

From Policy to Practice: Constitutional FOUNDATIONS and challenges to Election process for holding Simultaneous Elections in India

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Abstract— The Concept of ‘One nation one election’ has gained momentum in India, after a High-Level Committee on simultaneous elections was constituted on 2nd September 2023 under the Chairmanship of former president of India, Ram Nath Kovind, submitted its report containing 18,626 pages to the President of India, Smt. Droupadi Murmu. The report discussed about the constitutional viability and electoral process feasibility, challenges for successful implementation of Simultaneous elections to the Lok Sabha and State Assemblies, Panchayats and Municipalities. The central notions behind ‘One nation, one election’ is to synchronize the timing of Lok Sabha, State Assembly, Panchayats and Municipalities election across all States to reduce the frequency of elections throughout the country, cut down expenditure spent on holding elections at different intervals of time for the purpose of election to Lok Sabha and State Assemblies, Panchayats and Municipalities, reduce voter fatigue, simplify the electoral processes. Nevertheless, Articles 83 and 172 provide that the tenure of the house of people and state assemblies, unless dissolved earlier, shall be for 5 years. It is implicit that the tenure of the Lok Sabha and State Assemblies can be reduced to less than 5 years if there is no confidence, or upon the advice of council of ministers. Thus, it could be interpreted that to accommodate simultaneous elections to Lok Sabha and the State Assemblies, the tenure of the houses could be lowered if the council of ministers deem it necessary. The Tenure of the Lok Sabha or State Assemblies could get extended only for a period of 1 year from the date of first meeting. Simultaneous election was in practice till 1967, the cracks in the cycle emerged in 1959 after the Centre invoked Article 356 to dismiss the then-Kerala government. In the due course of time, due to defections and counter-defections between parties, several Legislative Assemblies dissolved post-1960, eventually leading to separate elections for Lok Sabha and State Assemblies. Cut to the chase, the assembly polls in the States of Arunachal Pradesh, Sikkim, Andhra Pradesh and Odisha are held together with the Lok Sabha elections. Although, simultaneous elections were held in the past, it lost momentum for a while, until Law Commission headed by BP Jeevan Reddy in 1991 recommended simultaneous

elections. Every three months, there has been elections in some or the other state in India, there has been a virtual paralysis of administration at various levels countrywide as elections to these states’ assemblies have culminated in shifting of focus from growth prospects on India. Even though no fresh policy decision is necessary, implementation of ongoing projects gets derailed during election periods as the political executive as well as government officials engross themselves in election duties, neglecting routine administration. Holding elections at specific periods could potentially reduce horse-trading by elected representatives, which remains a concern even with anti-defection law in place. Article 324 provides that the superintendence, direction and control of preparing electoral roll shall be with the Election Commission. Article 243K and Article 243 ZA provide that for the purposes of elections to panchayats and municipalities of a state, the superintendence, direction and control lay with the State Commission to formulate electoral roll. The State Election Commission does not prepare a separate voter’s list for the local body elections but uses the voter’s lists prepared by the Election Commission of India under the provisions of the Representation of the People Act, 1950, by bifurcating the same to represent the relevant wards of the local bodies concerned. Could a single electoral roll be used for the purpose of simultaneous elections to Lok Sabha, State Assemblies, Panchayats and Municipalities? This paper seeks to analyse the constitutional foundations for simultaneous elections and challenges in the election process to hold simultaneous elections.

Index Terms- Voter Fatigue, Lok Sabha, State Assemblies, Constitutional foundations, superintendence, direction, control, Election Commission of India, State Election Commissions

I. INTRODUCTION

A. Background

The Backdrop of holding ‘One nation, one election’(ONOE) lies in the pursuit of streamlining India’s electoral system, discovering a constitutionally

safe route for its implementation, reducing the logistical and financial burden of multiple elections, improving governance efficiency.

B. OBJECTIVES OF THE STUDY

This research paper is an endeavour to accomplish the following objective:

1. To Assess the Constitutional Aspects: Examine the constitutional framework governing elections in India, and analyse the legal intricacies involved in implementing ONOE
2. To Assess whether ONOE acts as an embargo on the federal structure of Indian Constitution: Articles 324(4) of the Indian Constitution, provides that for the purpose of assisting the Election Commission of India, the Election Commission can appoint such regional commissioners, as may be necessary. The ECI can ensure that while the concept of ONOE looks unitary in its outlook, because of deployment of regional commissioners in each state, that while discharging functions pertaining to supervising, direction and control, making of electoral roll, conduct of simultaneous elections, the regional commissioners could still enjoy autonomy while deciding the number of personnel to be deployed, additional EVMs and VVPATs, thereby maintaining federal structure with centralised tendencies and in a way promoting cooperative federalism.
3. To Assess the challenges to the election process for holding simultaneous elections: Would simultaneous elections really cut down the expenditure given the additional deployment of personnel, EVMs, VVPATs? For the ease of election process, simultaneous elections should be carried out in phases given the population, does that render the term 'simultaneous' redundant? Simultaneous elections can be held using a single electoral roll prepared by the Election Commission of India. The State commissions per se does not prepare the electoral roll, but use the voter's lists prepared by the Election Commission of India under the provisions of the Representation of the People Act, 1950.

C. Methodology

The methodology employed in this research paper encompasses a multi-faceted approach:

1. Literature Review: Extensive review of HLC report, 2024 to establish the foundation of the study.

2. Data Collection: Gathering empirical data through secondary sources such as journals, articles, newspaper editorial, etc.

3. Legal and Constitutional Analysis: In-depth examination of constitutional landscape for the purposes of One Nation, one election and addressing challenges in the election process.

By utilizing this comprehensive methodology, this research paper aims to provide a nuanced and well-rounded analysis of constitutional foundations and challenges faced by the electoral process, thereby contributing to the ongoing discourse surrounding this significant electoral reform.

II. HISTORICAL EVOLUTION OF ONE NATION ONE ELECTION

The present concept of simultaneous elections in India saw its genesis from Franchise Committee Report of 1932, echoing the discourse related to simultaneous elections in India. The Franchise Committee Report of 1932, suggested that franchise for assembly should be the same as for provisional councils, involving preparation of only one electoral roll. Further, the report also states that 'the present practice is to hold the provincial and assembly elections on the same day.'¹ In India, post-independence, the Lok Sabha (the Lower House) and State Legislative Assembly elections were simultaneously held in 1952, 1957, 1962, and 1967. During the first decade, 1951-1960 when practice of simultaneous elections prevailed, the Lok Sabha and the State Assemblies could complete their full term. The cycle of simultaneous elections went haywire in the next decade; 1961-1970, when five states namely, Bihar, Kerala, Punjab, Uttar Pradesh and West Bengal, held three elections in the same decade instead of two. The scenario deteriorated in the next decade, i. e., 1971-1980, when fourteen states went through elections thrice. In Odisha (erstwhile Orissa), elections were held four time in the same decade. In the decade 1981-1990, five states had three elections; 1991-2000, two states went through elections thrice.

The Concept of 'One nation one election' got submerged forawhile with the collapse of Lok Sabha and State Assemblies during the first four decades of becoming a republic India. In its inaugural Annual

Report in 1983, the Election Commission of India advocated the idea of conducting simultaneous elections for both the House of the People and the State Legislative Assemblies. Be there as it may, in the year 1999, the Law Commission of India headed by Hon'ble Justice B.P. Jeevan Reddy in its One Hundred Seventieth Report on Reform suggested holding simultaneous elections to the Lok Sabha and State Assemblies, the Committee suggested amendments to the Constitution to cater to holding simultaneous elections. The Law Commission Report (Draft), 2018² again outlined the importance of holding simultaneous elections and stated that in no stretch of imagination would the holding of simultaneous elections adversely affect the basic structure of the Indian Constitution. Pursuantly, the Department related Parliamentary Standing committee on Personnel, Public grievances, Law and justice in its 79th report (submitted to the Parliament in December 2015) had also examined the feasibility of holding simultaneous elections to Lok Sabha and State Legislative Assemblies. A High-Level-Committee on simultaneous elections on September 2, 2023 under the chairmanship of Former President of India, Ram Nath Kovind, was constituted to examine whether simultaneous elections could be adopted in the current constitutional landscape or not.

III. RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The timings for election to a legislature (Lok Sabha / State Assemblies) is determined by its term which in turn is governed by relevant constitutional and statutory provisions. The constitutional provisions relevant to the issue of simultaneous elections are:-

1. Article 83 of the Constitution of India provides for the tenure of both Houses of the Parliament (Lok Sabha and Rajya Sabha). Article 83(2) provides for a term of five years for Lok Sabha, from the date of its first sitting unless dissolved earlier. Likewise, the Article 172 (1) provides for five-year tenure for State Legislative Assembly from the date of its first sitting, unless dissolved earlier. Further, the proviso to Article 83 (2) of the Constitution provides that when a proclamation of emergency is in operation, the term of the House may be extended for a period not exceeding one year at a time by Parliament by law and not extending in any case beyond a period of six months after the Proclamation has ceased to operate. Similar

provision also exists for State Legislative Assembly under the proviso to Article 172 (1) of the Constitution. Doctrine of exclusion and Doctrine of Expansion could be utilized for the purposes of interpreting Article 83 and Article 172 of Indian Constitution.

By adjusting the term of state legislative assemblies through an executive decision (in consultation with the states), the elections could be aligned with the Lok Sabha elections. Electoral guidelines could be issued to align the electoral cycles by shifting the elections of some state assemblies.

At this juncture, it is pertinent to mention that in 1957, the practice of dissolving Legislative Assembly prematurely was adopted for the purpose of conducting simultaneous elections. The Report on the Second General elections in India³, 1957 stated that; "If the House of the People and the different State legislative Assemblies were all allowed to be complete their full term, the General elections to reconstitute them would have to be held at different points of time. In such a case, it would be impossible simultaneous country-wide general elections, for both the House of the People and the State Legislative Assemblies..... It was therefore, decided that the second general elections should be completed before the end of March 1957, and that the existing Houses of legislature should be dissolved prematurely, whenever necessary, in order that newly elected houses might meet soon after the general elections are over."⁴

To facilitate simultaneous elections in 1957, the Election Commission of India proposed to dissolve the houses in consultation with all the political parties, the Central Government, and the State Government, without requiring amendment to the constitution. The same method could be adopted for holding simultaneous elections at least by 2029.

Justice Dipak Mishra, Former Chief Justice of India, stated that "synchronising elections at the National and State level could lead to greater administrative efficiency by reducing the frequency of elections and associated costs. This efficiency could benefit both the Central and the State Governments, enable streamlining the electoral process and allowed elected representatives to focus more on governance.

Adoption of One Nation, one election in India is likely to brook well with the spirit of the Constitution and cooperative federalism.”⁵

Article 324(1), Article 243k and Article 243ZA empowers the Election Commission of India, State Election Commissions to conduct, direct and supervise the holding of elections to Lok Sabha, State Assemblies, Panchyats and Municipalities. Nothing in these provisions prohibit the introduction of Single electoral roll, the electoral rolls can be prepared in consultation with the State Election Commission, the State Election Commissions work in tandem with the Election Commission to deploy additional personnel, EVMs and VVPATs. Thereby, adopting cooperative federalism. Nearly, seventeen Amendments to the Constitution must be made to accommodate simultaneous elections requiring special majority.

IV. CHALLENGES IN THE ELECTION PROCESS

1. Logistical requirements

The requirements for smooth conduct of simultaneous elections include employment of security personnel, polling officials, EVMs, controlling units, Balloting units, VVPATs, digital cameras, video cameras, storage rooms and transportation facilities, the Election Commission of India (EC) has estimated that conducting simultaneous elections across the country in 2029 would require Rs 7,951 crores. The Election Commission's inputs, initially shared with the Law Commission in March 2023, highlighted that the number of polling stations nationwide would need to increase to 13.6 lakh in 2029. To support the simultaneous elections, the commission identified a shortfall of 26.5 lakh ballot units (BUs), 17.8 lakh control units (CUs), and 17.8 lakh voter-verifiable paper audit trail (VVPATs).⁶ The Election Commission also predicted a 50% increase in the deployment of central security forces for the 2029 synchronised elections, potentially requiring around 7 lakh personnel, based on previous projections. Furthermore, an additional 800 warehouses would be needed to store EVMs and VVPATs across the country.⁷ It is estimated that the expenditure of about Rs. 4300 crores should have to be made for procurement of EVMs and VVPATs. However, this cost would be a one-time cost and EVMs and VVPATs

could be used for subsequent elections given a life of about 15 years.

2. DOES SIMULTANEOUS ELECTIONS LEAD TO MALIGNING OF LOCAL ISSUES OVER NATIONAL ISSUES?

In a diverse country like India, conducting simultaneous elections to Lok Sabha, State Legislative Assemblies, Panchayats and Municipalities, require building awareness which poses a significant challenge. Currently, four states in India are following simultaneous elections in India namely, Arunachal Pradesh, Odisha, Sikkim, Andhra Pradesh. In 2019, the Voter turnout for Lok Sabha elections was projected at 80.4% and State Assembly at 79.4%, in Arunachal Pradesh. Andhra Pradesh recorded a voter turnout of 79.02% for Lok Sabha election, 79.28% for State Assembly in 2019. Odisha recorded a voter turnout of Lok Sabha 70.2% and State Assembly 71.4% in 2019.

The data also proves that the slightly higher voter turnouts to State Assembly elections in Arunachal Pradesh, Andhra Pradesh and Odisha, ensured that the local issues did not get maligned over national interest.

3. DOES SIMULTANEOUS ELECTIONS LEAD TO PREFERENTIAL TREATMENT TOWARDS THE NATIONAL PARTIES OVER REGIONAL PARTIES thus jeopardising democratic ethos?

In 2019, several states held Lok Sabha and State Assembly elections simultaneously, and the results provide insights into how national parties and regional parties performed. In Andhra Pradesh, the YSR Congress Party dominated the State Assembly and Lok Sabha elections. In the State Assembly, YSR Congress won 151 out of 175 seats in the State Assembly. In the Lok Sabha, YSR Congress won 22 out of 25 seats.⁸ In Odisha, Biju Janata Dal, won 112 out of 147 seats in the State Assembly, and won 12 out of 21 seats in the Lok Sabha⁹. The above data is contrary to the general pre-conceived notion that regional parties get maligned over the national parties. Only the system of election is changed, the democratic ethos of a country are in no way at jeopardy. Ultimately, the people are given a choice to choose either national parties or regional parties, the people generally elect the party that offers the policies for addressing national issues as well as regional issues.

4. IS THE MAKING OF SINGLE ELECTORAL ROLL FEASIBLE?

The provisions, Article 324 and Articles 243K and Article 243ZA empower the SECs to discharge its supervisory, directive functions related to elections to Panchayats and Municipalities respectively. These provisions do not exclusively bar simultaneous elections, the method of single electoral roll could be adopted without requiring amendment as nowhere has it been mentioned that the electoral rolls for the purposes of holding elections to Lok Sabha and State Legislative Assemblies must be separate. Besides, Sec 13D, Sec 15, Sec 27 of the Representation of People Act, 1951 read together do not bar the making of single electoral roll for the purposes of holding elections to Lok Sabha, State Legislative Assemblies, Panchayats and Municipalities.

5. How should the election be conducted for the purposes of simultaneous elections to Lok Sabha, State Legislative Assemblies, Panchayats and municipalities?

The Election Commission will need to announce the election dates that cover both Lok Sabha and State Assembly elections in one go, ideally within the same month. The 18th election to Lok Sabha was conducted in seven phases. Simultaneous elections to Lok Sabha and State Assemblies would require multi-phase elections. Besides, one nation one election, does not call for election on the same day everywhere. Multiple ballot papers will be used—one for Lok Sabha elections and another for State Assembly elections. It is again a logistical challenge to ensure that voters are not confused between the two ballots. Cost Efficiency is one of the biggest advantages of conducting simultaneous elections. However, it still requires substantial funding for logistical operations. To ensure free and fair elections, polling stations should be monitored by independent observers and representatives from political parties. This will help prevent any malpractices and ensure that elections are conducted transparently. If elections are postponed in a state due to emergencies (e.g., natural disasters), special arrangements will need to be made to reschedule elections in a manner that does not disrupt the overall election schedule. Provisions for by-elections in case of vacancies due to death or disqualification of candidates during the term must be built into the electoral process. After simultaneous

elections, the process of counting votes and declaring results will need to be managed with precision. Given the sheer volume of ballots, separate counting centres may be required for Lok Sabha and State Assembly elections, the Election Commission of India and State Election Commission should work in tandem to ensure that events like EVM tampering do not happen and there is overall smooth conduct of elections to Lok Sabha, State Assemblies, Panchayats and Municipalities. The results must be declared at different intervals to avoid confusion. Clear and accurate reporting of results is crucial to ensure that the public and media do not confuse national outcomes with state-specific outcomes.¹⁰ The Delimitation Commission revises constituencies based on population, but irregularities can lead to disproportionate representation. The election process in India is centrifugal to the misuse of caste-based constituencies and gerrymandering which can skew the democratic process. Political party funding and transparency remain major issues. Internal democracy within parties and the process of candidate selection is often opaque.

Electoral bonds and their implications on One nation, one election

Electoral bonds were introduced in India in 2018 to fund political parties in a transparent yet anonymous manner. Donations made through electoral bonds must adhere to Know Your Customer (KYC) regulations, and the funds must be routed through banks, making the process more formalized and legal. This reduces the scope for under-the-table donations, promoting cleaner political funding. The transparency inherent in the banking system ensures that political parties receive funds through legitimate sources. By eliminating or reducing cash-based transactions, electoral bonds help mitigate the risks of corrupt funding practices, such as money laundering and unreported donations. The Donations granted through electoral bonds could be channelized by political parties to the Election Commission of India, State Election Commissions for the purpose of conducting simultaneous elections.

CONCLUSION

For addressing issues related to simultaneous elections, a High-Level-Committee was constituted on

2nd September 2023. The Committee report suggested amendments namely, Article 82A, Article 324A to the Indian Constitution, this research paper has explored the possibility of reading down the provisions Article 83(2), Article 172(2), Article 324, Article 243K and Article 243ZA. Apart from constitutionally viable landscape, there are many compelling reasons in favour of simultaneous elections. Short-sighted populist and “politically safe” measures are accorded higher priority over “difficult” structural reforms which may more beneficial to the public from a longer term perspective.¹¹ Incremental requirement of EVMs (the Balloting Units and Control Units) is likely to bigger pose a challenge to the operational feasibility of simultaneous elections as compared to that of personnel and security companies. Taking into account the population increase and the need for better accessibility, it’s likely that the number of booths will increase to 1.2 million or 12 lakh booths for both Lok Sabha and State Assemblies by 2029.¹² With 1.2 million booths by 2029, the estimated Counting Units required will be around 120,000 to 150,000 units, assuming an average of 10 booths per Counting Unit. Further, BU’s and CU’s are re-usable with a life of about 15 years and so conducting subsequent phases may become smoother. In a recent public forum, the Hon’ble Prime Minister remarked “if India is to meet the challenge of change, mere incremental progress is not enough. A metamorphosis is needed.... My vision for India is rapid transformation, not gradual evolution”.¹³ Transformative measures typically involve short-term pains unlike gradual measures and hence are seen as politically risky and unpopular to implement, simultaneous elections is a transformative measure.

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