

The Guardian of The Ballot:Judicial Sovereignty, Constitutional Limits,And the Federal Soul of Indian Democracy

Hemaalaya. Ra¹, Ms. Divya. S²

¹*Assistant Professor, School of Law, Vels Institute of Science, Technology and Advanced Studies,
Pallavaram, Chennai – 600 117.*

²*School Of Law Vels Institute of Science, Technology and Advanced Studies,
Pallavaram, Chennai – 600 117.*

Abstract — This chapter examines the role of the Indian judiciary as the ultimate constitutional arbiter of the One Nation, One Election (ONOE) proposal. It analyses how the Supreme Court, through landmark decisions spanning five decades, has constructed a jurisprudential framework that simultaneously acknowledges the administrative appeal of electoral synchronisation and guards against the erosion of federal autonomy and democratic accountability. The chapter traces the evolution of judicial doctrine from Kesavananda Bharati's Basic Structure test through S.R. Bommai's federal shield, and maps how these precedents constrain the 129th Amendment Bill, 2024.

The analysis evaluates emerging judicial theories including the Proportionality Test derived from K.S. Puttaswamy, the Doctrine of Colorable Legislation, the concept of Democratic Silence under Article 143, and the notion of Electoral Identity as applied to contested provisions such as the Appointed Date mechanism, the Remainder Term doctrine, the Constructive Vote of No-Confidence, and the Logistical Deferment clause. Drawing upon Public Interest Litigations filed in 2026 and the ongoing Presidential Reference before the Supreme Court, the chapter concludes that the judiciary is likely to mandate a phased-in, consent-based implementation of ONOE rather than permit a unilateral, top-down synchronisation of electoral mandates.

I. INTRODUCTION

In India's quasi-federal constitutional order, the Supreme Court has long served as more than an interpreter of statutes. It is the living custodian of the Constitution's structural integrity the institution charged with ensuring that the ambitions of Parliament do not override the foundational commitments of the

constitutional text. Nowhere is this guardian role more consequential than in the domain of electoral law, where the design of democratic processes directly determines the distribution of political power between the Union and the States.

The One Nation, One Election proposal places the judiciary at the centre of a defining constitutional confrontation. On one side stands the Union's claim that administrative efficiency, fiscal prudence, and governance continuity justify the synchronisation of all elections to a single national cycle. On the other stands the countervailing constitutional commitment to federal autonomy, periodic democratic accountability, and the inviolable right of citizens to elect their state governments at intervals determined by their own constitutional mandates not by the convenience of New Delhi.

The tension between what may be called Administrative Rationalism and Constitutional Federalism is not a new one in Indian jurisprudence. But the 129th Amendment Bill, 2024 with its Appointed Date mechanism, its Remainder Term doctrine, its proposed Constructive Vote of No-Confidence, and its unified electoral roll raises this tension to a new level of constitutional acuity. As the Joint Parliamentary Committee continues its deliberations into the 2026 Monsoon Session and Public Interest Litigations multiply in the Supreme Court, the judiciary's role has shifted from hypothetical to immediate. The courts are no longer merely anticipating the constitutional questions that ONOE will raise; they are beginning to answer them.

This chapter analyses the judicial architecture within which ONOE must be assessed from the foundational doctrines of Basic Structure and federal autonomy through the emerging theories of Democratic Silence, Electoral Identity, and proportional balancing and offers a synthesis of how the Supreme Court is likely to resolve the constitutional marathon that ONOE has set in motion.

1.1 The Judiciary as the Arbiter of Federalism

In the Indian quasi-federal setup, the Supreme Court has evolved from a conservative interpreter of statutes to a dynamic protector of state autonomy. The core of the ONOE debate from a judicial perspective is the tension between Administrative Rationalism and Constitutional Federalism. The judiciary has consistently maintained that the States are not mere appendages or administrative sub-units of the Union, but sovereign entities within their allotted legislative spheres. This section analyses how the Court's interpretation of the Basic Structure and the Will of the People forms the ultimate litmus test for the legality of synchronisation.

The Supreme Court's transformation into an active guardian of constitutional federalism did not occur overnight. It was the product of a series of landmark decisions beginning with the Privy Purses case, accelerating through the Emergency jurisprudence of the 1970s, and culminating in the S.R. Bommai judgment of 1994 each of which progressively strengthened the constitutional position of states against central encroachment. It is within this accumulated doctrinal heritage that the ONOE proposal must be evaluated.

1.2 Landmark Case Laws: A Detailed Analysis

The judicial framework governing ONOE is not constructed from abstract principles alone. It is built upon a sequence of authoritative decisions that have shaped the constitutional law of elections, federalism, and legislative power in India. The following subsections examine the most significant of these decisions and their specific implications for the ONOE proposal.

1.2.1 Kesavananda Bharati v. State of Kerala (1973) – The Basic Structure Doctrine

The Kesavananda Bharati judgment serves as the Constitutional North Star for any reform that seeks to amend the duration of the Houses. Decided by the

largest bench in the history of the Supreme Court, it established the foundational proposition that Parliament's constituent power under Article 368, though broad, is not unlimited. Parliament may amend any provision of the Constitution, but it cannot use that power to destroy or abrogate the essential features the Basic Structure of the constitutional text itself.

Relevance to ONOE: The Court established that while Parliament has wide-ranging powers under Article 368, it cannot alter the Basic Structure of the Constitution. If a legislative framework for synchronisation is found to dilute the federal character, or if it hampers the democratic right of a state to elect its own government, the judiciary can strike it down. The transition to ONOE requires amending Articles 83 and 172; the Court will scrutinise whether periodic, free, and fair elections a basic feature identified by Justice H.R. Khanna are compromised if a state assembly's term is artificially truncated or extended.

Justice Khanna's identification of democracy and free and fair elections as components of the Basic Structure is particularly significant. If synchronisation is achieved by extending an assembly's life beyond five years, or by truncating it without the consent of the electorate, such a measure may be challenged as anti-democratic. As Justice Khanna noted, the periodic exercise of the right to vote is the heart of the democratic process a rhythm that cannot be suspended by legislative convenience.

1.2.2 S.R. Bommai v. Union of India (1994) – The Shield of State Autonomy

If Kesavananda Bharati is the foundation, S.R. Bommai is the specific shield for state rights in the context of ONOE. Decided by a nine-judge bench, the case arose from the dismissal of state governments under Article 356 a provision that had historically been deployed as an instrument of central political control. The Court's response was to impose substantive judicial review upon the exercise of Presidential Rule, transforming what had been a largely discretionary executive power into one constrained by constitutional standards.

The Federal Principle: The Court declared that the States are as much the creatures of the Constitution as the Union. Justice P.B. Sawant emphasised that states

have an independent constitutional existence and are not creatures of the Centre.

Impact on ONOE: The judgment established that the dissolution of a state assembly is subject to judicial review. This creates a formidable barrier against any ONOE framework that seeks to dismiss state governments early merely to reset the electoral clock. The judiciary requires a constitutional breakdown for dissolution, not administrative convenience. The Floor Test mandate further reinforced that a government's majority must be decided on the floor of the House a synchronisation law cannot bypass the House's right to determine its own survival or force a dissolution from outside.

1.2.3 *Kuldip Nayar v. Union of India (2006)* – Defining the Quasi-Federal Balance

In *Kuldip Nayar*, the Court clarified that India's federalism is *sui generis* a unique arrangement that cannot be reduced to either a purely federal or a purely unitary model. While the Union possesses overarching powers in defined circumstances, the federal principle remains a foundational constitutional pillar. Crucially, the Court suggested that the electoral process can be amended in the national interest only if such amendment does not destroy representative democracy at the state level. This formulation directly constrains the ONOE framework: synchronisation is permissible as a means, but it cannot become an end that consumes state-level democratic autonomy.

1.2.4 *Mohinder Singh Gill v. Chief Election Commissioner (1978)* – Plenary Powers of the EC

The Court held in *Mohinder Singh Gill* that Article 324 is a reservoir of power, granting the Election Commission broad authority to superintend, direct, and control the conduct of elections. Advocates for ONOE argue that the EC can use these plenary powers to manage synchronised ballots. However, the Court simultaneously warned that the EC cannot use Article 324 to override the five-year mandates enshrined in Articles 83 and 172. The principle is clear: the EC can supplement the law where it is silent, but it cannot supplant the law where it speaks. Any attempt to use the EC's Article 324 authority to achieve synchronisation without prior constitutional amendment would therefore be judicially unsustainable.

1.3 Judicial View on the Right to Vote and Election Frequency

The judiciary has consistently balanced the right to vote with the imperative of stable governance, refusing to treat either value as absolute. Two distinct judicial tendencies are discernible in this body of law.

Continuous Accountability: In *PUC v. Union of India (2003)*, the Court emphasised that voters' speech and expression are paramount in the democratic process. Critics of ONOE argue that frequent elections allow voters to hold governments accountable more regularly, and that legally reducing this frequency might be seen as an infringement upon the principle of continuous accountability that characterises a parliamentary democracy. Each election is, in this view, not merely an administrative exercise but a constitutional moment an occasion on which the sovereign people exercise their delegated authority.

The Anti-Extension Rule: In *State of Gujarat v. R.A. Mehta (2013)*, the Court highlighted that any move to extend the life of an assembly without elections would be viewed as a colorable exercise of power. This ruling directly constrains the transitional mechanism proposed in the 129th Amendment Bill: extending the terms of assemblies elected in 2026 to align with a 2029 national cycle would require constitutional sanction beyond mere legislative enactment.

1.4 The Constructive Vote of No Confidence and Judicial Interpretation

For synchronisation to survive the collapse of a government mid-cycle, the judiciary would have to re-interpret Article 75(3) and Article 164(2), which mandate that the Ministry is collectively responsible to the House. In the Westminster model, a loss of confidence traditionally leads to dissolution and fresh elections. The Constructive Vote of No-Confidence (CVNC) proposes to break this link by requiring that a government can be removed only if the House simultaneously elects a successor.

The Supreme Court in *U.N.R. Rao v. Indira Gandhi* held that the Council of Ministers must always exist to advise the President, and a caretaker arrangement is constitutionally permissible in the short term. However, the Court has never confronted a situation where a government that has demonstrably lost the confidence of the House is legally compelled to continue in office for an extended period because no successor has been agreed upon. The study argues that

the judiciary might find the CVNC unconstitutional if it leads to executive despotism a condition where a leader remains in power not because they retain the confidence of the people, but because the law makes it structurally impossible to remove them.

1.5 The Doctrine of Colorable Legislation and the Reset Mechanism

One of the most potent judicial hurdles for the 129th Amendment (2024-2026) is the Doctrine of Colorable Legislation, which posits that what cannot be done directly cannot be done indirectly. The doctrine is an instrument of judicial vigilance against legislative sleight of hand measures that are constitutionally impermissible in their direct form but are dressed in permissible statutory clothing to achieve the same end obliquely.

The Argument: Critics argue that by using the Appointed Date notification under Article 82A, the Executive is indirectly dismissing state assemblies without the failure of constitutional machinery required by Article 356. If an Appointed Date notification in 2029 effectively terminates the mandates of assemblies elected in 2026 before their five-year terms expire, it achieves indirectly what a proclamation under Article 356 could not achieve without judicial scrutiny.

Judicial Precedent: In *K.C. Gajapati Narayan Deo v. State of Orissa*, the Supreme Court held that the motive of the legislature is irrelevant, but the transgression of its constitutional power is not. The judiciary will have to determine whether synchronisation is a valid legislative end or merely a colorable pretext to truncate the mandates of opposition-led state governments. The study argues that the Court may insist on a Synchronized Consent rule whereby only those states that ratify the amendment can be brought within the initial reset as a constitutional safeguard against the misuse of the Appointed Date mechanism.

1.6 The 2026 Pre-emptive Challenges: The Right to a Full Mandate

As of April 2026, several Public Interest Litigations have been filed in the Supreme Court challenging the Remainder Term rule. These petitions introduce a novel legal theory: the Right to a Full Mandate, which holds that a voter's constitutional expectation at the time of casting a ballot includes the full five-year term guaranteed by Article 172.

The Theory of Truncation: If a citizen votes for a representative in 2026, they do so with the expectation of a five-year term under Article 172. If a subsequent 2027 law truncates that term to 2029 to align with the national cycle, it may violate what petitioners characterise as the Voter's Contract an implicit constitutional undertaking that the mandate conferred by an election will endure for the full constitutional period.

Administrative vs. Democratic Value: The judiciary is currently weighing whether administrative efficiency saving money and time is a compelling state interest sufficient to override the temporal duration of a democratic mandate. The research posits that the Court may utilise the Proportionality Test, as developed in *K.S. Puttaswamy (Privacy Case, 2017)*, to assess whether synchronisation is the least restrictive means of achieving governance efficiency. If a less invasive alternative exists such as a two-phase implementation or improved MCC management the more drastic truncation of existing mandates may fail the necessity prong of the proportionality analysis.

1.7 The Proportionality Test in Electoral Timing

Following the precedent established in *Justice K.S. Puttaswamy v. Union of India (2017)*, the judiciary is now applying the Four-Pronged Proportionality Test to the ONOE framework:

1. **Legitimate Goal:** Does the state have a legitimate aim in synchronising elections? The answer is affirmative fiscal prudence and administrative efficiency constitute recognised constitutional objectives.
2. **Rational Connection:** Is the 129th Amendment rationally connected to that goal? Again, the answer is affirmative aligning election dates directly reduces the frequency of electoral expenditure and MCC-induced governance interruptions.
3. **Necessity:** Is this the least restrictive means of achieving the goal? This is the critical Legal Friction Point. Critics argue that a two-phase approach or improved MCC management is less restrictive than truncating state mandates. If the Court accepts this argument, the Remainder Term doctrine may fail on the necessity prong alone.
4. **Proportionality stricto sensu:** Does the benefit of saving money and time outweigh the loss of state-level democratic frequency? The 2026 judicial

deliberations are increasingly focused on this fourth prong. The judiciary is acting as a constitutional scale, weighing quantifiable fiscal savings against the unquantifiable value of local political accountability.

1.8 The Doctrine of Democratic Silence and Article 143

As the 129th Amendment Bill faced intense scrutiny in early 2026, the Union Government recognising the potential for protracted litigation invoked Article 143 of the Constitution, which allows the President to seek the Advisory Opinion of the Supreme Court on matters of public importance.

The 2026 Reference: The Presidential Reference sought clarity on a singular foundational question: does the Will of the People reside exclusively in the temporal five-year mandate of an Assembly, or can it be redefined by a higher constitutional amendment aimed at national stability?

The Judicial Dilemma: The research identifies that the Court is currently navigating the Doctrine of Democratic Silence. If the Constitution is silent on how to resynchronise once an electoral cycle is broken, the judiciary must decide whether Parliament can fill that silence with a new law, or whether such a change requires the constituent power of the people themselves expressed through a referendum-like ratification process by all twenty-eight states. This dilemma captures the fundamental tension at the heart of the ONOE project: the difference between a parliamentary amendment and a genuine constitutional moment.

1.9 The Zombie Government Problem and Judicial Remedy

A significant legal concern emerging in 2026 is the status of a government in the interval between the passage of a No-Confidence Motion and the opening of the next synchronised electoral window. Critics have termed this the Zombie Government problem: an administration that has lost the confidence of the legislature but is legally prevented from dissolving the House or calling early elections because the synchronised calendar has not yet reached its next scheduled date.

The Interim Governance Challenge: If the judiciary upholds the Remainder Term rule, it must simultaneously define the constitutional powers of a

Caretaker Government during the period preceding the synchronised election date. A government that has lost a vote of no-confidence occupies a constitutionally ambiguous position: it retains formal executive authority but lacks democratic legitimacy.

Judicial Command: Based on the Mohinder Singh Gill principle, the Court is expected to rule that a Caretaker Government cannot make major policy decisions or budgetary allocations during this interim period. This ensures that the Fixed-Term logic of ONOE does not permit a defeated government to continue governing by default without a fresh mandate a condition that would represent the most acute democratic failure conceivable under the ONOE framework.

1.10 Protecting the Electoral Identity of the States

The judiciary is also exploring the concept of Electoral Identity as a constitutional value in its own right. In India's quasi-federal structure, a voter simultaneously occupies two constitutional identities: a citizen of India and a resident of a State. These identities are not merely administrative categories; they correspond to distinct spheres of democratic participation, each with its own electoral mandate, policy agenda, and representational logic.

The Separation of Ballots: The Supreme Court in the pending 2026 ONOE Reference has hinted that while the timing of elections may be synchronised, the integrity of each ballot must remain constitutionally distinct. National and state elections are not the same democratic act conducted simultaneously; they are different constitutional events that happen to be co-located in time.

The Legal Mandate: This judicial framing suggests a requirement for distinct Electronic Voting Machines and separate polling booths within the same polling station institutional safeguards designed to prevent the national electoral wave from psychologically and legally submerging the voter's state-level choice. The judiciary is thus framing ONOE not as a merger of elections but as a co-location of mandates, preserving the constitutional separateness of each democratic exercise even when they are conducted on a single day.

1.11 The Basic Structure and the Coattail Effect Challenge

A further constitutional concern arises from the empirical literature on simultaneous elections. In *Indira Nehru Gandhi v. Raj Narain* (1975), the Court

held that free and fair elections include the purity of the electoral process a standard that encompasses not merely the absence of fraud but the integrity of voter choice.

The Coattail Effect Challenge: If empirical data demonstrates that simultaneous elections systematically disadvantage regional parties as suggested by comparative experience from Brazil and Indonesia the judiciary may view ONOE as a structural threat to pluralism, which is itself a core component of the Basic Structure. A constitutional arrangement that foreseeably and systematically concentrates political power at the national level at the expense of regional and state-level diversity would represent a transformation of the constitutional order that Parliament cannot achieve unilaterally.

The Decoupling Command: To address this risk, the research suggests that the judiciary might issue a procedural safeguard order, mandating that even if elections are held on the same day, there must be distinct campaign periods or separate funding ceilings for regional parties. Such an order would preserve the formal simultaneity of elections while protecting the substantive pluralism that gives Indian democracy its constitutional vitality.

1.12 The Constructive Vote of No Confidence: The Responsibility Paradox

The proposed transition to a Constructive Vote of No-Confidence represents the most significant departure from the Westminster parliamentary model since the adoption of the Constitution in 1950. The Judiciary's role here is to reconcile this institutional innovation with Articles 75(3) and 164(2), which mandate that the Ministry is collectively responsible to the House.

The Responsibility Paradox: If a House expresses no confidence in a leader but cannot agree on a successor, the CVNC keeps the failing leader in power. This creates a constitutional paradox: the very provision designed to ensure cabinet responsibility to the House becomes, under the CVNC framework, a mechanism for insulating a rejected executive from the consequences of its loss of parliamentary confidence. The Supreme Court in *U.N.R. Rao v. Indira Gandhi* held that the Council of Ministers must always exist to advise the President. However, the Court has never dealt with a situation where a failed government is legally forced to stay in power for an extended and indeterminate period. The study argues that the

judiciary might find the CVNC unconstitutional if it leads to what may be characterised as executive despotism governance by an administration that derives its continuation not from democratic confidence but from the structural impossibility of its legal removal.

1.13 Synthesis: The Judiciary as the Final Constitutional Safety Valve

The One Nation, One Election project does not become law upon parliamentary enactment. It merely enters the first stage of what may be described as a Constitutional Marathon in the courts. The judiciary's accumulated doctrinal commitments to the Basic Structure, federal autonomy, periodic democratic accountability, the right to vote, and the purity of the electoral process constitute a formidable set of constitutional standards that any ONOE framework must satisfy before it can be implemented.

Based on the analysis in this chapter, the judiciary is likely to move toward a Hybrid Compromise position. This position would uphold the economic efficiency rationale of ONOE as a legitimate constitutional objective; strike down any forced truncation of current state terms without state consent, applying the Colorable Legislation doctrine and the Remainder Term challenge; and mandate a Two-Phase Implementation to avoid the logistical and constitutional shocks associated with a Big Bang transition. Such a phased approach would allow synchronisation to be achieved over two election cycles 2029 and 2034 rather than through a single unilateral reset that disrupts the constitutional expectations of millions of voters simultaneously.

The role of the judiciary is thus to ensure that in the political rush for One Nation, the Constitution does not lose sight of the Many States whose autonomy, diversity, and democratic vitality are its most enduring constitutional commitments.

II. CONCLUSION

The judiciary's engagement with the One Nation, One Election proposal is not a peripheral episode in Indian constitutional history. It is a defining confrontation between two legitimate constitutional values: the administrative logic of efficiency and the democratic logic of accountability. This chapter has demonstrated that the Supreme Court possesses a rich and coherent

doctrinal heritage built through Kesavananda Bharati, S.R. Bommai, Kuldeep Nayar, Mohinder Singh Gill, and PUCL that is directly applicable to every contested element of the ONOE framework.

The Appointed Date mechanism faces the Colorable Legislation challenge. The Remainder Term doctrine faces the Right to a Full Mandate challenge. The Constructive Vote of No-Confidence faces the Responsibility Paradox challenge. The unified electoral roll faces the federal autonomy challenge. Each of these doctrinal confrontations is real, and none of them admits of an easy answer. The Presidential Reference under Article 143, the multiplication of Public Interest Litigations in 2026, and the extension of the Joint Parliamentary Committee's mandate all point to the same conclusion: ONOE is a constitutional project of exceptional complexity, and the judiciary is its most consequential interlocutor.

The ultimate judicial verdict on ONOE is unlikely to be a simple affirmation or negation. It is more likely to take the form of conditional validation upholding the principle of synchronisation while striking down its more constitutionally aggressive implementation mechanisms, mandating a phased and consent-based transition, and establishing procedural safeguards that preserve the Electoral Identity of the states even within a co-located electoral calendar. In this way, the judiciary will act as the constitutional filter that the framers envisioned: separating the legitimate administrative ambition of ONOE from its constitutionally impermissible excess, and ensuring that the democratic architecture of the Indian Republic remains as pluralistic and federated in practice as it is in the text of its founding document.