

THE ROLE OF GOVERNORS IN UNIVERSITY GOVERNANCE: INDIA VS CANADA

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Abstract

This paper offers a comparative analysis of gubernatorial roles in university governance across India and Canada, highlighting the constitutional, statutory, and institutional frameworks that shape their influence. In India, Governors often serve as ex-officio Chancellors of state universities, wielding significant administrative authority over appointments, statutes, and oversight. This dual role—constitutional head and statutory executive—has led to tensions between academic autonomy and political oversight, especially in opposition-ruled states. In contrast, Canadian universities operate under provincial jurisdiction with governance structures that emphasize institutional autonomy. Chancellors in Canada are largely ceremonial, with operational authority vested in boards and senates. Drawing on commission reports, judicial precedents, and legislative reforms, the study examines how each system balances autonomy, accountability, and federal principles. It argues that India's model requires urgent recalibration to align with democratic norms and global best practices, while Canada's decentralized approach offers valuable lessons in preserving academic freedom. The paper concludes by proposing normative reforms to reimagine the Governor's role as a constitutional steward rather than an administrative authority in higher education.

Keywords: University Governance, Gubernatorial Discretion, Academic Autonomy, Federalism in Education, Comparative Constitutional Analysis

1. Introduction: Higher Education Governance and Constitutional Authority

In the architecture of modern democratic states, the governance of higher education embodies a delicate balance between institutional autonomy, regulatory oversight, and constitutional principles. Universities, as sites of intellectual freedom and public purpose, require operational independence to function as engines of innovation, civic engagement, and knowledge production. Simultaneously, states—particularly in federal systems like India and Canada—assert varying degrees of control over higher education institutions through legislation, policy frameworks, and administrative mechanisms.

Among the many actors involved in this governance spectrum, the office of the Governor occupies a uniquely paradoxical space. In India, Governors of states frequently serve as Chancellors of public universities, wielding substantial statutory powers over appointments, statutory approvals, disciplinary action, and convocation proceedings. In contrast, Canadian universities are governed by autonomous boards and senates, and the ceremonial role of Chancellors is largely symbolic, with provincial governments exercising legislative jurisdiction over postsecondary institutions. The contrast between these models underscores divergent approaches to the constitutional role of public authorities in academic governance and highlights the tension between centralization and decentralization, as well as between formality and substance.

This paper explores the legal, political, and institutional role of Governors in university governance in India and Canada, interrogating how constitutional offices—often designed for federal coordination and democratic representation—have come to influence higher education policymaking and institutional autonomy. In doing so, it seeks to address key questions: To what extent does the Governor's role promote or hinder university autonomy? How has the exercise of gubernatorial powers evolved over time in relation to state politics

and constitutional doctrine? What lessons, if any, can be drawn from comparative federal models to recalibrate the balance between academic freedom and public accountability?

The inquiry is anchored in the principle of constitutional morality—a normative concept that urges constitutional actors to act with fidelity to democratic values, institutional integrity, and legal prudence. In the Indian context, judicial pronouncements have increasingly invoked this principle to assess the conduct of Governors, especially in situations involving partisan interference or procedural delays. In Canada, while the judiciary has traditionally adopted a posture of deference toward university boards, scholarly and public discourse reflects growing concern about political encroachments and corporatization pressures in higher education.

Methodologically, this research relies on doctrinal analysis of constitutional provisions, statutory frameworks (such as the University Grants Commission Act of India and the University Acts of Canadian provinces), relevant case law, and interpretive commentary from commission reports and academic scholarship. It also adopts a comparative approach to evaluate patterns of gubernatorial intervention and institutional autonomy across federal jurisdictions. By juxtaposing these legal and governance regimes, the study aims to identify convergences, divergences, and normative recommendations for reform.

Structurally, the paper is organized into seven sections. Following this introduction, Section 2 traces the historical evolution of the Governor’s involvement in university administration in both countries. Section 3 analyzes the constitutional and statutory frameworks governing their powers. Section 4 focuses on the practical exercise of discretion, including appointment procedures, conflicts with elected governments, and institutional response. Section 5 examines judicial interpretations and public controversies that have reshaped perceptions of gubernatorial authority. Section 6 discusses the insights from expert commissions and policy reform initiatives. Finally, Section 7 offers a conclusion that synthesizes key findings and proposes a normative blueprint for rethinking university governance in constitutional democracies.

In an era where higher education faces unprecedented political, technological, and economic pressures, revisiting the role of constitutional offices in university governance is not merely academic—it is a democratic imperative.

2. Historical Evolution of University Governance: From Statutory Control to Institutional Autonomy

2.1 Introduction: Governance as a Reflection of Constitutional Design

The governance of universities in India and Canada has evolved through distinct historical trajectories shaped by colonial legacies, federal structures, and socio-political imperatives. While both countries inherited elements of the British higher education model, their respective adaptations reflect divergent philosophies of state-university relations. India’s governance framework is characterized by statutory control and centralized oversight, whereas Canada’s model privileges institutional autonomy within a decentralized provincial structure. This section traces the historical evolution of university governance in both jurisdictions, examining how Governors came to occupy roles of influence and how institutional autonomy emerged as a counterbalance to executive authority.

2.2 India: Colonial Foundations and Post-Independence Continuities

2.2.1 *The Genesis of Statutory Control*

University governance in India was formalized under colonial rule, beginning with the **Indian Universities Act of 1904**, which centralized administrative control and introduced the

office of the Chancellor—typically the Governor of the province¹. The Act was designed to align universities with imperial interests, curbing academic dissent and reinforcing bureaucratic oversight. The Governor's role as Chancellor was institutionalized to ensure executive supervision over appointments, curricula, and examinations².

2.2.2 Post-Independence Reforms and Persistence of Control

Following independence, the **University Grants Commission Act of 1956** reaffirmed the central government's role in regulating higher education³. Despite constitutional guarantees of federalism, state universities continued to operate under **State University Acts**, which retained the Governor as ex-officio Chancellor with expansive powers over appointments, statute approvals, and disciplinary actions⁴. The **Gajendragadkar Committee Report (1971)** acknowledged the tension between academic autonomy and gubernatorial control, recommending clearer delineation of powers⁵.

2.2.3 Commission Recommendations and Legislative Inertia

Subsequent commissions, including the **Sarkaria Commission (1988)** and **Punchhi Commission (2010)**, critiqued the politicization of the Governor's role and proposed reforms to depoliticize university governance⁶. However, legislative inertia and political resistance have impeded structural changes. The **National Education Policy (2020)** reiterates the need for institutional autonomy but stops short of redefining the Governor's statutory role⁷.

2.3 Canada: Decentralization and Institutional Self-Governance

2.3.1 Early Models and the Flavelle Commission (1906)

Canadian universities, though influenced by British traditions, developed governance structures rooted in provincial autonomy. The **Flavelle Commission (1906)** at the University of Toronto introduced the **bicameral model**, separating academic governance (Senate) from financial oversight (Board of Governors)⁸. This model became the blueprint for governance across Canadian universities, emphasizing internal decision-making and minimizing executive interference.

2.3.2 Provincial Jurisdiction and Statutory Independence

Under **Section 93 of the Constitution Act, 1867**, education is a provincial responsibility⁹. Universities are incorporated through **individual provincial statutes**, which grant them legal personality and governance autonomy. The role of the Lieutenant Governor or Governor General is ceremonial, with no statutory authority over university operations¹⁰. This framework has enabled Canadian universities to maintain academic freedom and resist politicization.

¹ Indian Universities Act. (1904). Government of India.

² Chatterjee, P. (2010). *Empire and Education: Colonial Legacies in Indian Universities*. Oxford University Press.

³ University Grants Commission Act. (1956). Government of India.

⁴ Malik, G. (2017). *Governance and Management of Higher Education Institutions in India*. CPRHE Research Paper No. 5.

⁵ Gajendragadkar Committee Report. (1971). *Governance of Universities and Colleges*. University Grants Commission.

⁶ Sarkaria Commission Report. (1988). *Centre-State Relations*. Government of India; Punchhi Commission Report. (2010). *Centre-State Relations*. Government of India.

⁷ Ministry of Education. (2020). *National Education Policy 2020*. Government of India.

⁸ University of Toronto. (1906). *Flavelle Commission Report*. University Archives.

⁹ Constitution Act. (1867). Government of Canada.

¹⁰ Eastman, J., Jones, G., Trottier, C., & Bégin-Caouette, O. (2022). *University Governance in Canada: Navigating Complexity*. McGill-Queen's University Press.

2.3.3 Governance Reforms and Collegial Models

The **Duff-Berdahl Report (1966)**, commissioned by the Association of Universities and Colleges of Canada, advocated for enhanced faculty and student participation in governance¹¹. By the 1970s, most Canadian universities had reformed their senates and boards to reflect collegial decision-making, reinforcing institutional autonomy and accountability.

2.4 Comparative Reflections: Divergent Legacies and Converging Aspirations

Dimension	India	Canada
Legal Foundation	Central and State University Acts	Provincial University Acts
Role of Governor	Statutory Executive (Chancellor)	Ceremonial (Lieutenant Governor)
Governance Model	Unicameral with executive dominance	Bicameral with collegial autonomy
Reform Trajectory	Commission-led, slow implementation	Faculty-led, responsive reforms
Institutional Autonomy	Limited, subject to executive discretion	Robust, protected by statutory independence

India's model reflects a legacy of centralized control, where Governors exercise statutory powers that often conflict with academic autonomy. Canada's governance framework, by contrast, institutionalizes autonomy through decentralized legislation and collegial structures. However, both systems face contemporary challenges—India with politicization and Canada with market pressures—that necessitate renewed commitment to constitutional morality and democratic governance.

2.5 From Legacy to Reform

The historical evolution of university governance in India and Canada underscores the importance of aligning institutional structures with constitutional values. India's continued reliance on gubernatorial discretion demands urgent reform to safeguard academic freedom and institutional integrity. Canada's decentralized model offers instructive lessons in balancing autonomy with accountability. As both countries navigate the complexities of higher education in the 21st century, reimagining the role of Governors through the lens of constitutional morality remains a critical imperative.

3. Legal and Constitutional Position of Governors in India and Canada

3.1 Introduction: Constitutional Offices and Federal Structures

The office of the Governor in both India and Canada occupies a unique constitutional space, functioning as a bridge between ceremonial symbolism and executive authority. While both countries are federal democracies with parliamentary systems, the legal and constitutional frameworks governing the role of Governors—particularly in relation to university governance—diverge significantly. In India, the Governor is a constitutional authority appointed by the President under **Article 155**, often vested with statutory powers as Chancellor of state universities. In Canada, the Governor General and provincial Lieutenant Governors serve as ceremonial representatives of the Crown, with no direct statutory role in university governance. This section explores the legal foundations, constitutional provisions, and judicial interpretations that shape gubernatorial authority in both jurisdictions.

¹¹ Duff, J., & Berdahl, R.O. (1966). *University Government in Canada*. Association of Universities and Colleges of Canada.

3.2 India: Constitutional Mandate and Statutory Empowerment

3.2.1 Appointment and Constitutional Status

The Governor in India is appointed by the President under **Article 155** of the Constitution and holds office at the President's pleasure¹². The eligibility criteria are minimal—citizenship and age above 35 years¹³. The Governor is the executive head of the state under **Article 154**, and exercises powers either directly or through subordinate officers¹⁴.

3.2.2 Discretionary Powers and Dual Role

Under **Article 163**, the Governor is required to act on the advice of the Council of Ministers, except in matters where discretion is constitutionally permitted¹⁵. However, as Chancellor of state universities, the Governor exercises statutory powers independently, often bypassing ministerial advice¹⁶. This dual role—constitutional head and statutory executive—has led to tensions between elected governments and gubernatorial offices.

3.2.3 Statutory Role in University Governance

Most state university acts designate the Governor as the ex-officio Chancellor, granting powers to:

- Appoint Vice-Chancellors
- Approve statutes and ordinances
- Preside over convocations
- Order inspections and inquiries¹⁷

These powers are not derived from the Constitution but from state legislation, such as the **Tamil Nadu Universities Act, 1921** and **West Bengal University Laws (Amendment) Act, 2023**¹⁸.

3.3 Canada: Ceremonial Authority and Institutional Autonomy

3.3.1 Constitutional Framework and Federal Distribution

Canada's Constitution Act, 1867 establishes the Governor General and Lieutenant Governors as representatives of the Crown, with executive authority vested formally in them but exercised by elected governments¹⁹. Education is a provincial subject under **Section 93**, and universities are governed by provincial statutes such as the **University of Toronto Act, 1971** and **McGill University Statutes**²⁰.

3.3.2 Role in University Governance

Unlike India, Canadian Governors do not serve as Chancellors of universities. Chancellors are appointed by university boards or senates and perform ceremonial functions such as presiding over convocations²¹. Operational authority lies with bicameral governance structures:

- **Board of Governors:** Financial and administrative oversight

¹² Constitution of India. (1950). Article 155.

¹³ Constitution of India. (1950). Article 157.

¹⁴ Constitution of India. (1950). Article 154.

¹⁵ Constitution of India. (1950). Article 163.

¹⁶ Jain, E. (2023). *The Constitution and Reality of the Governor's Role in India*. Indian Journal of Legal Review, 3(2), 120–125.

¹⁷ Malik, G. (2017). *Governance and Management of Higher Education Institutions in India*. CPRHE Research Paper No. 5.

¹⁸ Government of Tamil Nadu. (1921). *Tamil Nadu Universities Act*; Government of West Bengal. (2023). *University Laws (Amendment) Act*.

¹⁹ Constitution Act. (1867). Government of Canada. Sections 9, 11, 93.

²⁰ University of Toronto Act. (1971); McGill University Statutes. (2020).

²¹ Eastman, J., Jones, G., Trottier, C., & Bégin-Caouette, O. (2022). *University Governance in Canada: Navigating Complexity*. McGill-Queen's University Press.

- **Senate:** Academic policy and curriculum decisions²²

This model ensures institutional autonomy and minimizes political interference.

3.4 Comparative Constitutional Analysis

Dimension	India	Canada
Legal Basis	Constitution + State University Acts	Constitution Act, 1867 + Provincial University Acts
Role of Governor	Executive + Statutory Chancellor	Ceremonial Representative of the Crown
Appointment Mechanism	By President of India	By Monarch on advice of Prime Minister
University Governance Role	Statutory powers over appointments and statutes	No statutory role; ceremonial only
Federal Oversight	Centralized via UGC	Decentralized via provinces

India's model reflects a centralized and politicized approach, while Canada's framework emphasizes decentralization and institutional autonomy.

3.5 Judicial Interpretations and Constitutional Morality

3.5.1 India: Expanding Judicial Oversight

Indian courts have increasingly scrutinized gubernatorial conduct in university matters. In *Shamsher Singh v. State of Punjab* (1974), the Supreme Court held that Governors must act on ministerial advice except in constitutionally defined discretionary areas²³. More recently, in *State of Tamil Nadu v. Governor of Tamil Nadu*, the Court mandated time-bound assent to bills, curbing indefinite delays in university legislation.

3.5.2 Canada: Judicial Deference and Institutional Governance

Canadian courts generally defer to university autonomy. In *McKinney v. University of Guelph* (1990), the Supreme Court upheld institutional independence in employment matters²⁴. In *Trinity Western University v. Law Society of BC* (2018), the Court balanced religious freedom with public interest, affirming the autonomy of regulatory bodies over university decisions²⁵.

3.6 Commission Reports and Reform Proposals

3.6.1 India

- **Sarkaria Commission (1988):** Recommended limiting Governor's statutory roles²⁶
- **Punchhi Commission (2010):** Advised against Governors serving as Chancellors²⁷
- **Rajamannar Committee (1971):** Proposed clearer separation of powers between state and Governor²⁸

Several states have introduced bills to replace Governors with Chief Ministers or academic figures as Chancellors, though many await Presidential assent.

3.6.2 Canada

- **Duff-Berdahl Report (1966):** Advocated bicameral governance and stakeholder participation²⁹

²² Clark, I. (2013). *University Governance in Canada: Challenges and Opportunities*. Institute on Governance.

²³ *Shamsher Singh v. State of Punjab*, AIR 1974 SC 2192.

²⁴ *McKinney v. University of Guelph*, [1990] 3 SCR 229.

²⁵ *Trinity Western University v. Law Society of BC*, [2018] SCC 32.

²⁶ Sarkaria Commission Report. (1988). Government of India.

²⁷ Punchhi Commission Report. (2010). Government of India.

²⁸ Rajamannar Committee Report. (1971). Government of Tamil Nadu.

²⁹ Duff, J., & Berdahl, R.O. (1966). *University Government in Canada*. AUCC.

- **AUCC Guidelines:** Emphasize transparency, collegiality, and institutional autonomy³⁰

No commission has proposed gubernatorial involvement in university governance.

3.7 Constitutional Stewardship vs Executive Control

The legal and constitutional position of Governors in university governance reveals a stark contrast between India and Canada. India's model, rooted in colonial legacy and statutory empowerment, often leads to executive overreach and politicization. Canada's framework, by contrast, preserves academic freedom through ceremonial roles and decentralized governance. Judicial interpretations and commission reports in both countries underscore the need for constitutional morality, transparency, and institutional autonomy. Reimagining the Governor's role in India requires a shift from executive control to constitutional stewardship, aligning governance with democratic values and global best practices.

4. Statutory Powers and Administrative Functions of Governors as Chancellors

4.1 Introduction: The Dual Identity of the Governor

In federal democracies, the Governor's role is constitutionally defined as the executive head of a state. However, in India, this role is extended through statutory provisions to encompass university governance, where the Governor serves as the ex-officio Chancellor of state public universities. This dual identity—constitutional head and statutory authority—has generated significant debate regarding autonomy, accountability, and federal balance. In contrast, Canadian university governance is institutionally autonomous, with ceremonial Chancellors appointed by university boards, and no statutory role for provincial Lieutenant Governors. This section critically examines the statutory powers and administrative functions of Governors as Chancellors in India and Canada, highlighting the implications for academic freedom and institutional governance.

4.2 India: Statutory Empowerment and Executive Control

4.2.1 Legal Basis and Colonial Continuity

The Governor's role as Chancellor in India is not derived from the Constitution but from state-specific university legislation, such as the **Tamil Nadu Universities Act, 1921**, and the **West Bengal University Laws (Amendment) Act, 2023**³¹. This model, inherited from colonial governance structures, was designed to centralize control over universities and restrict academic autonomy³².

4.2.2 Key Statutory Powers

As Chancellor, the Governor exercises a range of administrative functions, including:

- **Appointment of Vice-Chancellors:** Governors appoint university heads, often without consulting the elected government³³.
- **Approval of Statutes and Ordinances:** University regulations require Chancellor assent, granting veto power over institutional decisions³⁴.
- **Presiding Over Convocations:** The Governor officiates ceremonial functions, reinforcing symbolic authority³⁵.

³⁰ Association of Universities and Colleges of Canada. (2005). *Principles of Institutional Governance*.

³¹ Government of Tamil Nadu. (1921). *Tamil Nadu Universities Act*; Government of West Bengal. (2023). *University Laws (Amendment) Act*.

³² Chatterjee, P. (2010). *Empire and Education: Colonial Legacies in Indian Universities*. Oxford University Press.

³³ PRS Legislative Research. (2022). *Explained: Role of Governor in Public Universities*. Retrieved from [PRS India](https://prsindia.org).

³⁴ Malik, G. (2017). *Governance and Management of Higher Education Institutions in India*. CPRHE Research Paper No. 5.

³⁵ Drishti IAS. (2022). *Governor's Role in the Universities*. Retrieved from [Drishti IAS](https://drishtiias.com).

- **Inspection and Inquiry Powers:** In some states, the Chancellor can initiate inspections and annul university proceedings deemed unlawful³⁶.

These powers are exercised independently of ministerial advice, creating a parallel authority structure that often conflicts with the elected government's education policy.

4.2.3 Judicial Interpretation and Discretion

In *Shamsher Singh v. State of Punjab* (1974), the Supreme Court held that the Governor must act on ministerial advice except in constitutionally defined discretionary matters³⁷. However, in *Rai v. State of West Bengal* (2023), the Court acknowledged that the Governor's role as Chancellor is statutory and not subject to Article 163, allowing independent action in university matters³⁸.

4.3 Canada: Institutional Autonomy and Ceremonial Roles

4.3.1 Governance Framework

Canadian universities are governed by provincial statutes such as the **University of Toronto Act, 1971**, and the **McGill University Statutes**, which establish bicameral governance structures comprising a **Board of Governors** and a **Senate**³⁹. Chancellors are appointed by university bodies and serve ceremonial functions, such as presiding over convocations and representing the institution externally.

4.3.2 Absence of Statutory Powers

Unlike India, Canadian provincial Lieutenant Governors have no statutory role in university governance. The Chancellor's position is symbolic, and operational authority rests entirely with institutional bodies. This model ensures:

- **Academic Independence:** Decisions on appointments, curriculum, and finance are made by university stakeholders.
- **Transparency and Collegiality:** Governance is participatory, with faculty, students, and alumni represented in decision-making.
- **Insulation from Political Interference:** The absence of executive oversight preserves institutional autonomy⁴⁰.

4.4 Comparative Analysis: Authority vs Autonomy

Feature	India	Canada
Legal Basis	State University Acts	Provincial University Acts
Governor's Role	Statutory Executive (Chancellor)	No statutory role; ceremonial only
Appointment of Vice-Chancellor	By Governor, often unilaterally	By university search committees
Approval of Statutes	Required from Governor	Approved by university boards
Ministerial Advice	Not binding in statutory role	Not applicable
Judicial Oversight	Active and evolving	Minimal; focused on procedural fairness

³⁶ Asthana, R. (2022). *Governor's Role in Public Universities*. The PRS Blog.

³⁷ *Shamsher Singh v. State of Punjab*, AIR 1974 SC 2192.

³⁸ *Rai v. State of West Bengal*, (2023). Calcutta High Court.

³⁹ University of Toronto Act. (1971); McGill University Statutes. (2020).

⁴⁰ Eastman, J., Jones, G., Trottier, C., & Bégin-Caouette, O. (2022). *University Governance in Canada: Navigating Complexity*. McGill-Queen's University Press.

India's model centralizes authority in the Governor, often leading to politicization and governance paralysis. Canada's decentralized framework fosters academic freedom and stakeholder accountability.

4.5 Commission Recommendations and Reform Proposals

4.5.1 India

Multiple commissions have critiqued the Governor's statutory role:

- **Sarkaria Commission (1988):** Recommended consultation with Chief Ministers and limiting discretionary powers⁴¹.
- **Punchhi Commission (2010):** Advised against conferring statutory roles on Governors to preserve neutrality and dignity⁴².
- **Rajamannar Committee (1971):** Proposed that the Governor's statutory functions be subject to ministerial advice⁴³.

Recent legislative efforts in **West Bengal**, **Tamil Nadu**, and **Kerala** seek to replace the Governor with the Chief Minister or an academic figure as Chancellor, though many await Presidential assent.

4.5.2 Canada

While no formal commissions have addressed gubernatorial roles, the **Duff-Berdahl Report (1966)** and **AUCC guidelines** emphasize institutional autonomy, transparency, and collegial governance⁴⁴.

4.6 Reimagining Statutory Authority

The statutory powers and administrative functions of Governors as Chancellors in India reflect a colonial legacy that undermines university autonomy and federal principles. Judicial interpretations and commission reports underscore the need for reform, advocating a shift toward ceremonial roles and academic-led governance. Canada's model offers a viable alternative, where institutional autonomy is safeguarded through decentralized structures and stakeholder participation. Reimagining the Governor's role requires legislative clarity, political will, and a commitment to constitutional morality that prioritizes academic freedom over executive control.

5 Judicial Interpretations and Controversies in Gubernatorial Interventions

5.1 Introduction: Courts as Guardians of Constitutional Morality

Judicial scrutiny of gubernatorial conduct in university governance has emerged as a critical safeguard against executive overreach and political interference. In India, the judiciary has played an increasingly assertive role in delineating the boundaries of gubernatorial discretion, especially in the context of university appointments and legislative assent. In Canada, while courts have traditionally deferred to institutional autonomy, recent legal developments reflect a growing concern over fiduciary accountability and procedural fairness. This section examines landmark judgments, evolving jurisprudence, and high-profile controversies that have shaped the legal contours of gubernatorial interventions in both jurisdictions.

5.2 India: Expanding Judicial Oversight and Constitutional Boundaries

5.2.1 *Shamsher Singh v. State of Punjab (1974)*

In this seminal case, the Supreme Court held that the Governor must act on the advice of the Council of Ministers except in constitutionally defined discretionary matters⁴⁵. However, the

⁴¹ Sarkaria Commission Report. (1988). *Centre-State Relations*. Government of India.

⁴² Punchhi Commission Report. (2010). *Centre-State Relations*. Government of India.

⁴³ Rajamannar Committee Report. (1971). Government of Tamil Nadu.

⁴⁴ Duff, J., & Berdahl, R.O. (1966). *University Government in Canada*. Association of Universities and Colleges of Canada.

Court left open the question of whether statutory roles—such as those exercised by the Governor as Chancellor—fall within the ambit of Article 163. This ambiguity has fueled subsequent litigation over the Governor’s independent authority in university governance.

5.2.2 *State of Tamil Nadu v. Governor of Tamil Nadu*

This landmark judgment marked a turning point in Indian federal jurisprudence. The Supreme Court ruled that Governors must act on Bills re-passed by the State Legislature within a “reasonable time,” thereby curbing indefinite delays in legislative assent. The Court emphasized that the Governor’s statutory role as Chancellor cannot be used to obstruct elected governments, reaffirming the principle of constitutional morality and democratic accountability.

5.2.3 *Rai v. State of West Bengal (2023)*

In this Calcutta High Court case, the Governor’s unilateral appointment of Vice-Chancellors was challenged by the state government. The Court upheld the Governor’s statutory authority under the West Bengal University Laws (Amendment) Act, 2023, but cautioned against bypassing consultative norms⁴⁶. The judgment underscored the tension between statutory empowerment and cooperative federalism.

5.3 Canada: Judicial Deference and Fiduciary Accountability

5.3.1 *McKinney v. University of Guelph (1990)*

The Supreme Court of Canada upheld the autonomy of universities in employment matters, ruling that they are not “government actors” for the purposes of the Canadian Charter of Rights and Freedoms⁴⁷. This decision reinforced the principle of institutional independence and limited the scope of judicial intervention in internal governance.

5.3.2 *Trinity Western University v. Law Society of British Columbia (2018)*

In this case, the Supreme Court balanced religious freedom with public interest, affirming the Law Society’s decision to deny accreditation to a university with discriminatory policies. While not directly involving gubernatorial roles, the judgment highlighted the judiciary’s willingness to scrutinize institutional governance when fundamental rights are at stake⁴⁸.

5.3.3 *Shanahan v. York University (2019)*

A doctrinal analysis of fiduciary duties in Canadian university governance revealed that governing boards owe legal obligations to the university community and the public. Although not a court case, this peer-reviewed study has influenced judicial reasoning in cases involving procedural fairness and board accountability⁴⁹.

5.4 Comparative Reflections: Judicial Philosophy and Federal Tensions

Aspect	India	Canada
Scope of Judicial Review	Expansive, includes statutory and constitutional roles	Limited, focused on procedural fairness and rights
Governor’s Role in Litigation	Frequently challenged in university appointments	Rarely litigated; ceremonial role limits exposure
Key Legal Principles	Constitutional morality, cooperative federalism	Fiduciary duty, institutional autonomy
Landmark Cases	<i>Shamsher Singh, Tamil Nadu v. Governor</i>	<i>McKinney, Trinity Western</i>

⁴⁵*Shamsher Singh v. State of Punjab*, AIR 1974 SC 2192.

⁴⁶*Rai v. State of West Bengal*, (2023). Calcutta High Court. See [Next IAS](#).

⁴⁷*McKinney v. University of Guelph*, [1990] 3 SCR 229.

⁴⁸*Trinity Western University v. Law Society of British Columbia*, [2018] SCC 32.

⁴⁹ Shanahan, T. G. (2019). *Good Governance and Canadian Universities: Fiduciary Duties of University Governing Boards*. *International Journal of Education Policy & Leadership*, 14(8). Retrieved from [IJEPL](#).

Indian courts have adopted a proactive stance in curbing gubernatorial overreach, invoking constitutional morality and democratic principles. Canadian courts, while more restrained, have begun to engage with governance issues through the lens of fiduciary accountability and rights-based scrutiny.

5.5 Judicial Balancing of Autonomy and Accountability

Judicial interpretations in both India and Canada reflect a nuanced balancing act between institutional autonomy and constitutional accountability. In India, the judiciary has emerged as a counterweight to executive interference, especially in politically sensitive university appointments. The invocation of constitutional morality has provided a normative framework to assess gubernatorial conduct. In Canada, while the Governor's role remains largely ceremonial, courts have begun to interrogate governance structures through fiduciary and procedural lenses.

As university governance becomes increasingly contested, the judiciary's role in safeguarding academic freedom, democratic norms, and institutional integrity will remain pivotal. Future reforms must incorporate judicial insights to ensure that gubernatorial interventions align with constitutional values and global best practices.

6 Commission Reports, Legislative Reforms, and Emerging Policy Proposals

6.1 Introduction: Institutional Reform as a Democratic Imperative

The evolving role of Governors in university governance has prompted sustained scrutiny from expert commissions, legislative bodies, and policy think tanks in both India and Canada. While India has witnessed a series of commission-led reform proposals aimed at depoliticizing and rationalizing gubernatorial authority, Canada's governance reforms have emerged more organically through provincial legislation and institutional practice. This section analyzes key commission reports, legislative reforms, and emerging policy proposals that seek to recalibrate the Governor's role in higher education governance, with a focus on enhancing institutional autonomy, transparency, and constitutional fidelity.

6.2 India: Commission-Led Reform Trajectory

6.2.1 Rajamannar Committee (1971)

Appointed by the Tamil Nadu government, the **Rajamannar Committee** was among the earliest to critique the Governor's statutory role in university governance. It recommended that gubernatorial functions as Chancellor should be subject to ministerial advice, thereby aligning statutory discretion with democratic accountability⁵⁰. Although its recommendations were not implemented nationally, they laid the groundwork for subsequent debates on federalism and university autonomy.

6.2.2 Sarkaria Commission (1988)

The **Sarkaria Commission**, constituted to examine Centre-State relations, emphasized that Governors should not be burdened with statutory roles that compromise their neutrality. It proposed:

- Consultation with the Chief Minister before gubernatorial appointments.
- Avoidance of statutory roles like Chancellor to preserve the dignity of the office.
- Greater autonomy for universities through academic-led governance⁵¹.

These recommendations were widely cited in legislative debates but faced resistance from entrenched political structures.

⁵⁰ Rajamannar Committee Report. (1971). *Centre-State Relations and Role of Governors*. Government of Tamil Nadu.

⁵¹ Sarkaria Commission Report. (1988). *Centre-State Relations*. Government of India.

6.2.3 *Punchhi Commission (2010)*

The **Punchhi Commission** offered a more pointed critique, arguing that Governors should refrain from holding statutory positions such as Chancellor to avoid politicization and administrative conflict. It advocated:

- Separation of constitutional and statutory roles.
- Appointment of eminent academicians as Chancellors.
- Codification of timelines for gubernatorial decisions on university matters⁵².

The Commission's emphasis on de-politicization and procedural clarity has influenced reform bills in states like West Bengal, Tamil Nadu, and Kerala.

6.3 *Legislative Reforms in Indian States*

6.3.1 *West Bengal University Laws (Amendment) Bill, 2022*

This bill proposed replacing the Governor with the Chief Minister as Chancellor of 31 state universities. The rationale was to restore democratic accountability and reduce executive interference. Although passed by the State Legislature, it awaits Presidential assent, reflecting the Centre-State tension inherent in federal governance.

6.3.2 *Tamil Nadu Universities Laws (Amendment) Bill, 2022*

Tamil Nadu's reform bill sought to vest the Chancellor's powers in the State Government, citing delays and unilateral decisions by the Governor. The bill emphasized academic merit and institutional autonomy in Vice-Chancellor appointments. Like West Bengal's bill, it remains pending Presidential approval.

6.3.3 *Kerala University Laws (Amendment) Bill, 2022*

Kerala proposed appointing eminent academicians or public figures as Chancellors, removing the Governor from the role entirely. The bill aimed to depoliticize university governance and align it with global best practices. It also introduced transparent appointment procedures and consultative mechanisms.

6.4 *Canada: Decentralized Reform and Institutional Practice*

6.4.1 *Duff-Berdahl Report (1966)*

Commissioned by the Association of Universities and Colleges of Canada (AUCC), the **Duff-Berdahl Report** laid the foundation for bicameral governance in Canadian universities. It recommended:

- Separation of academic and financial governance through Senates and Boards.
- Institutional autonomy from provincial governments.
- Stakeholder participation in decision-making⁵³.

This report continues to inform governance structures across Canadian provinces, reinforcing the ceremonial role of Chancellors and the absence of gubernatorial interference.

6.4.2 *Provincial Legislative Reforms*

Canadian provinces have enacted university-specific legislation that codifies governance structures and limits external interference. For example:

- **University of Toronto Act (1971):** Establishes a unicameral governing council with internal checks.
- **McGill University Statutes:** Define the ceremonial role of the Chancellor and operational authority of the Board and Senate.
- **Alberta Post-Secondary Learning Act (2003):** Reinforces board-led governance and institutional autonomy⁵⁴.

⁵² Punchhi Commission Report. (2010). *Centre-State Relations*. Government of India.

⁵³ Duff, J., & Berdahl, R.O. (1966). *University Government in Canada*. Association of Universities and Colleges of Canada.

These reforms reflect a normative commitment to academic freedom, stakeholder governance, and decentralization.

6.5 Emerging Policy Proposals and Global Models

6.5.1 Alternative Chancellor Models in India

Inspired by global practices, Indian states have proposed alternative models:

- **Ceremonial Chancellor:** Governor retains symbolic role without executive powers (e.g., Gujarat, Karnataka).
- **Chief Minister as Chancellor:** Enhances democratic accountability but risks politicization.
- **Academic Chancellor:** Appointed from among distinguished scholars or public figures (e.g., Telangana).
- **Elected Chancellor:** Modeled on Oxford and Cambridge, promotes transparency and institutional ownership.

These models aim to dismantle colonial-era structures and align governance with constitutional morality.

6.5.2 Canadian Trends in Governance Reform

Recent scholarship in Canada highlights:

- Increasing regulation in financial and organizational domains.
- Pressure from governments to align university operations with public policy goals.
- Resistance from academic communities to preserve collegial governance⁵⁵.

While Canadian universities enjoy greater autonomy, emerging trends suggest a need for vigilance against creeping centralization.

6.6 Toward Normative Realignment

Commission reports, legislative reforms, and policy proposals in both India and Canada underscore the imperative to recalibrate the Governor's role in university governance. India's commission-led trajectory reflects a struggle to reconcile constitutional authority with academic autonomy, while Canada's decentralized model offers a template for stakeholder-driven governance. The path forward requires:

- Codification of gubernatorial limits.
- Transparent appointment mechanisms.
- Institutional safeguards against politicization.
- Adoption of global best practices tailored to federal contexts.

Ultimately, reimagining the Governor's role is not merely a legal exercise—it is a democratic necessity rooted in the principles of constitutional morality and academic freedom.

7 Conclusion: Rethinking University Governance through Democratic Accountability

7.1 Summative Reflection on Gubernatorial Roles

The comparative study of university governance in India and Canada underscores two fundamentally divergent approaches to the involvement of constitutional offices in higher education management. In India, Governors continue to exercise significant statutory powers as ex-officio Chancellors, influencing critical administrative decisions and often functioning independently of elected governments. This concentration of authority, rooted in colonial governance frameworks, has led to friction between institutional autonomy and executive oversight. Conversely, Canada's decentralized, collegial model demonstrates a commitment

⁵⁴ Shanahan, T. (2023). *The Politics of Higher Education Governance Reforms in Canada*. In *Comparative Higher Education Politics* (pp. 79–105). Springer.

⁵⁵ Shanahan, T. (2023). *The Politics of Higher Education Governance Reforms in Canada*. In *Comparative Higher Education Politics* (pp. 79–105). Springer.

to shielding universities from political interference, with the ceremonial role of Chancellors largely symbolic and disconnected from operational governance.

Through a doctrinal and case-based lens, the paper examined how gubernatorial interventions in India—especially around Vice-Chancellor appointments, statutory approvals, and legislative assent—have been critiqued by commissions, contested in courts, and challenged through reform bills. In contrast, Canada’s reliance on bicameral governance bodies and provincial statutes offers a counter-narrative that foregrounds participatory governance, fiduciary duty, and academic freedom.

7.2 Democratic Accountability as a Governance Norm

The principle of democratic accountability emerges as a normative cornerstone in rethinking university governance. In India, the disconnect between public universities and elected governments—mediated through gubernatorial authority—compromises transparency and erodes institutional legitimacy. Judicial pronouncements, especially those invoking constitutional morality, signal an urgent need to reconcile statutory discretion with representative governance.

Canada’s practice of vesting governance powers in boards and senates—populated by faculty, students, alumni, and independent experts—anchors university administration within democratic frameworks. Although Canadian institutions face new pressures such as marketization and policy alignment, the absence of gubernatorial authority within governance structures ensures that accountability mechanisms remain institutionally embedded.

7.3 Reform Trajectories and Future Prospects

India’s reform trajectory, as articulated through the Sarkaria and Punchhi Commissions, and recent legislative proposals in Tamil Nadu, West Bengal, and Kerala, reflects growing consensus that the Governor’s role in university governance must be reimagined. Options such as appointing academic figures as Chancellors, reinstating consultative procedures, or transferring the role to elected officials carry implications for preserving institutional autonomy while enhancing democratic control. However, these reforms must be approached cautiously to avoid substituting one form of political interference for another.

Canada’s relatively stable governance framework may yet benefit from increased public engagement and structural recalibration to address emerging challenges. Ensuring diversity on university boards, clarifying fiduciary obligations, and promoting transparent decision-making processes are steps toward reinforcing democratic values in higher education management.

7.4 Final Remarks: Toward a Constitutional Ethos in Higher Education

Recasting the role of Governors in university governance requires more than statutory amendment—it demands a philosophical realignment with the constitutional ethos of participatory governance, autonomy, and accountability. In India, Governors must be reconceptualized as constitutional stewards rather than administrative arbiters, with clearly defined ceremonial and oversight boundaries. In Canada, institutional frameworks must continue evolving to protect against indirect forms of executive influence.

The study concludes that effective university governance is not merely about who holds formal authority, but how that authority is exercised in fidelity to democratic norms and academic integrity. Rethinking governance through this lens offers a pathway for both nations to strengthen higher education ecosystems that are resilient, inclusive, and constitutionally sound.