

AN ANALYSIS ON ‘ONE NATION, ONE ELECTION’ POLICY IN INDIA: IS IT THE NEED OF THE HOUR?¹

INTRODUCTION

While the financial and business sector has seen the advent of GST with the tagline ‘One Nation, One Tax’ and the educational sector has seen the ‘One Nation, One Curriculum’ it can be perceived that all new initiatives of the Government aim at the oneness and homogeneity of the country. The ‘One Nation, One Election’ is a policy framework intended to bring a regular, predictable nation-wide uniform schedule for elections, and a nation-wide poll for all tiers of governments – national, state and local – at the same time. The need for having coordinated elections to the House of the People (Lok Sabha) and State Legislative Assemblies has been debated for long.

The issue gained momentum with the matter coming into the limelight at various forums of the Government. Such a need for simultaneous elections in India has recently been felt in a more profound and real-time fashion as elections have become a big budget affair and expenditures by the candidates are often exceeding the ceiling fixed by the Election Commission of India. Hence, it becomes imperative to delve deep into this topic and get an insightful understanding about the scope of simultaneous elections, their pros and cons and whether it would suit the Indian sub-continent.

HISTORICAL BACKGROUND, RELEVANCE, MERITS AND DEMERITS OF SIMULTANEOUS ELECTIONS

The term ‘simultaneous elections’ does not refer to holding elections across the whole of India on a single day. In a vast country like ours, polling on the same day is a logistical nightmare. The Election Commission of India has successfully been conducting elections in a phased manner, which will continue even if simultaneous elections happen. The meaning of ‘simultaneous elections’ is that when the voter casts his vote – he will vote for candidates contesting to the Lok Sabha and his State Legislative Assembly on the same day. A voter enters into the polling booth and casts his vote two times, for two different reasons – one to elect the candidate of Assembly Constituency and another to elect the candidate of the

¹ Aishwarya Lakshmi VM, School of Excellence in Law (SOEL), The Tamil Nadu Dr. Ambedkar Law University, Chennai.

Parliamentary Constituency, both falling within the same area as proposed by the delimitation of constituencies.

Historical Background

The general elections for the Lok Sabha and the House of the People were held simultaneously for four times viz. in the years 1951 – 1952, 1957, 1962 and 1967. However, due to dissolution of certain State Assemblies in 1968 and 1969 followed by the dissolution of House of the People in 1970 and subsequent general elections in 1971, the cycle of simultaneous elections was disrupted. The declaration of emergency and the subsequent events ensured further distortions in the erstwhile synchronized election.

Synchronized elections for the first two decades were a reality because of the dominance of one national party. One of the main reasons which contributed towards the downfall of the national party was the indiscriminate use of the emergency provisions. Regional parties started emerging much later. Now, they have made a mark in Indian polity not only in terms of the number of parties but also in terms of influencing the results and being the kingmakers.

Considering the fact that the country is in continuous election mode and that somewhere or the other elections are being held constantly – the scope of reinventing the past by restarting simultaneous elections is now considered by the Government.

Relevance of Simultaneous Elections

The idea of simultaneous elections which, in effect, meant restoration of the earlier practice of holding such elections was floated by ECI in 1983. The Law Commission of India in its 170th Report on “Reform of Electoral Laws” (1999) recommended holding simultaneous elections as a part of electoral reforms. In 2012, one of the senior leaders of Bharatiya Janata Party, suggested to have simultaneous elections. In 2015, the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice in its 79th Report suggested to hold simultaneous elections for long term good governance. In January 2017, NITI Aayog prepared a working paper titled “Analysis of Simultaneous elections: the What, Why and How” in which proposal to conduct elections to the House of the People and the State

Legislative Assembly, simultaneously was deliberated upon. Thus, in today's context this topic assumes major relevance.

Merits of Simultaneous Elections

1. Reduction in costs:

Both the State and the political parties incur excessive expenditure due to elections. The exchequer is burdened with continuous election expenses, essentially defrayed from the treasury, when the country is continuously in an election mode. A cost-benefit analysis favors the implementation of the simultaneous elections.

2. Increased Voter Turnouts:

Higher voter turnout portrays an enhanced civic sense and helps participative democracy to flourish. A study by Shackel & Dandoy shows that the simultaneity effect indeed has a significant positive impact on voter turnout.² Further, Nikolenyi's study³ deploys the Riker Ordeshook Model⁴ to demonstrate that simultaneous elections indeed lead to increased voter turnout.

The formula for the model is as follows:

$$pB+D > C$$

Where, 'p' = probability that the act of the individual's vote will decide the outcome of the election;

'B' = benefit of the voter's favoured candidate being elected;

'D' = stands for any other benefit from voting, such as the sense of fulfilling a particular duty;

And 'c' = the cost of voting.

² Arjan H. Schakel & Régis Dandoy, *Electoral Cycles and Turnout in Multilevel Electoral Systems*, West European Politics, 37:3, 605-623 (2014).

³ Csaba Nikolenyi, *Concurrent Elections and Voter Turnout: The Effect of Delinking of State Elections on Electoral Participation in India's Parliamentary Polls, 1971-2004*, 58(1) Political Studies Association (2010).

⁴ W. Riker and P. Ordeshook, *A Theory of the Calculus of Voting*, 62(1) American Political Science Review 25-42 (1968).

North-eastern states in India have seen an augmented voter turnout when simultaneous elections were held thus confirming the above said political studies.⁵

3. *Shortened Model Code of Conduct:*

The Model Code of Conduct (MCC) is a set of guidelines applicable to political parties, candidates, election machinery and the Government agencies to ensure free and fair elections. As the Niti Aayog study adduces, in the most recent 2014 general elections, “governance and developmental activities due to imposition of Model Code remained largely suspended for about 7 months: 3 months across the country and about 2 months in Jharkhand & J&K and another 2 months in Maharashtra and Haryana.”⁶

The imposition of MCC puts on hold the entire development programme and activities of the Union and State Governments in the poll bound State. It even affects the normal governance. Frequent elections lead to imposition of MCC over prolonged periods of time. This often leads to policy paralysis and governance deficit.⁷

4. *Ease in logistical arrangements:*

Separate elections entail deployment of forces and manpower. For instance, teachers and government employees are often deployed as polling officers. However, if the elections are synchronized there will be lesser disruption in general public life.

5. *Promotes Free and Fair Election:*

Individual voter allurements by promising freebies shakes the root of free and fair democratic elections.⁸ Synchronized elections will reduce individual voter allurements and will focus more on national interest and benefit to the public at large. Simultaneous elections would

⁵ Sai Manish, One Nation, One Election: Why Modi govt wants to go for simultaneous polls, Business Standard, available at http://www.business-standard.com/article/current-affairs/one-nation-one-election-whymodi-govt-wants-to-go-for-simultaneous-polls-118012500184_1.html (Last visited on 02.12.2019).

⁶ Niti Aayog (Bibek Debroy and Kishore Desai), *Analysis of Simultaneous elections: The “What”, “Why” and “How”*: A discussion Paper, available at http://niti.gov.in/writereaddata/files/document_publication/Note%20on%20Simultaneous%20Elections.pdf (Last visited on 02.12.2019).

⁷ Parliament of India, Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, Seventy Ninth Report: *Feasibility of Holding Simultaneous Elections to the House of People (Lok Sabha) and State Legislative Assemblies* (December 2015).

⁸ *S. Subramaniam Balaji v. Government of Tamil Nadu & Ors.*, (2013) 9 SCC 659.

reduce the role of black money in election funding since political parties will not be tempted to resort to illegal source of funding for elections.⁹

Demerits of Simultaneous Elections

1. Rise of Autocracy:

In a democratic country like India, implementation of simultaneous elections will lead to centralization of power in the hands of the national parties. Regional parties, predominantly based on geography, linguistic grounds etc. will begin to lose their importance. National parties will gain a majority in the Center and States, thus making it easier to amend the Constitution. This can also lead to the rise of autocracy and may also adversely affect the basic structure of the constitution. It will be an advantage to the national parties over regional or local parties and national issues might eclipse the local ones.¹⁰

2. Literacy of the Electorate:

An informed citizenry is essential for appropriate voting. Considering the literacy level in India and an understanding of the political masses by the grass-root masses, it would not be uncommon if the voter does not know the difference between the candidate for the Lok Sabha and the candidate for the State Legislative Assembly. Having simultaneous elections will be right only if we achieve absolute literacy and only if the citizens are appropriately informed.

3. Requirement of EVMs:

Under the present staggered polls system, the same EVMs i.e., Electronic Voting Machines are used in different states. Simultaneous elections will entail the requirement of more Electronic Voting Machines for which capital costs will be incurred. Incremental requirement of EVMs gives rise to another problem regarding their storage. The ECI has stated that there is already a shortage of warehousing facilities and many States and UTs are

⁹ Law Commission of India, Public Notice, Simultaneous Election – Constitutional and Legal Perspectives, (April 17, 2018) ¶2.29.

¹⁰ Available at <https://www.firstpost.com/india/simultaneous-elections-in-india-hard-to-see-any-benefits-but-list-of-drawbacks-continues-to-grow-4332007.html> (Last visited on 02.12.2019).

forced to store the EVMs in private buildings and educational institutions. There will be a demand for more number of secured and conveniently located warehouses.¹¹

4. *Massive Constitutional Re-engineering:*

For the implementation of the One Nation, One Election policy in India there has to be a massive constitutional re-engineering. This will require the ratification of the state governments as well. Also, this re-arrangement must pass through the litmus test of constitutional validity in the temples of the Apex Court.

This constitutional re-engineering might also lead to a situation where certain State Assemblies have to abruptly shorten their tenure or unwarrantedly extend their tenure. There is no satisfactory solution for such a situation.

5. *Defection Laws as a challenge:*

One of the main questions to be addressed in the implementation of the simultaneous elections is the case of a hung parliament. The concept of constructive confidence votes is recommended by the Law Commission of India. This essentially means that the members should not only post 'no confidence votes' against one political party but should also post confidence votes against another political party. This is done to ensure the stability of the tenure in both the Houses. However, this will amount to defection as per the Tenth Schedule of the Constitution of India. Hence, the existing defection laws should be scrapped out completely or amended accordingly by including this as an exceptional arrangement for defection.

CONSTITUTIONAL RE-ENGINEERING AND CHALLENGES AHEAD

The Constitution of India envisages that the tenure for the Lok Sabha is five years¹² and that the tenure for the State Legislative Assemblies is also five years.¹³

Earlier, the 170th Law Commission Report had *inter alia* suggested:¹⁴

¹¹ Law Commission of India, Public Notice, Simultaneous Election – Constitutional and Legal Perspectives, (April 17, 2018) ¶2.14.

¹² Art.83(2), Constitution of India, 1950.

¹³ Art.172(1), Constitution of India, 1950.

- Advancing the elections of some Legislative Assemblies by making necessary orders so that it can be held with the election of Lok Sabha;
- The elections to other Legislative Assemblies may be held by making similar adjustments in phases with a view to reducing its frequency until the desired goal of one election for Lok Sabha and to all the Legislative Assemblies simultaneously is achieved;
- If all the political parties co-operate, the necessary steps can be taken without hurting the interest of any political party;
- May be, a constitutional amendment can solve the problem. Such an amendment can also provide for extending or curtailing the term of one or more Legislative Assemblies say for six months or so wherever it is necessary to achieve the said goal.
- If feasible, more appropriate solution may be to hold elections to Lok Sabha/ Legislative Assemblies simultaneously but to withhold the results of elections till after the expiry of term of the Legislative Assembly concerned - the interval not exceeding six months.

However, after the judgment of the Apex Court in *S. R. Bommai v. Union of India*,¹⁵ and after the introduction of Anti Defection Laws – changing the tenure of the state legislative assemblies at the whims and fancies of the Parliament is not permissible.

The 79th Standing Committee has given several alternative measures such as –

- Holding a two phased simultaneous election, one with the beginning of the tenure of the Lok Sabha and another during the mid-term of the Lok Sabha;
- Taking note of the Fixed Term Parliaments Act, 2011, of The United Kingdom, recommends that early election to Lok Sabha and State Legislative Assemblies can only be held prior to expiration of their tenure either if the assembly dissolves prematurely or a no-confidence motion is passed.
- Bye-elections to all seats falling vacant in a particular year shall be conducted together on a pre-determined date/ time frame.

Chapter 12 of the Public Notice of the Law Commission of India has suggested several constitutional amendments. These amendments inter alia include,

¹⁴ Law Commission of India, Reforms of the Electoral Laws, Report No. 170, (29 May, 1999).

¹⁵ AIR 1994 SC 1918.

- Curtailing or extending the tenure of the State Legislative Assembly,
- Inclusion of the concept of constructive vote of no-confidence,
- Tackling hung parliament by giving an opportunity to the largest party pre-poll or post-poll alliances or by calling for an All-Party meet to tide over the stalemate,
- Taking maximum measures to ensure that there is no budgetary defeat etc.

However, if all of the above mentioned options fail, the Report itself states that mid-term polls become inevitable.

Further, these amendments might be put to the BSD (Basic Structure Doctrine) Test. Democracy is a part of the basic structure of our Constitution; and rule of law and free and fair elections are basic features of democracy.¹⁶ Federalism has categorically been laid down to be a basic structure.¹⁷ Also, the Law Commission's Public Notice has based its premise on the argument that the Indian Constitution is more unitary in nature which is bound to be rejected in the light of the *Keshavanandha Bharati* case. If not a strikingly federal Constitution, ours is at the least a quasi-federal constitution. Autonomy to the states is given not only in terms of legislative competence for matters enumerated in List II of Schedule VII of the Constitution of India but also for establishing the identity of a particular state.

DOES INDIA REALLY NEED 'ONE NATION ONE ELECTION'?

Oneness—imposing homogeneity—is inherently in conflict with autonomy and plurality. Uniformity conflicts with choice. A policy as simple as imposing Hindi as a “national” language in non-Hindi-speaking States, a top-down, centralising policy smacking of north Indian chauvinism, is sure to backfire and lead to regional chauvinistic backlash in non-Hindi-speaking States, especially those of the south and east whose languages are not cognate.¹⁸

Political multiplicity is an icing on the cake of India's diversity. We are far more likely to foster secessionist sentiments if we attempt to dictate to the States from the centre, whether on economic or on social and cultural policy. A “one nation, one ___” (fill in the blank with

¹⁶ *Kihoto Hollohan v. Zachillu*, AIR 1993 SC 412.

¹⁷ *Keshvanandha Bharati v. State of Kerala*, AIR 1973 SC 1461.

¹⁸ Praveen Chakravarty and Vivek Dahejia, Policy Watch No.5, The Hindu Centre for Politics and Public Policy, 10.08.2017, available at <https://www.thehinducentre.com/publications/policy-watch/article9808532.ece> (Last visited on 02.12.2019).

the policy domain of your choice) is anachronistic to the diverse reality of contemporary India.¹⁹

Prof. Shibban Lal Saksena in the Constitutional Assembly Debates had rightly pointed out that “It is quite possible that the elections to the various Legislatures in the provinces and the Centre will not be all concurrent. Every time some election or other will be taking place somewhere. It may not be so in the very beginning or in the very first five or ten years. But after ten or twelve years, at every moment some election in some province will be going on.in our Constitution all the elections will not synchronize but they will be at varying times in accordance with the vote of no-confidence passed in various Legislatures and the consequent dissolution of the Legislatures.”²⁰

There is still much that is wrong with our nation in its governance and elections. But disparate elections to States and Parliament are not one of them. There is much to improve in terms of efficiency of our governance. But “oneness” is not the desired path to efficiency in a diverse polity such as India.²¹

CONCLUSION

Considering all the above submissions, the author of this short article is of the considerate view that though ‘One Nation One Election’ is a policy that would further fiscal thrift and facilitate uninterrupted governance, the largest democracy and second most populous country in the world is bound to face several contingencies wherein this policy would fail. Simultaneous elections are prevalent in several democracies. However, their feasibility in India has to be reconsidered in terms of the humongous population, parliamentary structure and political atmosphere. Any massive constitutional re-engineering, employing the efforts of the legislators, that would lead to a failure and would require the restoration of the *positio priori* is only a squander of time and energy. Rather than experimenting something which is typically not the need of the hour, knowing that the chances of the implementation of this policy is only a partial probability for success, the Government can focus on better electoral reforms.

¹⁹ *Ibid.*

²⁰ Constituent Assembly Debates, Vol. VIII, 15th June 1949.

²¹ Praveen Chakravarty, *The one-election idea is a farce*, available at <http://www.thehindu.com/opinion/oped/the-one-election-idea-is-a-farce/article21261615.ece> (Last visited on 02.12.2019).