

Harmonizing Federalism: Perspectives on the Simultaneous Election

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ABSTRACT

India is following federal structure dividing powers into state government and central government. While the central government is elected every 5 years, elections to state assemblies are held at different times based on completion of their tenures. This leads to frequent elections almost every year in some state or the other which hampers governance due to enforcement of the model code of conduct. So, the idea of holding simultaneous elections for the Lok Sabha and State Assemblies, commonly referred to as 'One Nation One Election', has gained traction in recent years. Proponents argue that the current system of frequent elections is expensive and disruptive. This paper examines the rationale behind One Nation One Election and analyzes its potential consequences on India's federal structure.

The paper critically evaluates the expected benefits like reduced costs and administrative distractions. However, holding synchronous elections raises concerns about compromising the federal structure. State issues may get subsumed under national issues during simultaneous elections. Regional parties could lose their relevance. The paper analyzes how national parties may gain greater control over state politics if assembly polls are tied to Lok Sabha polls. There are also practical difficulties in implementing simultaneous elections such as what will happen in case of mid term dissolution of state assembly. Federalism allows states to chart their own socio economic agendas an advantage that could be undermined.

The paper aims to further discuss the scholarly discourse on synchronized elections in India by pointing out its merits as well as the potential pitfalls from the viewpoint of federalism and democracy. The analysis is intended to inform this important policy debate by highlighting the need for nuance and caution.

Keywords: Constitution, Federalism, One nation One election, Simultaneous elections, synchronous,

INTRODUCTION

According to the Constitution, India has a parliamentary system in which the federal government and the states share authority. India's democracy is the largest democracy in the world¹. For more than seven decades, spanning 77 years, the election commission has successfully conducted 17 general elections to the Lok Sabha, the lower house of India's Parliament, as well as over 370 state legislative assembly elections. This remarkable feat has facilitated the smooth, peaceful, and democratic transition of power. The election procedures are of paramount importance in ascertaining the structure of the government, the membership of the Lok Sabha and Rajya Sabha, as well as the legislative assemblies of the states and

¹ Richetta, Cécile; Harbers, Imke; van Wingerden, Enrike (2023). "The subnational electoral coercion in India (SECI) data set, 1985–2015" (PDF). *Electoral Studies*. 85. doi:10.1016/j.electstud.2023.102662. ISSN 0261-3794.

union territories. The election commission's ability to organize and oversee these numerous elections has been instrumental in upholding the principles of democracy and ensuring the orderly transfer of power. As a federal nation, elections to the Lok Sabha and each state legislative assembly must take place every five years in India or else the legislature is dissolved and new elections are summoned within six months of the vacancy occurrence. India's vast expanse and diversity, determining an appropriate timeframe to conduct nationwide elections is a complex undertaking. The Election Commission, responsible for scheduling the electoral process, must meticulously consider the mechanisms, logistics, and resource availability across the country. Consequently, India finds itself in a perpetual state of electoral preparedness, with various stages of the electoral cycle being undertaken at different times and locations.. The country witnesses, on an average, elections to about 5-7 state assemblies every year ². Such recurring election cycle ultimately have an adverse consequences on the wider governing process as well as the administrative and development initiatives in the states and the areas that are headed for the polls. Simultaneous elections, or ONE NATION, ONE ELECTION are believed to be a potential solution for the aforementioned issue. This involves organizing concurrent elections for the national parliament and the legislative bodies of every state, with voting likely occurring simultaneously. The current President of India and the Prime Minister have strongly advocated for implementing simultaneous elections in public forums.

The notion that election at the same time are actually not a novel concept in the nation is startling. Elections to the Lok Sabha along with each state's Legislative assembly were held concurrently after the Constitution was adopted. This practice continued until 1967, when it was disrupted.³In 1951–1952, the state legislative assemblies and the Lok Sabha held their initial general elections. During the three general elections that followed in 1957, 1962, as well as 1967, this practice persisted. But the cycle was broken for the first time in 1968 and 1969 when several Legislative Assemblies were dissolved too soon. The 4th Lok Sabha was also dissolved early in 1970, and new elections were conducted in 1971. The Lok Sabha was dissolved early on the sixth, seventh, ninth, eleventh, twelfth, and thirteenth occasions. Additionally, the term of a legislature (Lok Sabha or State Assemblies) determines when elections are held, which is in turn controlled by pertinent legislative and constitutional laws that influence different facets of the constitution, dissolution, and expiration of such legislatures. Over time, other state assemblies also encountered same problems. All of these early terminations and extensions have already interrupted the cycle of concurrent elections.⁴

At present, the country elects five to seven state assemblies each year, with a few outliers. One way to prevent the country from perpetually being in election mode is to hold consecutive elections. Political parties, general electors alongside voters, government staff and officials on election duty, and the government (both state and union) are all adversely impacted in the end by such a circumstance.

EXISTING PROVISIONS

The political system and democracy of any country are always changing. India, which is in a unique situation due to its unity in variety, is particularly affected by this. The pursuit of increasingly advantageous

² Desai, Kishore. "Simultaneous Elections (One Nation One Election): Brief Note on The 'What', the 'Why' and the 'How' of Simultaneous Elections." Authored by Kishore Desai, Former OSD – NITI Aayog & Economic Advisory Council to the Prime Minister (EAC-PM).

³ Debroy, Bibek, and Kishore Desai. "Analysis of Simultaneous elections : The what, why and how". Discussion paper.

⁴ Source: Para 4 – Report of the parliamentary Standing committee on Personnel, Public Grievances, Law and Justice - 79th report (Dec 2015) on the topic of simultaneous elections.

and constructive changes to the country's overall structure is necessary in order to develop into a fully realized and vibrant democracy. Examining the current provisions in the Constitution and other regulations pertaining to elections and the stability of the government worldwide would be worthwhile when contemplating holding simultaneous elections for the state legislative assemblies plus the house of people. The term, sessions, as well as dissolution of the State Legislative Assemblies and the House of the People (Lok Sabha) are all covered under the Indian Constitution. With provisions for prolongation during a proclamation of emergency, Articles 83 and 172 provide a maximum term of five years for the Lok Sabha and State Legislative Assemblies, correspondingly. According to Articles 85(1) until 174(1), in the event of proclamation and dissolution, the time between the final session of the departing House as well as Assembly and the first session of the succeeding House or Assembly cannot be longer than six months. Additionally, the process for submitting estimates of proposed expenditures from the Consolidated Fund of India/State for approval by Parliament/State Legislative Assembly is outlined in Articles 113 and 203. A change of government may result from the Council of Ministers being dismissed for failing to pass the estimates. Articles 75(3) and 164(2) stipulate the collective accountability of the Council of Ministers to the Lok Sabha or the State Legislative Assembly, guaranteeing their retention of authority as long as they maintain the trust of the majority.

While Article 243U deals with the election, duration, and early dissolution of municipalities, the Tenth Schedule deals with the disqualification of members due to defection. Elections are covered in Part XV, where Article 324 guarantees the supervision, guidance, and control of elections; Article 326 guarantees the right to vote based on adult suffrage; and Articles 327 and 328 give the Parliament and State Legislatures the authority to enact election-related laws. Furthermore, Chapter XVIII addresses emergency laws, which let the Lok Sabha/State Legislative Assembly to serve longer than the five-year term under an emergency declaration.

While Part IX of the Representation of the People Act, 1951 pertains to bye-elections to the State Legislative Assemblies and the Lok Sabha, Sections 14 and 15 deal with informing these bodies of general elections. Other Statutes: Section 20A of the Representation of the People Act, 1950 provides special provisions for Indian citizens residing overseas, and Rule 198 of the Rules of Procedure and Conduct of Business in the Lok Sabha outlines the admissibility and procedure for a motion of noconfidence in the Lok Sabha.

Implementing simultaneous elections is challenging due to the requirement to amend five or more articles of the Constitution, the need for consensus among state governments and political parties over changes to India's federal form of governance, and the continued presence of significant logistical and security challenges. To evaluate the impact of any proposed amendments, a comprehensive analysis of the existing constitutional and statutory requirements is required in order to have simultaneous elections.

FUTURE OUTLOOK AND RECOMMENDATIONS FOR SIMULTANEOUS ELECTIONS

In its inaugural annual report, also referred to as the Tarkunde committee report, the Election Commission of India stated unequivocally in 1983 that if legislation cannot be brought about, it is time to evolve a system by convention wherein the general election to the House of People and the state legislative assemblies are held concurrently.⁵

In its 170th report, "Reform of Electoral Laws," published in 1999, the Law Commission of India, led by

former Justice B. P. Jeevan Reddy, issued a warning that such elections could not be held overnight. A potential constitutional amendment to prolong or shorten the term of one or more legislative assemblies, the advancement of certain state elections, changes to the schedule of others, and a concurrently processed motion of a lack of trust in the current government alongside confidence in an alternative government were among the recommendations it made.⁵

The possibility of holding simultaneous elections was additionally investigated in the 79th out of report of the Rajya Sabha's department-wise The legislature Standing Committee on Personnel, Public Grievances, Law, and Justice, which was titled "Feasibility of Holding Simultaneous Elections to the House of People (Lok Sabha) and State Legislative Assemblies" in 2015. Parliament received the report on December of 2015. It listed a number of reasons for holding simultaneous elections, including: lowering the enormous costs associated with conducting separate elections each year; ending policy paralysis, which commonly happens when the model code of conduct (MCC) is put into effect around election time; and lessening the strain on vital personnel that is deployed during election time. Additionally, it suggested that state assemblies or the Lok Sabha should only hold early elections if one of two requirements is satisfied: The Lok Sabha or State Legislative Assemblies must either i) authorize a resolution calling for an early presidential election alongside the support of at least 25% of the House (which incorporates unoccupied seats) or ii) acknowledge a no-confidence motion if no substitute government is certified within 14 days.⁶ In its 2017 report on simultaneous elections, NITI Aayog considered the findings of the standing committee and developed a potential framework that would allow for the simultaneous holding of two phases of state assembly and Lok Sabha elections. According to the report, "about half of the states will hold simultaneous elections for their assemblies along with the general Lok Sabha elections that are scheduled for April–May 2019 and the remaining states in the middle, i.e., October–November 2021, entailing extensions or containment of the duration of the Assembly wherever required." But doing so would necessitate changing the pertinent Constitutional clause.

The present eight members Committee setup in September 2023, headed by former president Ram Nath Kovind, will be fourth in row to examine the possibility of simultaneous elections. The committee is reported to have deliberated on number of options for ensuring continuity of simultaneous elections. The committee was requested to recommend particular changes to the 1950 Representation of the People Act, the 1951 RP Act, the 1951 Constitution, and the regulations enacted under these acts. It was also tasked with examining whether any amendments to the Constitution would require to be ratified by states.

In accordance with its mandate, The High level committee on Simultaneous elections (The Kovind Committee) was also requested to "suggest a framework for synchronization of elections and specifically, suggest the phases and time-frame within which simultaneous elections may be held" and "analyse and recommend possible solution in a scenario of simultaneous elections emerging out of a hung House, adoption of no-confidence motion, or defection, or any such other event." It also looked into the logistics of holding simultaneous elections and the modalities for a common electoral roll and voter ID cards.

The High-Level Committee Report on Simultaneous Elections offers a comprehensive roadmap toward transitioning India's elections to a synchronized model across national, state, and local levels. Key recommendations include amending the Constitution to empower the President to designate an "Appointed

⁵ Election Commission of India, First Annual Report (April, 1984) available at: http://eci.nic.in/eci_main/eci_publications/books/genr/First%20Annual%20Report-83.pdf.

⁶ The Wire." One Nation One Election: Fourth Committee Constituted to Explore Simultaneous Polls. The Wire, Date of Publication, thewire.in/government/one-nation-one-election-fourth-committee.

Date” for commencing simultaneous polls, enabling term synchronization by adjusting state assembly tenures, and enacting legislation to align local body election timelines. The report advocates a single unified electoral roll prepared by the Election Commission in consultation with State Election Commissions. It underscores the need for detailed logistical planning by the electoral bodies, citing benefits like cost-efficiency, enhanced governance, reduced divisive politics, and increased voter engagement. However, the proposal has drawn debates around preserving federalism, representational equality for regional parties, substantial implementation costs, accountability concerns, and the complexities of required constitutional amendments related to tenure, dissolution provisions, and President’s rule. The committee’s report encapsulates a potential path toward an ambitious “one nation-one election” vision while acknowledging the multifaceted challenges and stakeholder perspectives involved. These committees are coupled with a special session of Parliament being called from September 18-22, speculation has grown that the BJP government intends to move ahead with game changing Constitutional reform that has the potential to reset the rules of the electoral game.

Divergent views have been expressed on whether simultaneous elections are desirable or feasible. Simultaneous elections have been criticized on the grounds that they violate the Constitution's cherished principles of democracy and federalism. Analyzing these concerns is crucial to determine whether simultaneous elections truly go against democratic principles, alter the fundamental framework of the Constitution, or interfere with its federal structure⁷.

FEDERALISM AT CROSSROADS

Three rationales are frequently put forward in India as justifications for holding simultaneous elections. First, holding concurrent elections will lower election expenses for political parties and the public coffers. Secondly, simultaneous elections will increase the effectiveness of governance by cutting down on the time that governments spend running for office and enforcing the Model Code of Conduct, which prevents the announcement of new policies. Third, the regularity of elections pushes political parties to emphasize “populist measures” that are centered on personal gain “instead of nationalist ones.

Critics, in turn, have raised concerns that simultaneous elections will erode the fabric of Indian federalism by subsuming autonomous spaces for the articulation of regional identities, issues and policies. Synchronized elections, they claim, will flatten the diversity of political life across India and undermine the autonomy of state governments. Furthermore, some critics have argued that the streamlining of elections may threaten democracy itself by reducing opportunities for voting and tilting the playing field towards the incumbent by altering “no confidence rules” to reduce the circumstances in which out-of-cycle midterm elections could occur⁸. The “Federal Contract” group presented its views on “Federalism, Equality of States, and State Rights”, stating that measures like “One Nation One Election” undermined India’s federal structure and conflated the different priorities voters had for national, State and “Panchayati raj” institutions, degrading each one’s different sphere of responsibility⁹. Zoya Hasan, Professor Emerita, CPS (JNU), and currently Distinguished Professors, Council for Social Development, said over the past

⁷ Government of India, Law Commission of India. “Draft Report: Simultaneous Elections.” 30 August 2018. https://legalaffairs.gov.in/sites/default/files/simultaneous_elections/LCI_2018_DRAFT_REPORT.pdf

⁸ Scroll.in. “Simultaneous Elections: What are the Implications for Indian Federalism?” Scroll.in, 14 Jan. 2023, <https://scroll.in/article/1055859/simultaneous-elections-what-are-the-implications-for-indian-federalism>.

⁹ The Hindu.” “One Nation, One Election undermined India’s federal structure, say speakers at democracy convention.” The Hindu, 28 January 2022, <https://www.thehindu.com/news/national/one-nation-oneelection-undermined-indias-federal-structure-say-speakers-at-democracy-convention/article67832956.ece>.

few years, increasingly, policy measures were being announced without consulting states and parties. She said investigating agencies were being used actively to weaken State governments and opposition parties. The office of the Governor had also been misused to weaken the State governments ruled by the Opposition parties.

Vidhu Verma said, in the past few months, the Centre had taken “unprecedented steps to tighten its control over States, which would have been unimaginable to the framers of the Constitution”. Pointing out that some States had raised the issue of “discrimination and economic injustice” meted out to them, she said there was a lot of resentment and frustration as they were not being heard and were unable to participate in the decision-making process. Prof. Kumar concluded that “Simultaneous elections will curb the voice of people living at the margins of the society by strangulating the scope for regional parties which reflect local aspirations/issues. This will reverse the process of deepening Democracy.”

These critical studies suggest first, a correlation between voters choosing the same party for Lok Sabha and State Assembly, (they don't definitively attribute this to simultaneous elections. correlation doesn't imply causation) . Factors like organizational strength, lack of alternatives, and perceptions of leaders may have played a more significant role. Thus, there is no evidence to conclude decisively that voters' choices are solely influenced by simultaneous elections or other factors and Infact its not possible to conclude without analyzing the ground realities in detail that this Voting pattern was primarily due to simultaneous elections and not a result of other factors. Second, the above criticisms also point out that simultaneous elections would weaken the federal democratic structure of the Indian polity. Critics conclude that Simultaneous elections would benefit larger national parties at the cost of State/regional parties in case of a “national wave in favor of large national parties”. They quoted the hypothesis that simultaneous elections would harm the federal Democratic structure of the Indian polity. A gamut of literature, points of view of experts, recommendations of expert committees etc. note leverages and comprehensively analyses various attendant issues to present an unbiased and a holistic view of the case for simultaneous elections in the country.

While introducing the draft of Article 277A before the Constituent Assembly, Dr. Ambedkar asserted that our Constitution is federal in nature, despite the Centre's authority to supersede the provinces. But he went on to clarify the constraints placed on the federalism envisioned in the Constitution by saying that “when we say that the constitution is a Federal Constitution it means this, that the Provinces are as sovereign in their field which is left to them by the Constitution as the Centre is in the field which is assigned to it”¹⁰. The Center ought to have more authority over matters that impact the existence of the nation as a whole. A quasi-federal system that is unitary in spirit but federal in form is established by the Constitution”. Because of its firmly established constitutional foundation, India's parliamentary democracy has developed enough to prevent it from becoming unitary only because of simultaneous elections. Regardless of the political stances of people in charge at the federal, state, and local levels, the nation can only advance and endure as long as the federal government and the states work together as equal partners.

Here are several strong arguments in favor of holding elections simultaneously . A number of issues include the suspension of development programs, welfare initiatives because of the Model Code of Conduct's frequent imposition, large election-related expenditures made by the government and other stakeholders, black money, the prolonged use of government employees and security forces, and the

¹⁰ Government of India, Law Commission of India. “Draft Report: Simultaneous Elections.” 30 August 2018.https://legalaffairs.gov.in/sites/default/files/simultaneous_elections/LCI_2018_DRAFT_REPORT.pdf

persistence of caste, religious, and communal conflicts.¹¹ The mandate of voters for State Assembly elections or Lok Sabha elections held concurrently or otherwise is typically a reflection of a range of characteristics and not only the schedule in India, a mature democratic setup. Voters have frequently supported the same parties in both State and Lok Sabha elections, even though they did not occur at the same time. Albeit numerous such instances exist when people have supported smaller state or regional parties in Lok Sabha elections despite broader national patterns that support particular national parties. All of these instances show that voters are generally able to determine what is in their best interests and cast their votes for the parties or candidates they want.

CONCLUSION

One Nation One Election is reform proposed by the government. The Prime Minister Narendra Modi has made a strong case for holding national elections at the same time. He spoke emphatically about the desirability of simultaneous elections therefore, the idea is not bolt from the blue. Everybody in the nation is impacted by elections, including leaders, political parties, corporations, administrative staff, and constitutional institutions. Not only would this measure's eventual adoption necessitate extensive changes to the Constitution and statutes, but it would also require significant agreement from the key stakeholders in the field. The Constitution does allow for enough flexibility to adapt to the needs and circumstances of the nation as they change. Governments have an obligation to ensure that their citizens have access to the greatest governance systems, procedures, and opportunities, and this flexibility is not merely an enabling tool. Though government must be extra careful so that they would not hamper the basic structure of Indian federal system. The whole election system should be rebuilt so that simultaneous election could be performed peacefully¹².

Therefore, frequent elections limit the government's ability to take risks and encourage it to adopt a safer status quo-ist strategy.. Along with reduced deployment of security forces, reduced freebies, continuity in policy decisions and cost efficiency the one nation one election could also reduce horse trading to some extent and governance would be more focused. Therefore, breaking out of this "permanent election mode" would need a significant structural change in mindset that may give governments the much-needed breathing room to concentrate on long-term transformative initiatives without having to worry about the upcoming elections.

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