

4. Governor Constitutional Limits- Polity

Walkouts by Governors test constitutional limits Recent walkouts by Governors in opposition-ruled states during mandatory assembly addresses have triggered a constitutional standoff. These actions challenge the interpretation of Article 176 and Article 163, raising concerns about the erosion of the elected government's authority and parliamentary sovereignty.

The Constitutional Debate

Recent incidents involving walkouts by Governors in states like Karnataka, Tamil Nadu, and Kerala during state assembly sessions have triggered significant constitutional debates. These actions challenge the balance between gubernatorial discretion and the authority of elected governments, specifically testing the limits of

Article 176- The Governor's mandatory address to the legislature.

Article 163- The requirement to act on the aid and advice of the Council of Ministers.

About the Governor

1. Appointment and Status

Chief Executive Head- The Governor serves as the chief executive head of the state.

Appointment- Appointed by the President of India by warrant under his hand and seal.

Independent Office- The Supreme Court has clarified that the Governor holds an independent constitutional office. It is *not* a position under the control of or subordinate to the Union government.

2. Dr. Ambedkar's Vision

Dr. B.R. Ambedkar envisioned the Governor as a non-partisan people's representative, ensuring the smooth functioning of the state machinery, rather than an independent executive authority.

Constitutional Position of the Governor

1. The Mandatory Address (Article 176)

Requirement- Article 176(1) mandates that the Governor "shall" address the Legislative Assembly (and the Legislative Council, where it exists) at the commencement of the first session of each year.

Purpose- The address informs the Legislature of the "causes of its summons." Crucially, it reflects the policy priorities and legislative agenda of the elected government.

Nature of Function- The address is not the personal opinion of the Governor. It represents the aid and advice of the Council of Ministers. Therefore, reading the address is a formal executive function, not a discretionary one.

2. Aid and Advice (Article 163)

The Governor functions as a formal head who must act on the advice of the Council of Ministers, except in specific instances where the Constitution expressly provides for discretion.

Key Powers of the Governor

1. Executive Powers

Appointments- The Governor appoints the Chief Minister and other ministers, who hold office during his pleasure.

Constitutional Emergency- The Governor can recommend the imposition of Article 356 (President's Rule) if the state machinery breaks down. During President's Rule, the Governor exercises extensive executive powers as an agent of the President.

2. Legislative Powers (Article 200)

When a bill passed by the state legislature is presented to the Governor, he has four specific options-

Action	Description
Grant Assent	The Governor approves the bill, transforming it into law.
Withhold Assent	The Governor rejects the bill, effectively preventing it from becoming law.
Return for Reconsideration	The Governor sends the bill back with suggestions. Crucial Condition- If the legislature passes the bill again (with or without changes), the Governor is bound to give assent.

Reserve for President	The Governor reserves the bill for the President's consideration if it endangers the position of the High Court, contradicts central laws, or violates the Constitution.
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Major Concerns Arising from Recent Incidents

1. Erosion of Constitutional Mandate

Violation of Article 176- When a Governor selectively reads or walks out of the mandatory address, it violates the mandatory nature ("shall") of Article 176(1).

Undermining Democracy- Such actions disrupt the constitutional scheme that envisages a formal, ceremonial communication between the elected government (via the Governor) and the Legislature.

2. Threat to Parliamentary Sovereignty

Parallel Authority Risk- Expanding the Governor's discretion into routine executive functions risks creating a parallel center of power.

Hollowing Democracy- The Supreme Court has warned that this could hollow out the essence of parliamentary democracy, where the real power lies with elected representatives.

Supreme Court's Jurisprudence on the Governor's Role - The Judiciary has consistently reinforced the limited nature of the Governor's discretion.

1. Shamsher Singh vs State of Punjab (1974)

Ruling- Governors are **formal heads** who must act on the aid and advice of the Council of Ministers. They are not independent authorities.

Observation- Public criticism of settled Cabinet policy by a Governor is termed an "unconstitutional faux pas" that violates the parliamentary system.

2. Nabam Rebia & Bamang Felix v. Deputy Speaker (2016)

Ruling- Reaffirmed that the Governor is a formal head.

Limitation- Under Article 163, the Governor is bound by the Cabinet's advice. Discretion is strictly limited to specific constitutional provisions and cannot be exercised broadly.

3. State of Tamil Nadu v. The Governor of Tamil Nadu (2025)

Ruling- Explicitly held that gubernatorial discretion cannot negate or obstruct a responsible elected government.

Way Ahead

1. Strengthening Cooperative Federalism - Establish institutional mechanisms for regular, constructive consultation between Governors and State governments to minimize friction and misunderstandings.

2. Adherence to Constitution and Conventions - Governors must act strictly according to the constitutional text and well-established conventions. This is particularly vital for duties like granting assent to Bills and delivering the mandatory address to the Legislature.

3. Implementing Commission Recommendations - Revisit and implement the recommendations of the Sarkaria Commission and Punchhi Commission. Both bodies emphasized that Governors must remain impartial and function strictly within their constitutional limits.

Source- <https://www.thehindu.com/news/national/walkouts-a-departure-from-limited-freewheeling-permitted-to-governors/article70543495.ece>