "Floor Test."

2. CONSTITUTIONAL PROVISIONS ON APPOINTMENT OF GOVERNORS

According to Article 153, every state must have a governor. ¹²The eligibility qualifications for the position of governor are outlined in Art.157 and 158. According to Article 161, the governor has the authority to offer reprieves, pardons, etc. A Council of ministers (CoM), led by the CM, assists and counsels the Governor in carrying out his duties, with a few

³ IJRF voice- Appointment of governor and its controversies Anjali AM, LLB , Government Law college Thiruvananthapuram; Sreelekshmi , LLB, Government Law college Thiruvananthapuram <https://ijrfvoice.com/appointment-of-governor-and-its-controversies> (last seen 14.11. 2024)

⁴ Indian constitution Art. 155

⁵ Id Art. 174

⁶ Id Art.213

⁷ Id Art.200

⁸ Id Art. 164

⁹ Id Art. 165

¹⁰ Id Art. 163(2)

¹¹ Shiva sena & ors v. union of india (2019)

¹² Indian Constitution Art. 157, 158, 161

exceptions for discretion. ¹³The Chief Minister (Art.163) and other Ministers are appointed by the Governor (Art. 164).

¹⁴Under Article 200, the governor can either reserve the law for the president's consideration or provide his or her assent. In some cases, the governor may promulgate the ordinances (Article 213). A governor should be given notice and a chance to explain himself before being removed, and the government should place a statement about the governor's removal on the Lok Sabha table.¹⁵ In the afore mentioned clause, the word "otherwise" is left undefined, which allows the constitutional authorities to abuse their authority to control state actions. The term "otherwise" was not included in the initial draft of the constitution. It is important to remember the discussions on Article 278 and ¹⁶Article 356 in the Constituent Assembly. Article 356 of the Constitution should not be interpreted in isolation, but rather in combination with ¹⁷Articles 352–359 and 360 (financial emergency).

¹⁸In 1981, **R. K. Garg v. Union of India 4 SCC 675 (1981)** The Court determined that the President has complete power over the selection of governors and that the courts cannot impede on this process. The discretion used to choose the governors is exempt from judicial review, the court explained, unless it contravenes the Constitution.

¹⁹In 1979, **M. Karunanidhi v. Union of India 2 SCC 491 (1979)** The lawsuit pertained to the Governor's authority to remove the Chief Minister and dissolve the Legislative Assembly. The Court's decision reaffirmed that although the Constitution grants the Governor considerable discretionary authority, the use of that authority is subject to constitutional inquiry. Except in rare cases where independent action is warranted, the Governor should follow the Council of Ministers' advice.

¹³ Id Art. 163, 164

¹⁴ Id Art. 200, 213

¹⁵ IJRF voice- Appointment of governor and its controversies Anjali AM LLB, Government Law college Thiruvananthapuram; Sreelekshmi ,LLB, Government Law college Thiruvananthapuram <https://ijrfvoice.com/appointment-of-governor-and-its-controversies> (last seen 14.11. 2024)

¹⁶ Id Art.356

¹⁷ Id Art.352- 359

¹⁸ R. K. Garg v. Union of India 4 SCC 675 (1981)

¹⁹ M. Karunanidhi v. Union of India 2 SCC 491 (1979)

²⁰ Dhristiias- controversial role of governors- <https://www.drishtias.com/pdf/1624014879-controversial-role-of-governors.pdf> (last seen 14.11. 2024)

3. ISSUES WITH THE POST OF GOVERNOR

- ²⁰Abuse of Power by the Centre:

Governors have been charged of abusing their authority, frequently with the help of the national ruling party.

- Biased Ideology:

²¹The impartiality required of this constitutional duty has been violated by the appointment of political appointees with particular affinities as governors. Concerns regarding partiality have been raised by incidents in Karnataka and Goa.

- Puppet Rulers:

²²The governor of Rajasthan has been accused of showing partisan support and breaking the model code of conduct.

- Partisan Favouritism:

Certain political parties have benefited from the abuse of governors' discretionary authority to ask the leader of the largest party or alliance to form the government.

- Absence of Clauses in the Constitution Regarding Conflict:

When there is a disagreement, the Constitution doesn't specify how the state and the governor should interact in public. Conflicts between the state administration and the governor may become unclear and difficult to resolve as a result of this lack of explicit provisions.

- Protection of Tenure and President's Approval:

²³The governor is appointed "at the pleasure of the President," which has led to questions about the security of the governor's term. Whether the governor has a set term or is subject to recall by the president at any moment without cause is unknown. It could erode the ideas of federalism and the separation of powers and give the impression that the federal government has too much control.

²¹ id

²² id

²³ Ksgindia- governor's office: essential check or unnecessary burden- <https://www.ksgindia.com/blog/governors-office-essential-check-or-unnecessary-burden.html> (last seen 14.11. 2024)

²⁴**Jacob, T.M. v. Union of India (1992)** How much discretion does the governor have when choosing the chief minister? According to the Court, the Governor may choose to name the Chief Minister, but only within the bounds of the Constitution. The governor must confer with the parties to make sure the person appointed has the support of the majority in the state legislature. When it comes to choosing the Chief Minister, the Governor cannot act arbitrarily or unilaterally, which is why the case is important.

In 1995, **K. K. Verma v. Union of India** The extent to which the governor can suggest dissolving the state legislature. The Court reiterated that democratic norms and the Indian Constitution's requirements must guide the Governor's use of his authority to suggest dissolving the assembly. This ruling highlighted the governor's duty to maintain the impartiality and integrity of the state legislature.

In 1984, ²⁵**R. S. Nayak v. A. R. Antulay** How does the governor handle public figure prosecutions? A public figure (in this case, the Chief Minister) was the subject of the case, which addressed whether the governor could order their prosecution. The Court made it clear that although the Governor has certain discretionary authority, this authority must be used scrupulously in accordance with constitutional standards, especially when it comes to delicate governmental issues. This ruling made clear how important the governor is to upholding constitutional propriety.

In 1998, ²⁶**Pradyut Bordoloi v. Union of India** Can the governor refuse to sign a bill that the state legislature has passed? The Governor may refuse to ratify laws under Article 200 of the Constitution, according to the Supreme Court, but this authority is not unqualified. The Governor must follow the Council of Ministers' recommendations and refrain from acting at random. The ruling stressed the need to avoid using the governor's discretion in a way that compromises democracy.

²⁴ Jacob, T.M. v. Union of India (1992)

²⁵ K. K. Verma v. Union of India

²⁶ R. S. Nayak v. A. R. Antulay

²⁷Governors should act according to the spirit of the constitution, rather than being an agent of the centre.

3.1 DISCRETIONARY POWERS

²⁸The governor's exercise of discretionary authority is another contentious aspect of their job.²⁹³⁰The governor's exercise of these discretionary powers has, nevertheless, occasionally been viewed as politically driven and not serving the interests of the state³¹. For instance, during assembly elections that ended in a hung assembly,³²Karnataka Governor Vajubhai Vala invited the BJP to form the government in 2018. Numerous people denounced this action for going against the popular mandate.³³Following the 42nd Amendment Act, the Governor was granted his own discretionary authority. The Indian Constitution acknowledges and grants the governor discretionary powers in Art. 163.

In the case of³⁴ **Shamsher Singh v. State of Punjab (1974) 2 SCC 831**, the Supreme Court of India rendered a decision that clarified this distinction in discretion.³⁵Article 74(1) makes it abundantly evident that the President must seek the Cabinet's counsel and assistance; nothing is left up to the President's judgment or excluded from that area by this article. In contrast,³⁶Article 163 of the Indian Constitution, which outlines the rules enabling the Governor to exercise his discretion, specifically excludes several topics in which the Governor is permitted by the constitution.

³⁷Article 356 of the Indian Constitution grants the governor the most controversial discretionary authority. The governor has the power to notify this to the president. If the

²⁷ Ilearnana – issues with the post of governor in India; <https://ilearnana.com/details/Issues-with-the-post-of-Governor-in-India/2233> (last seen 14.11. 2024)

²⁸ Coursehero - A comprehensive scrutiny on the discretionary powers of governor- controversial vicinity surrounding it Gaurav J, Abishek James <https://www.coursehero.com/file/198030947/CONSTITUTIONAL-LAW-RESEARCH-PAPERdocx/> (last seen 14.11. 2024)

²⁹Indian constitution Art. 161

³⁰Id art. 356

³¹ The Indian express – Karnataka election

³² Coursehero - A comprehensive scrutiny on the discretionary powers of governor- controversial vicinity surrounding it Gaurav J, Abishek James <https://www.coursehero.com/file/198030947/CONSTITUTIONAL-LAW-RESEARCH-PAPERdocx/> (last seen 14.11. 2024)

³³ Indian constitution – Art. 163

³⁴ Shamsher Singh v. State of Punjab (1974) 2 SCC 831,

³⁵ Indian constitution – Art. 74(1)

³⁶ Id Art.163

³⁷ Id Art. 356

president is satisfied, he or she may declare a state of emergency in the state in question, often known as presidential control. ³⁸This proclamation must be approved by both Houses of Parliament within two months' time. The proclamation expires if it is not ratified, but if it is approved by both houses of parliament, the state emergency lasts for six months.

A well-known instance of the governor's discretion was the overthrow of the Karnataka government led by ³⁹**SR Bommai (Janata Dal) in 3 SCC 1 (1989)**. The democratically elected chief minister was denied the opportunity to demonstrate his majority on the Assembly floor by the Karnataka governor in this particular situation. President rule should be implemented because Chief Minister S.R. Bommai did not call in a majority of the legislature, according to the governor's report.

In addition to exercising their discretionary powers, the ⁴⁰Governors of AP and Goa demonstrated their partisanship by toppling the governments of Wilfred D'Souza and NT Rama Rao, respectively. The SC shamefully censored Romesh Bhandari, the governor of UP, since his conduct were so obviously biased.

The ⁴¹Madras governor asked the Congress to form a government in 1952 rather than the UDF, which held the majority of seats. A political crisis in the state resulted from the governor of Arunachal Pradesh's decision to move on with assembly elections in 2016, which opened the door for presidential rule.

In the case of ⁴²**B.P. Singhal v. Union of India (2010) 6 SCC 331**, According to the Supreme Court of India, the President has the right and ability to fire the Governor whenever he pleases and without giving a cause. It is also maintained, therefore, that the president should only utilize this authority when he has good cause to dismiss the governor and not otherwise. In its ruling, the court added that a simple disagreement between the governor of a state and the newly elected central government would not be sufficient justification for dismissal. Although this case did not completely secure the governor's term, it did guarantee that the governor would be dismissed without cause.

The Governor of Arunachal Pradesh summoned the Parliament House one month ahead of the planned date in the case of ⁴³**Nabam Rebia v. Dy. Speaker, Arunachal Pradesh**

³⁸ Id Art. 356 – which PM says Indhira Gandhi misused 50 times ?

³⁹ SR Bommai (Janata Dal) in 3 SCC 1 (1989).

⁴⁰ Coursehero - A comprehensive scrutiny on the discretionary powers of governor- controversial vicinity surrounding it Gaurav J, Abishek James <https://www.coursehero.com/file/198030947/CONSTITUTIONAL-LAW-RESEARCH-PAPERdocx/> (last seen 14.11. 2024)

⁴¹ id

⁴² B.P. Singhal v. Union of India (2010) 6 SCC 331,

⁴³ Nabam Rebia v. Dy. Speaker, Arunachal Pradesh Legislative Assembly (2016) 8 SCC 1

Legislative Assembly (2016) 8 SCC 1. In this case, the Supreme Court of India ruled that the Governor may call the House at his discretion only in the event that the Chief Minister has lost the majority and is unable to do so in any other situation. Further, the Court ruled that the Cabinet's assistance and counsel are required to exercise the Governor's authority under Article 174 of the Indian Constitution. ⁴⁴The court noted in its ruling that the Governor is not granted complete discretionary authority under Article 163(2) of the Indian Constitution. The Court ruled that Article 163 does not grant the Governor the authority to transform his or her position into an all-powerful, supreme constitutional entity.

⁴⁵ The legality of the declaration of Presidential Rule and the dissolution of the Assembly were contested in the case of **Rameshwar Prasad and ors v. Union of India and Anr. (2006) 2 SCC 1.** To render a decision on the legitimacy of the matter that occurred in Bihar in 2005, the Supreme Court of India was called upon. In its ruling, the Supreme Court ruled that the Governor lacked the power to make decisions based on his personal opinions.

4. RECENT FRICTION BETWEEN STATE GOVERNMENT & GOVERNOR

⁴⁶Since the 1950s, there have been claims that the Centre has used the governor's office to topple state governments. According to a report by the governor, the E M S Namboodiripad government of Kerala was overthrown in 1959. Since then, a number of state governments have been overthrown, including 63 that were overthrown by governors' orders under the President's Rule between 1971 and 1990.

These have included the governments of Birender Singh in Haryana (1967), Virendra Patil in Karnataka (1971), M Karunanidhi in Tamil Nadu (1976), B S Shekhawat in Rajasthan and SAD in Punjab (1980), Janata Party governments in Uttar Pradesh, Odisha, Gujarat, and Bihar (1980), N T Rama Rao in Andhra (1984), and Kalyan Singh in Uttar Pradesh(1992,1998).

⁴⁴ id

⁴⁵ Rameshwar Prasad and ors v. Union of India and Anr. (2006) 2 SCC 1.

⁴⁶Kamarajiasacademy - relationship between state governments and governors-
<https://www.kamarajiasacademy.com/current-affairs/relationship-between-state-governments-and-governors>

4.1. THE FREQUENT DISAGREEMENTS

⁴⁷ These have mostly involved choosing the party to form a government, establishing the majority, blocking bills, and criticizing the state government in recent years.

Controversial Measures:

⁴⁸ In 2019, Governor Bhagat Singh Koshiyari discreetly invited BJP leader Devendra Fadnavis and gave him the CM oath following a hung verdict in Maharashtra. Only 80 hours were spent in this government. CM Uddhav Thackeray met with PM Narendra Modi to settle the matter after Koshiyari declined to propose him to the Legislative Council six months later.

Interference in State Affairs:

⁴⁹ Dhankhar has frequently made remarks about political violence and law and order in West Bengal. Arif Mohammed Khan, the governor of Kerala, denied a proposal in December 2020 to call a special session of the Assembly to discuss the three central agriculture laws.

⁵⁰ Legal Challenges:

Governor Vajubhai Vala invited the BJP to form a government after the 2018 Karnataka elections and granted B S Yeddyurappa 15 days to demonstrate a majority. It was shortened to three days after being challenged in the Supreme Court by JDS and Congress.

4.2. CAUSES FOR THE FRICTION

- Solely answerable to the Centre :

⁵¹ The Governor is solely answerable to the Centre and not the people directly.

⁴⁷ Civildaily – what explains the frequent disagreements between state governments and governor? - <https://www.civildaily.com/news/what-explains-the-frequent-disagreements-between-state-governments-and-governors/> (last seen 14.11. 2024)

⁴⁸ id

⁴⁹ id

⁵⁰ id

⁵¹ Kamarajiasacademy- relationship between state governments and governors- <https://www.kamarajiasacademy.com/current-affairs/relationship-between-state-governments-and-governors>

- Absence of Impeachment Mechanisms for holding the governor accountable are further limited by the lack of a procedure for impeachment.

- Lack of Guidelines:

⁵² The Constitution is vague about how the Governor may use his or her authority, such as appointing a Chief Minister or dissolving the Assembly. Furthermore, there are no restrictions on how long a governor can refuse to sign a bill, which raises concerns about the arbitrary use of authority.

- ⁵³Governor as Centre Agent:

Under the leadership of retired Chief Justice M N Venkatchaliah, the National Commission to Review the Working of the Constitution raised concerns that governors might follow directives from the Union Council of Ministers, giving the impression that they are "centre agents."

4.3. RECENT CONTROVERSIES IN THE OFFICE OF GOVERNOR

- ⁵⁴The state government prepared the governor's address, but the Tamil Nadu governor is refusing to read certain of it. Governor refusing to sign the NEET Bill in order to exempt Tennessee from NEET.
- The WB Assembly passed a bill that would make the Chief Minister the Chancellor of State Universities, replacing the Governor, and the state government and the West Bengal governor are at odds.
- Kerala: ⁵⁵During his state visit, the governor made no prior statements. Action against individual ministers who diminish the dignity of the governor's position is threatened by the governor. Conflict with state authorities regarding bill approval.
- Jharkhand: The Governor disqualified the Chief Minister of Jharkhand for breaking electoral laws, despite the Election Commission of India's recommendation. The state experienced protracted political unpredictability as a result.
- ⁵⁶The Maharashtra CM without majority support was sworn in by the governor, who swiftly lifted the governor's authority.

⁵² id

⁵³ id

⁵⁴ Forumias – Office of Governors- issues and suggested reforms <https://forumias.com/blog/issues-related-to-the-office-of-governor-explained-pointwise> (last seen 14.11. 2024)

⁵⁵ id

⁵⁶ id

- India's Rajasthan When the government needed to demonstrate its majority, the governor took an excessive amount of time to call an assembly session.

In 2002, ⁵⁷**T.M.A. Pai Foundation v. State of Karnataka** This case focused on the governor's duty to oversee educational establishments and the state government's authority to enact legislation governing them. The Supreme Court ruled that the Governor, in his capacity as the University's Chancellor, had the authority to control educational establishments, but that this authority should not be used in a way that infringed upon the state's legislative authority. The Court underlined the necessity of striking a balance between the governor's function and the elected state government's authority.

⁵⁸**Navin Jindal v. Union of India(2013)** The petitioner, Navin Jindal, contested the governor's intervention in issues that should have been handled by the elected administration, namely when it came to the distribution of state finances and policy. The Supreme Court's decision stated that the governor's involvement in administrative affairs must be constitutional and should not interfere with the elected state government's ability to carry out its duties. It underlined the significance of upholding state governments' autonomy and the division of powers.

5. RELEVANCE OF OFFICE OF GOVERNORS IN CURRENT SCENERIO

⁵⁹ Governors serve five-year terms and are chosen by the President based on the Central Government's suggestion. Although there were concerns over their involvement prior to 2014, they were never this severe. Therefore, the Centre has decided to disrupt through the Governor's office since it is aware that ⁶⁰Article 356 which allows for the imposition of Central government in a state cannot be applied arbitrarily. Raj Bhavans have served as BJP foot soldiers ever since the Narendra Modi administration took office in 2014. Vice President Jagdeep Dhankhar is one such example; as governor of West Bengal, he was, to put it mildly, controversial.

The meddling is so blatant that they no longer even try to hide their support for the ruling BJP at the centre. Governors were accused of holding up bills passed by states run by

⁵⁷ T.M.A. Pai Foundation v. State of Karnataka

⁵⁸ Navin Jindal v. Union of India(2013)

⁵⁹ Allindiansmatter –do we need governors anymore? - <https://www.allindiansmatter.in/do-we-need-governors-anymore/> (last seen 14.11. 2024)

⁶⁰ Indian constitution Art. 356

the opposition during the previous administration of the United Progressive Alliance. More than 20 bills that had been enacted by states with BJP government were at one stage pending with the president or the relevant governors. It was never as institutionalized as it is now, though, as I mentioned.

⁶¹Between 2009 to 2014, Modi and Governor Kamla Beniwal engaged in a protracted conflict while Modi was Gujarat's chief minister. For instance, in 2010, Beniwal rejected a bill that aimed to require voting and set aside 50% of seats for women in elections for municipal bodies. The Dravida Munnetra Kazhagam administration in Tamil Nadu stated that 12 bills were still languishing with Governor Ravi, while the Kerala government asserted that Governor Arif Mohammed Khan was sitting on eight bills that had been cleared by the Assembly. In April 2023, the Telangana government petitioned the Supreme Court for the governor's delay on ten bills. Speaker Biman Banerjee claimed that the governor of West Bengal was still considering 22 bills.

The Rajamannar Committee, which was constituted by the Tamil Nadu government in 1969, and the Punchhi Commission, which was established in 2010, were two important groups that considered the position. Since that would conflict with the chief minister's, neither suggested an election to the position. Like the President, the Punchhi Commission suggested impeachment in cases of overreach or unethical behaviour.

The ⁶²Punchhi Commission's recommendation about the governor's appointment was that "the governor should be a detached person and not too intimately connected with the local politics of the state." As a result, the governor must have been out of active politics for a minimum of a few years prior to his appointment, whether at the federal, state, or municipal levels. Since then, there have been many opinions about the best way to choose the governor.

⁶³ In a country with a complicated political system like India, the governor's office enjoys a great deal of trust. The idea of cooperative federalism, which Modi frequently talks about, depends on it. The situation on the ground, however, points to the complete opposite goal. Because the majority of South India has stayed out of the BJP's reach, it has been singled out. Using governors to cause disruption is one method of exerting control over state governments and, consequently, the states.

⁶¹ Allindiansmatter –do we need governors anymore? - <https://www.allindiansmatter.in/do-we-need-governors-anymore/> (last seen 14.11. 2024)

⁶² Civildaily- does India really needs state governors ?- <https://www.civildaily.com/news/does-india-really-need-state-governors/>

⁶³Allindiansmatter (last seen 14.11. 2024)

Tamil Nadu was so irritated with Governor Ravi that it approved a resolution requesting that the President and the Centre establish a schedule for the assent of bills that the Assembly had enacted. The Supreme Court was then asked by a number of states that were run by the opposition to order governors to expedite the clearance of bills. A deadline for a bill's assent, return, or referral to the president has also been requested by a number of commissions in the past. The Punchhi and Venkatachaliah Commissions urged a maximum of six months, while the Sarkaria Commission suggested a month.

6. SUGGESTIONS TO ENSURE CONSTITUTIONAL PRINCIPLES AND CO-OPERATIVE FEDERALISM

⁶⁴Fixed Tenure:

The Sarkaria Commission recommended that governors have a set term to avoid arbitrary removals, which would improve their independence and objectivity. **Speaking with the Chief Ministers:**

As the Punchhi Commission suggested, requiring the Chief Minister to be consulted prior to the selection of governors can support cooperative federalism and trust.

Unambiguous Rules for Discretionary Power:

⁶⁵Clear rules for the use of the President's Rule and other discretionary powers can be established to guard against abuse and guarantee that decisions are in line with constitutional values.

Strengthening judicial scrutiny over governors' activities, as demonstrated by ⁶⁶Supreme Court decisions, can serve as a check on capricious judgments and preserve federal values.

⁶⁷Cooperative federalism can be promoted by promoting frequent communication between the federal and state governments through platforms such as the Inter-State Council.

⁶⁴ Pwonlyias- <https://pwoonlyias.com/mains-answer-writing/the-office-of-the-governor-has-been-a-subject-of-debate-in-indias-federal-structure-critically-examine-the-constitutional-powers-of-the-gover> (last seen 14.11.2024)

⁶⁵ id

⁶⁶ id

⁶⁷ id

6.1. ISSUES AND SUGGESTED REFORMS

⁶⁸ For many years, the Constitution, politics, and law have argued over the function, authority, and discretion of the governor's office. In recent years, several states have experienced a hostile and strained relationship between the elected government and the office of governor. The constitutionally intended operation of the federal structure is threatened by the current political disputes between the governors and state governments. These also damage the respectable Constitutional position.

The Sarkaria Commission offered significant suggestions about governors.

- ⁶⁹The Central Government should strictly adhere to the following rules when choosing governors:
- He need to be a someone from outside the state.
- He need to be an impartial person who is unaffiliated with state politics at the local level.
- He ought to be someone who hasn't been overly involved in politics, both generally and recently.

It should be illegal for retiring governors to take any profitable positions.

- A state's governor should not be removed from office during their five-year term unless there are very strong grounds for doing so.
- Article 356 should only be applied in the most dire circumstances, when all other options have been exhausted.
- Unless there are compelling reasons to the contrary, the Governor should maintain the Chief Minister's confidence when sending ad hoc reports to the President.

Commission of Punchhi

The governor position will be subject to the following impeachment procedure:

⁶⁸ Ssrn – Indian federalism and governors – challenges therein; Author- Ishika kedwal-
https://download.ssrn.com/22/04/01/ssrn_id4072677_code2445246.pdf?response-content-disposition (last seen 14.11. 2024)

- It is possible to make the process established for the removal of the president appropriately relevant to the removal of governors as well.

Making a time decision regarding bills.

- Within six months of a measure being passed by a state's Legislative Assembly, the governor should decide whether to grant assent or hold it for the president's consideration.

Simplifying the Governor's function

- The practice of governors serving as university chancellors and in other official capacities need to be abolished. Only the provisions of the Constitution should govern his position.

In the event of a hung assembly, the governor should adhere to these guidelines while appointing the chief minister:

- The government should be formed by the party or coalition of parties that has the broadest support in the Legislative Assembly. If there is a coalition or alliance before the election, it should be regarded as a single political party. If the coalition wins a majority, the governor will call on the coalition leader to form the government.

The Second Administrative Reforms Commission's recommendations

- An individual who has extensive experience in public life and administration and who can be relied upon to overcome party biases and predilections should be appointed governor.
- He should not be qualified to be appointed governor again after his tenure is over.
- Judges shouldn't be appointed governors when they retire. A judge who retires and enters the public sphere by serving as a lawmaker or holding an elective position, however, might not be disqualified from running for governor.
- It's a good practice to consult the Chief Minister before selecting a governor, and this tendency might continue.
- The Inter-State Council ought to develop guidelines for how the Governors should use their discretionary authority.

The National Commission to Review the Constitution's Workings' (NCRWC) recommendations

- The Commission concurred that an amendment to Article 155 concerning the selection of governors is necessary. In order to choose a governor, it recommended a committee made up of the Prime Minister of India, the Home Minister, the Speaker of the Lok Sabha, and the Chief Minister of the relevant state.
- It suggested that, for the purposes of the Tenth Schedule to the Indian Constitution, pre-election alliances and coalitions be regarded as a single political party.

7. CONCLUSION

Lastly, I would want to draw the conclusion that since 1980, several governments have continued to replace the governor with the newly elected central government. We can still observe the dishonest behaviour of unlawfully terminating governors. The new strategy that the government has implemented to see.⁷⁰ Governors who wish to be ousted should step down within a reasonable amount of time. The government is exerting pressure on the remaining governors to step down.

⁷¹The suggestions made by the Punchhi and Sarkaria Commissions had to be carefully considered in order to enhance the Governor's position. It is admirable that the Supreme Court limited the Centre's ability to fire state administrations without cause in the BP Singhal case. A governor should be removed from office through the established procedure of impeachment proceedings in the state assembly. A panel of representatives from various stakeholders should be involved in the non-political process of appointing governors. Clear rules should be established for the nomination of Chief Ministers, and discretionary powers should be restricted. In order to fulfill its constitutional duties, the governor's office should put internal security, social harmony, and the welfare of underprivileged populations ahead of

⁷⁰ Ssrn – Indian federalism and governors – challenges therein; Author- Ishika kedwal- https://download.ssrn.com/22/04/01/ssrn_id4072677_code2445246.pdf?response-content-disposition (last seen 14.11. 2024)

⁷¹ Ksgindia- governor's office: essential check or unnecessary burden- <https://www.ksgindia.com/blog/governors-office-essential-check-or-unnecessary-burden.html> (last seen 14.11. 2024)

partisan politics. The Office of the Governor can genuinely function as an impartial and efficient entity in India's governance system by putting these reforms into practice.

Instead of old party hacks and others looking for a political sinecure or a temporary base from which to re-enter politics as soon as possible, the governor should be chosen from among men, women, or transgender people of some distinction and experience whose objectivity is beyond question. If this is accomplished, the governors will operate autonomously rather than as merely the Central Government's tools.

