

No Selection, No Election

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Governors and Judges are not subjected to either a selection process or an election process. Nothing very transparent. Though India's is a parliamentary democracy, the filling up of these constitutional positions are not routed through the Parliament debate or deliberation in the Parliament, not a process which is mediated by representative institutions at the state and union level. Though the citizens bring into being the entire parliament by using their Fundamental right to vote, they are not made known how they are selected for these important Constitutional positions. What are the criteria for selecting Judge Dinakaran and N D Tiwari as Governor? Does the Constitution permit such normless appointments to be made? Are the citizens entitled to know the criteria, apart from the minimum qualifications required for appointment to the position of a public servant? What other criteria are required to be satisfied for these appointments? These Constitutional positions cannot be filled up by a process which is kept completely Sub Rosa. The election of Pope in Rome appears to be more transparent!

About the judiciary's present status Arundathy Roy's "Listening to the Grasshopper" says it all more effectively and if no effort is made to cleanse the Augean Stables the people will rise in an insurrection and will do it without applying for Special leave! From the time the Constitution came into force the power to appoint the Governor was abused.

Governors were intended to provide national unity. That is why after a full debate, it was decided to have the present system. It commenced with the refusal to permit Tanguturu Prakasam to form a ministry for fear of the communists coming to power in Madras in 1952.. Rajaji was nominated to the Legislative Council and he formed the Government. EMS Nambudiri-pad's Ministry was undermined by a Report by the then Governor B Ramakrishna Rao. In 1957. Yet the political parties invite the Maoists to join the mainstream! Sarkaria Commission has given the score card of the uses and abuses of power. This power was never used democratically. According to the Sarkaria Commission, between 1967 and 1987 16 governments lasted the full five year term.

Premature exits were much faster—in the later period few lasted the full term. At first no communist government was allowed to function. With the passage of time the exercise of this power was subjected to trivialization and such of those who survived were used to topple elected governments and thus governors were used to sabotage or undermine constitutional governance.

Merely because the Governor's appointment is at President's pleasure it does not make him an employee of the Government. The Supreme Court in 1979 held that the Governor is not amenable to the directions of the Government of India nor is he accountable to them, for the manner in which he carried out his functions and duties. His is an independent Constitutional office which is not subject to the control of the Government of India. Nobody has thought of strengthening these institutions and set out norms which would guide him to hold and conduct the office with dignity and responsibility. The so-called main-stream political parties have spent around sixty years of

constitutional governance and they have not attended to any of these very basic principles though these have been confronting citizens all these years from time to time.

In Madras, in this writer's student days the appointment of governors was a subject matter of criticism. The Dravida Kazhagam Party had always a cultural wing with an excellent group of stage actors where daily events were taken up for their satire. M R Radha, a well known stage actor of DK in one of his plays the dialogue was about the way Congress played its politics. He used to say that Congress Party is a very intelligent party, "If their candidate wins he will become a minister and should he lose he will become a governor!" That was how Constitutional Governance began its career.

The persons in authority have not excluded retired employees in the Administrative and Police Services of the Governments from being appointed governors. One can easily visualize a time when Governorship will become a promotion post to a Chief Secretary or a DGP like the District Judge career promotion is the High Court Judge's "post". This was never intended to be. At the level of a District his vision is a restricted one. The District judge like other civil servants bureaucratized and very few transcended these limits. It is not an argument against their elevation. There maybe quite a few serving on the Bench drawn from the Bar who have no vision at all to sit there. The bureaucrat coming from the higher echelons may not have the vision required for the Constitutional position of a Governor. The qualifications required are: being a citizen and should be above thirty five years. The first twenty five years were spent debating about the qualities required for the post. The debate informs people that super annuated police chiefs were never considered as within the realm of possibility.

The debates that have taken place was about the role he played in subverting ministries and about generally acting as the errand boy of the centre and generally of destroying the limited character of federalism that was preserved in the relations between the states, in the relationship between the Governor and the House.□□□