
GOVERNOR'S ASSENT AND CONSTITUTIONAL BOUNDARIES: RETHINKING LEGISLATIVE-EXECUTIVE RELATIONS

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ABSTRACT

The Governor's power to grant assent to state legislation lies at the crossroads of legislative independence and executive oversight in India's Constitution. Articles 200 and 201 provide the formal framework for this authority, but in practice the Governor's role has often gone beyond procedure, particularly when politically sensitive bills are involved. This paper examines how the assent power is meant to function, how it has been used in recent years, and how courts have interpreted its limits. By reviewing landmark judgments and key controversies, the study highlights the friction between legislative sovereignty and executive discretion. It also considers ongoing debates and reform proposals from scholars, parliamentarians, and the judiciary. The aim is to suggest a way forward that ensures the Governor's assent is exercised with transparency, timeliness, and fairness, consistent with constitutional principles of responsible government and democratic accountability.

Keywords: Governor's assent, constitutional law, legislative autonomy, executive oversight, judicial review, India.

1. Introduction

The role of the Governor in India's constitutional scheme has consistently generated debate, particularly with respect to the exercise of the assent power. This authority, envisaged under Articles 200 and 201 of the Constitution of India, was designed to serve as a constitutional safeguard ensuring that state legislation adheres to the broader constitutional framework. At the same time, the framers sought to prevent its misuse as an instrument of executive interference in the functioning of democratically elected legislatures.¹

In practice, however, the Governor's assent has often become a site of tension between the legislature and the executive. Instances where Governors have withheld assent or delayed decisions on bills, particularly in states governed by parties opposed to the Union government, have brought this issue into sharp public and judicial focus. Such practices raise pressing constitutional questions: To what extent can the Governor exercise discretion in matters of assent? Does delay amount to an effective veto? And, most importantly, how should courts interpret and regulate this power to preserve legislative sovereignty while upholding constitutional checks and balances?

This paper seeks to critically examine these questions through a doctrinal and jurisprudential lens. It explores the historical origins of the assent power, analyzes the constitutional provisions under Articles 200 and 201, reviews judicial interpretations and case law, and evaluates the contemporary controversies surrounding gubernatorial discretion. In doing so, it situates the debate within the larger framework of constitutionalism, democratic accountability, and the principle of responsible government.²

Ultimately, the study argues that while the Governor's assent power is constitutionally significant, its misuse undermines the democratic functioning of state legislatures³. To address this, reforms are urgently required to ensure that the exercise of assent is transparent, time-bound, and consistent with constitutional conventions.

2. Historical Evolution of the Governor's Assent

The origins of the Governor's assent power can be traced to the colonial legislative framework,

¹ Constituent Assembly Debates, Vol. 8, Aug. 17, 1949, at 45 (B.R. Ambedkar).

² NDIA CONST. art. 201.

³ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 138-140 (1999)

where the Governor primarily functioned as an agent of the British Crown. The provisions of the Government of India Acts of 1919 and 1935 explicitly vested the Governor with the authority to grant or withhold assent to legislation passed by the provincial legislatures. This structure reflected the colonial state's intent to maintain executive dominance and ensure that provincial laws remained aligned with imperial policy.

With the adoption of the Constitution of India in 1950, the framers retained the office of the Governor, though with significant modifications intended to reflect democratic and federal principles. Articles 200 and 201 incorporated the assent power, granting the Governor discretion to assent, withhold assent, return a bill for reconsideration, or reserve it for the President's consideration. At the Constituent Assembly Debates, members expressed apprehension that vesting such authority in a non-elected constitutional head might replicate colonial-era practices of executive obstruction. Nonetheless, the power was retained, with the expectation that it would be exercised sparingly and only within constitutional boundaries.

Judicial and scholarly writings highlight that the continuity of this colonial feature into the post-independence era was a compromise between maintaining executive oversight and preserving legislative autonomy. Over time, however, the use of this power has increasingly been viewed as a political tool rather than a neutral constitutional safeguard.

Thus, the historical trajectory of the Governor's assent demonstrates its transformation: from a colonial mechanism of imperial control to a constitutional function intended to ensure legality and harmony with the Union framework. Yet, its continued misuse raises critical concerns about the delicate balance between executive oversight and legislative independence.⁴

3. Constitutional and Statutory Framework

The constitutional foundation of the Governor's assent power lies primarily in Articles 200 and 201 of the Constitution of India. Article 200 empowers the Governor to either grant assent to a bill passed by the state legislature, withhold assent, return the bill (if it is not a money bill) for reconsideration, or reserve it for the consideration of the President⁵. Article 201 further provides that when a bill is reserved for the President's consideration, the President may either

⁴ P.E. Corbett, *The Governor and the Constitution* 82-90 (1960)

⁵ INDIA CONST. art. 200

assent or withhold assent, and such decision is final.⁶

The architecture of these provisions reflects a deliberate balance: while the legislature enjoys the primary law-making authority, the Governor functions as a constitutional sentinel ensuring conformity with the Constitution and the broader interests of the Union. However, unlike the President of India who is largely bound by the aid and advice of the Council of Ministers the Governor has been conferred a measure of discretion under Article 200, particularly in relation to the reservation of bills for presidential consideration.

Statutory interpretation and judicial commentary have emphasized that the Governor's role is not meant to be one of political arbitrariness, but of constitutional guardianship. The Supreme Court of India, in multiple cases, has underscored that the Governor cannot act as an "adversarial authority" vis-à-vis the legislature, but must function within the principle of responsible government, wherein the Council of Ministers commands the legislative majority and thus the democratic mandate.

At the same time, the absence of a time frame within Article 200 for the Governor to act on bills has given rise to recurring controversies. Prolonged inaction, effectively stalling legislation, has been criticized as contrary to constitutional morality and the basic principle of legislative supremacy. This lacuna has prompted repeated calls for statutory clarification or judicial intervention to ensure that the assent process remains transparent, accountable, and time-bound.

4. Judicial Interpretation and Case Law

Judicial pronouncements have played a pivotal role in delineating the contours of the Governor's assent power. The Supreme Court of India, as well as various High Courts, have repeatedly emphasized that while the Governor is a constitutional authority, the exercise of this power is subject to judicial scrutiny when it is alleged to be arbitrary or mala fide.

In *Shamsher Singh v. State of Punjab*, the Supreme Court clarified that the Governor, like the President, is generally bound by the aid and advice of the Council of Ministers, except in matters where the Constitution expressly grants discretion⁷. This principle circumscribes the Governor's role in the assent process, underscoring that the discretion under Articles 200 and

⁶ INDIA CONST. art. 201

⁷ *Shamsher Singh v. State of Punjab*, (1974) 2 SCC 831 (India)

201 must be exercised within the framework of constitutional morality and not political convenience.

Nabam Rebia v. Deputy Speaker Arunachal Pradesh Legislative Assembly (2016) - This Supreme Court decision dealt indirectly with the Governor's assent power by probing the limits of legislative and executive authority in a politically unstable state.⁸ The Court acknowledged the sensitivity involved in the Governor's role amidst fragile legislative majorities and the impact that assent and related powers have on democratic governance.

In Re: Special Reference No. 1 of 2010 - The Governors' Powers Case - Perhaps the most comprehensive judicial examination is the Supreme Court's advisory opinion in *In Re: Special Reference No. 1 of 2010*, where various aspects of the Governor's powers, including assent to bills, were dissected.⁹ The Court stressed the constitutional obligation on Governors to act in accordance with the aid and advice of the Council of Ministers and ruled out unfettered or arbitrary discretion.

The advisory opinion clarified that the Governor's role is largely ceremonial and formal about assent, barring exceptional constitutional circumstances.

Kerala Governor Case (2019) - In recent years, controversy emerged when the Governor of Kerala delayed assent to certain bills, triggering political and legal challenges. Critics argued that the delay was politically motivated and infringed upon the democratic will of the elected legislature.¹⁰ The issue highlighted the lack of specific timelines and procedural clarity in the Constitution concerning assent, sparking demands for reform.

State of Tamil Nadu v. Governor of Tamil Nadu (2025) - A watershed moment in the discourse on the Governor's assent power came with the Supreme Court's landmark judgment in *State of Tamil Nadu v. Governor of Tamil Nadu*, delivered on 8 April 2025.¹¹ This ruling addressed the prolonged inaction by the Governor of Tamil Nadu, R.N. Ravi, who withheld assent from multiple bills passed by the Tamil Nadu Legislative Assembly, despite their re-passage without modifications.

⁸Nabam Rebia & Bamang Felix v. Deputy Speaker, Arunachal Pradesh Legislative Assembly, (2016) 8 SCC 1 (India)

⁹ In Re: Special Reference No. 1 of 2010, (2010) 4 SCC 1 (India)

¹⁰ S. Rajagopal, "Kerala Governor's Delay in Assent: Political or Constitutional?" *Indian Express*, Feb. 2019

¹¹ State of Tamil Nadu v. Governor of Tamil Nadu (2025) INSC 481 (S.C. Apr. 8, 2025)

The Court examined the constitutional mandates under Article 200 and held that the Governor's refusal to give assent or reservation of bills for the President's consideration after the legislature's reaffirmation was illegal and unconstitutional. It emphatically rejected the notion of an indefinite "pocket veto" by the Governor, stating that silence or undue delay violates the principles of parliamentary democracy and responsible governance.

Significantly, the Court prescribed explicit timelines to ensure timely action by Governors on assent matters:

- I. Assent or reservation on the advice of the Council of Ministers: within one month;
- II. Withholding of assent (against Council's advice) or reservation: must be communicated with reasons within three months;
- III. Assent after legislative reconsideration: within one month.

The Court clarified that these timelines are judicial standards necessary for upholding constitutional morality and preventing misuse of discretionary powers, not rigid statutory mandates. Furthermore, the judgment stressed that constitutional functionaries must act as "facilitators, not obstacles" to the will of the elected government and should discharge their duties with bona fide commitment to the Constitution rather than political expediency.

Invoking its powers under Article 142¹², the Supreme Court directed that the ten bills withheld by the Governor be deemed to have received assent, thereby reinforcing the remedy available to states against executive inaction. The ruling drew extensively on historical Constituent Assembly debates, underscoring that the Governor's role under the Constitution is to act on ministerial advice unless exceptional circumstances arise.

This judgment has decisively clarified the boundaries of gubernatorial discretion and has set a contemporary constitutional benchmark ensuring legislative sovereignty and federal balance are respected.

5. Contemporary Controversies and Political Practice

The Governor's assent power has increasingly become the subject of political contestation in recent years. State governments, particularly those led by parties opposed to the Union, have alleged that Governors are using their constitutional role to obstruct the passage and

¹² INDIA CONST. art. 142

implementation of state legislation. This has been evident in multiple states, where bills passed by elected legislatures have faced inordinate delays or outright refusal of assent, raising questions about the neutrality of gubernatorial offices.

Instances from Tamil Nadu¹³, Kerala, Telangana, and Punjab illustrate this emerging pattern. In Tamil Nadu, the state government has repeatedly accused the Governor of withholding assent to key welfare and administrative bills, prompting public debate and even litigation. Similarly, in Kerala, disputes over university appointments and legislation concerning higher education governance have sparked confrontation between the state and the Governor. In Telangana, delays in gubernatorial assent to critical financial and policy bills have led to serious governance concerns.

These controversies underscore the tension between representative democracy and appointed constitutional offices. While the framers of the Constitution envisioned the Governor as a neutral constitutional head, the present political climate has increasingly transformed this office into a site of partisanship. Critics argue that such practices undermine the federal balance, erode legislative supremacy, and disrupt the principle of accountability that underpins parliamentary democracy.

The debates have also prompted calls for judicial intervention. Several petitions have been filed before High Courts and the Supreme Court seeking directions against Governors' alleged inaction. Courts, while cautious not to intrude into political domains, have nonetheless emphasized that constitutional powers must be exercised in a manner consistent with democratic values.

Thus, contemporary practice demonstrates a widening gap between the constitutional mandate and political reality. The frequent standoffs between Governors and state governments reveal an urgent need to clarify the boundaries of gubernatorial discretion in order to preserve both federalism and legislative autonomy.

6. Legislative-Executive Relations: Tensions and Challenges

The Governor's assent power has been at the center of rich doctrinal debates concerning the nature of constitutional discretion, federalism, and democratic legitimacy. The apparent

¹³ Parliamentary Standing Committee on Law and Justice Report, 2023, Parliament of India

breadth of the power under Articles 200 and 201 masks an underlying expectation that it must be exercised in accordance with constitutional morality and conventions of responsible government.

One prominent debate concerns whether the Governor acts as a discretionary authority or a constitutional figurehead. The Supreme Court has repeatedly emphasized that the Governor is not an “independent authority” but rather a constitutional head expected to act on the aid and advice of the Council of Ministers, except in limited situations expressly provided by the Constitution. However, the absence of explicit time limits for granting or withholding assent has created scope for political misuse.

Theoretically, the issue also intersects with the doctrine of separation of powers. Critics argue that gubernatorial interference in the legislative process disturbs the equilibrium between the legislature and executive, effectively placing an unelected office above a democratically elected assembly. Proponents, however, justify the power as a check against unconstitutional, ultra vires, or politically motivated legislation, particularly where state laws may conflict with Union interests or fundamental rights.

Doctrinally, the debates extend to the federal structure itself. Some scholars contend that the Governor’s role is a vestige of colonial centralization and undermines the principle of state autonomy. Others defend it as a necessary safeguard within a “quasi-federal” Constitution, ensuring unity and coherence across diverse state legislatures.

Thus, the theoretical landscape surrounding the Governor’s assent underscores an unresolved tension: whether the power is to be viewed primarily as a constitutional safeguard against legislative excesses or as a political instrument prone to misuse. The persistence of this ambiguity has profound implications for both democratic representation and federal balance in India.

8. Reform Proposals

In recent years, the exercise of the Governor’s assent power has become a source of heightened constitutional and political tension. Several instances across states reveal how Governors have withheld or delayed assent to key legislation, often in contexts where ruling parties in the state are politically opposed to the Union government. Such actions have led to accusations that the gubernatorial office is being used as an instrument of political leverage, undermining the

federal spirit of the Constitution.

For example, controversies in Tamil Nadu, Kerala, Punjab, and West Bengal demonstrate recurring disputes over gubernatorial assent. In some cases, Governors have sat on Bills indefinitely, while in others they have returned or reserved Bills without clear constitutional justification. This has raised critical concerns regarding the sanctity of legislative processes and the accountability of constitutional functionaries.

Scholars and jurists have widely criticized these practices, arguing that they distort representative democracy by enabling unelected authorities to obstruct the will of elected legislatures. Proposals for reform have therefore centered on the need to establish explicit timelines for the Governor's assent. Many experts advocate adopting a "30-day rule", similar to practices in other parliamentary systems, to ensure clarity and timeliness in the assent process.

Parliamentary committees have also deliberated on the issue, with recommendations emphasizing that Governors must act strictly within constitutional boundaries, avoiding prolonged inaction that disrupts governance. The Punchhi Commission on Centre-State Relations further recommended that the Governor's role be clearly codified to prevent misuse, suggesting reforms to reinforce transparency and accountability in the assent process.

Overall, these controversies reveal a pressing need to reconcile the textual ambiguities of Articles 200 and 201 with practical safeguards that ensure cooperative federalism. Reforms that clearly define the Governor's obligations, timelines, and accountability mechanisms are necessary to restore public trust and maintain the delicate balance between executive oversight and legislative autonomy.

9. Conclusion

The Governor's assent power, though framed as a procedural step under Articles 200 and 201, has evolved into a contested site of constitutional practice. The framers of the Constitution envisioned the Governor as a neutral constitutional authority, entrusted with safeguarding the constitutional scheme while facilitating the smooth functioning of state legislatures. Yet, contemporary developments demonstrate how this power has often been exercised in ways that generate legislative–executive friction, raising questions about the boundaries of gubernatorial discretion.

Judicial precedents have consistently emphasized that the Governor must operate within a limited constitutional framework, with the assent power serving as a formality rather than a political veto. However, the absence of statutory timelines and the lack of accountability mechanisms have enabled Governors to delay or withhold assent in politically sensitive contexts. Such practices not only weaken legislative sovereignty but also public confidence in the neutrality of constitutional authorities.

The debates around gubernatorial assent also highlight the broader structural tension between executive oversight and legislative autonomy. The challenge lies in reconciling the Governor's duty to safeguard constitutional values with the imperative of respecting democratic mandates. As legal scholars and commissions have argued, reforms such as prescribing definitive timelines, codifying gubernatorial obligations, and enhancing parliamentary oversight are necessary to ensure transparency, timeliness, and accountability.

Ultimately, the doctrine governing the Governor's assent must evolve in a manner that preserves the federal spirit of the Constitution while upholding the principles of responsible governance. A calibrated approach, informed by constitutional morality and judicial guidance, can transform the Governor's assent from a source of conflict into a mechanism of cooperative federalism, aligning with the constitutional vision of democratic harmony and responsible statecraft.