

Appointment of Indian State Governors: Time for Reform?

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Summary

Governors to the various states are appointed by the Indian president, on the advice of the central government. In the event that a poll process does not throw up any party with a clear majority, the state governor is called upon to exercise his judgement on which party has a credible claim to form the government. Increasingly, it is being felt that the action of governors in the recent past may not be able to withstand constitutional propriety. Opinions have thus emerged seeking a reform in the appointment process of governors to ensure the non-partisan functioning of the government.

Differences between a central government appointed governor of a state and the elected government in that state have become a common feature. The relationship becomes more tenuous if the state happens to be governed by a political party which does not owe allegiance to the party in power at the centre. The instances of disagreements in the recent past have become frequent and, often times, unpleasant. In an unprecedented event, the Maharashtra governor stopped his address on the first day of the budget session of the state legislature in less than a minute, and left the building amid sloganeering by opposition members of the legislative assembly. In West Bengal, a team of Trinamool Congress members of parliament has sent a letter to the president listing transgressions by the governor and urging his removal. The Tamil Nadu governor is in conflict with the state government on providing approval to the [‘Bill on the National Eligibility cum Entrance Test’](#) for medical education passed by the state assembly. The Kerala government has proposed to bring forward a constitutional amendment on the appointment of a state governor before his/her appointment and on [limiting the governor’s discretionary powers](#).

The Indian constitution provides for the position of a governor in every state. As the executive head of the state, he enjoys only titular power like the Indian president. The governor possesses several executive functions; for instance, all actions of the state government are taken formally in his name. He is responsible for appointing the chief ministers and other ministers and appoints the state election commissioner and advocate general. He acts as the chancellor of the state universities and appoints vice-chancellors of the state’s universities. He performs legislative functions such as summoning or proroguing the state legislature. After a bill has been passed in the legislature, he can also give his assent to the bill, withhold it or return the bill for reconsideration. His most important legislative function is the issuance of ordinances when the state legislature is not in session. His financial powers are ensuring that the annual state budget is laid before the state legislature. Only with his prior recommendation can a money bill be introduced in the state legislature. A governor also has judicial powers such as the power to grant pardons and respites and to suspend punishments.

[Article 356 of the constitution](#) of India empowers the Indian president to suspend state government and impose president's rule on any state in the country "if he is satisfied that a situation has arisen in which the government of the state cannot be carried on in accordance with the provisions of the constitution". He then administers the state through the governor till the legislative process is restored. Hence, even if the powers of the governor are largely titular, the constitution does provide to that office sufficient powers, though most are exercisable only in accordance with the recommendation of the elected state government.

The role of the governor has become increasingly important, especially in the context of the state elections. When poll results throw up a very narrow margin for any party to establish its right to claim majority, the assessment of the governor as to which party should be invited to form a government becomes paramount. Which party deserves to be invited to form the government and within what time frame it should be required to prove its strength on the floor of the house are issues which require objective assessment. Will present day governors be able to take such objective decisions? With the increased politicisation of these appointments, the role that the governor will finally play falls into a grey area.

The constitution has provided for the role of the governor with the intent that – though appointed by the president and, obviously on the recommendation by the central government – the governor after accepting the appointment, must perform his duties in a non-partisan manner and strictly in accordance with constitutional provisions. There is a need for governors to take decisions which are above reproach and devoid of partisan politics. In the context of the recently finalised elections in the five states, the spectre of hung assemblies requiring governors to take critical decisions has been averted due to clear poll verdicts.

It appears that there is a crying need for reform in the governor's office to ensure that decisions taken by that office are totally non-partisan and unimpeachable. However, the stumbling block appears to be the short sightedness of every government that comes to power. They may cry hoarse while in the opposition about the unfairness of decisions a certain governor has taken. However, once in power, they themselves conveniently refrain from taking reformist steps to ensure the non-recurrence of the same basic nature of their own grievance. The role of the governor can only be performed by an objective and balanced gubernatorial appointee. Perhaps the time has come to pay partial heed to the proposal of the Kerala government that a meaningful consultation between the central government and the state on the appointment of a governor may to a large extent mitigate the inimical tendencies observed at present. Constitutions are dynamic documents and need to evolve to address issues which arise over time.

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