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ONE NATION ONE ELECTION: AN EVALUATION OF ITS APPLICABILITY IN THE INDIAN POLITICAL LANDSCAPE

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ABSTRACT

The recent initiative by the Modi administration to establish a high-level committee tasked with proposing recommendations regarding the implementation of concurrent national and subnational elections in India has ignited a firestorm of political debate. This endeavor represents an attempt to revive the archetypal framework of synchronous Lok Sabha and state assembly polls—a practice that was disrupted by the untimely dissolutions of state assemblies in 1968 and 1969. This article delves into a critical analysis of whether the implementation of synchronized elections, achieved by any means necessary, constitute an infringement upon democratic principles, the fundamental framework of the Constitution, or the federal character of the nation? This article also considers the recent paradigm shifts within the Indian political landscape and examines the continued applicability of the “pristine constitutional paradigm envisioned by our forefathers.”

INTRODUCTION

On 2nd September 2023, the central government set up a high-level committee (‘HLC’) under former President Ram Nath Kovind to examine the possibility of holding Lok Sabha and state assembly elections together. A gazette notification presented the mandate of the committee.³ It said that “elections to the House of the People and Legislative Assemblies of States were mostly held simultaneously from 1951-52 to 1967, after which this cycle broke and now, elections are held almost every year, which result in massive expenditure by the government, diversion of security forces and other electoral officers engaged in such elections from their primary duties for significantly prolonged periods, disruption in developmental work on account of prolonged application of Model Code of Conduct, etc.”⁴ The notification backed the need to rewind to 1967 by citing the 170th Report by the Law Commission of India, which said that “We must go back to the situation where the elections to the Lok Sabha and all the Legislative Assemblies are held at once. The holding of a separate election to a Legislative Assembly should be an exception and not the rule.”⁵

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³ Department of Legislative Affairs, *Publication of Notification regarding Constitution of High-Level Committee to examine the issue of simultaneous elections*, THE GAZETTE OF INDIA (Sep. 02, 2023), [https://egazette.gov.in/\(S\(sqpyfxwkj3gxsle5mm5csj3f\)\)/ViewPDF.aspx](https://egazette.gov.in/(S(sqpyfxwkj3gxsle5mm5csj3f))/ViewPDF.aspx).

⁴ *Id.* at 4.

⁵ FIFTEENTH LAW COMMISSION, REFORM OF THE ELECTORAL LAWS, LAW COMMISSION OF INDIA ONE HUNDRED SEVENTIETH REPORT (1999), <https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022082424.pdf>.

The One Nation, One Election Policy (‘the policy’) is a matter of high political significance as it impacts elections—the root of any democratic institution. This policy has been on the BJP’s manifestos of the 2014 and 2019 general elections,⁶ but has been on the agenda of their leaders since 2010.

The HLC is not the first committee to be set up for this purpose. There has been a substantive amount of government documentation upon this subject—such as that of the 1983 Election Commission Report,⁷ the 170th Law Commission Report,⁸ the Venkatachalliah Commission Report of 2002,⁹ the 255th Law Commission report,¹⁰ the 79th PSC Report of 2015,¹¹ and the NITI Aayog’s Working Paper of 2017.¹² However, the most comprehensive government document produced upon this subject is the 2018 Draft Report of the Law Commission of India (‘the report’).¹³ This report takes all the above-mentioned reports into account, along with case laws, global policies, and their dynamics. For the purpose of this article, the author will focus primarily on this report due to its contemporary relevance and expansive coverage upon the subject matter.

⁶ Bharatiya Janata Party, *Ek Bharat Shreshtha Bharat (Election Manifesto 2014)*, BJP E-LIBRARY (2014), https://library.bjp.org/jspui/bitstream/123456789/252/1/bjp_lection_manifesto_english_2014.pdf; Bharatiya Janata Party, *Sankalp Patra (Election Manifesto 2019)*, BJP E-LIBRARY (2019), <https://library.bjp.org/jspui/bitstream/123456789/2988/1/BJP-Election-english-2019.pdf>.

⁷ ELECTION COMMISSION OF INDIA FIRST ANNUAL REPORT 1983 (Apr. 1984), https://legallaffairs.gov.in/sites/default/files/simultaneous_elections/ECI_FIRST_ANNUAL_REPORT_1983.PDF.

⁸ FIFTEENTH LAW COMMISSION, *supra* note 3.

⁹ NATIONAL COMMISSION TO REVIEW THE WORKING OF THE CONSTITUTION, REVIEW OF THE WORKING OF THE CONSTITUTION (VOLUME I) (Mar. 2002), <https://onoe.gov.in/reports/NCRCW.pdf>.

¹⁰ TWENTIETH LAW COMMISSION, ELECTORAL REFORMS, LAW COMMISSION OF INDIA REPORT NO. 255 (Mar. 2015),

<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022081635.pdf>.

¹¹ PARLIAMENTARY STANDING COMMITTEE, FEASIBILITY OF HOLDING SIMULTANEOUS ELECTIONS TO THE LOK SABHA AND THE RAJYA SABHA, DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON PERSONNEL, PUBLIC GRIEVANCES, LAW AND JUSTICE SEVENTY-NINTH REPORT (Dec. 17, 2015),

https://legallaffairs.gov.in/sites/default/files/simultaneous_elections/79th_Report.pdf.

¹² Bibek Debroy & Kishore Desai, *Analysis of Simultaneous Elections: The “What”, “Why” and “How”*, ONE NATION ONE ELECTION (2017), chromeextension://efaidnbmninnibpcapjpcglefindmkaj/https://onoe.gov.in/reports/Note_on_Simultaneo_3226067a.p df.

¹³ TWENTY-FIFTH LAW COMMISSION, DRAFT REPORT ON SIMULTANEOUS ELECTIONS (Aug. 30, 2018), chromeextension://efaidnbmninnibpcapjpcglefindmkaj/https://legallaffairs.gov.in/sites/default/files/simultaneous_elections/LCI_2018_DRAFT_REPORT.pdf.

UNINTENDED MELODIES

A cacophony of perspectives plagues the discourse surrounding the viability and desirability of implementing simultaneous elections. Detractors vehemently contend that such a reform impinges upon the sacrosanct principles of democracy and federalism, meticulously enshrined within the constitutional framework. To ascertain whether the simultaneous execution of elections demonstrably transgresses these foundational tenets, or conversely, merely represents a permissible modification of the constitutional edifice and its concomitant federal architecture, a rigorous and analytical examination is imperative.

The principal contention levied against the policy centers around its potential to undermine the salience of regional political parties. Annexure VI of the report ('Proceedings of the Consultation with Political Parties') disseminates the divergent perspectives expressed by distinguished parliamentarians. Notably, ten out of twenty-one delegations voiced their dissent towards the policy, the majority of which cited the policy's catastrophic impact on regional issues as a reason. This demonstrates a lack of faith amongst the nation's political stakeholders in the policy's efficacy in addressing the regional concerns articulated by regional representatives.

A LOOK AT STATISTICS

To further substantiate this argument, certain statistics need to be looked at. A report published by the Association for Domestic Reforms analyzes the income of national parties ('NPs').¹⁴ The NPs include:

1. Bharatiya Janata Party,
2. Indian National Congress,
3. Bahujan Samaj Party,
4. Communist Party of India (Marxist),
5. Aam Aadmi Party,
6. National Peoples Party.

¹⁴ Association for Democratic Reports, *Analysis of Income and Expenditure of National Political parties for FY 2022-23*, ASSOCIATION FOR DEMOCRATIC REPORTS (Feb. 28, 2024), <https://adrindia.org/content/analysis-income-andexpenditure-national-political-parties-fy-2022-23>.

A table displaying the gathered information has been provided for the benefit of the readers.

National Party	Total income and expenditure declared by Political Parties, FY 2022-23 (in Rs cr)			
	Total declared Income (A)	Total declared Expenditure (B)	Excess of income over expenditure (A-B=C)	Share of income remaining unspent (C/A*100)
BJP	2360.844	1361.684	999.16	42.32%
INC	452.375	467.135	-14.76	-3.26%
CPI(M)	141.661	106.067	35.594	25.13%
AAP	85.17	102.051	-16.881	-19.82%
BSP	29.27	18.424	10.846	37.06%
NPEP	7.562	6.932	0.63	8.33%
Total	Rs 3076.882 cr	Rs 2062.293 cr	Rs 1014.589 cr	32.97%

A diachronic analysis of the presented financial data reveals a significant disparity in income between the Bhartiya Janata Party (BJP) and its competitors. Notably, the aggregate income of all other parties falls demonstrably short of attaining even half the magnitude of the BJP's earnings. This highlights a potential resource asymmetry within the political landscape, and it has the potential to initiate a cascading sequence of detrimental effects, eroding the very foundations of our democratic edifice.

It could even impinge upon the sacrosanct principle of the 'Basic Structure Doctrine' established in *Kesavananda Bharati*.¹⁵ The data suggests that this asymmetry in resources presents a formidable challenge for financially constrained parties. The political landscape, characterized by a paucity of space for campaigning, further exacerbates this issue by limiting their ability to effectively propagate their ideological tenets and governing aspirations. Consequently, a vicious cycle emerges where limited funds lead to diminished campaigning efficacy, resulting in restricted outreach, reduced awareness, and, ultimately, a decline in voter base and donor support. This further perpetuates the initial financial disadvantage.

The staggered nature of non-concurrent elections offers a strategic advantage to regional parties ('RPs'). RPs can strategically allocate their resource portfolio based on electoral priorities and regional dominance during state and national elections. This approach enables RPs to compete with NPs possessing superior financial muscle, albeit temporarily. To better understand this, let us consider a hypothetical situation. Consider an NP with a budgetary allocation of Rs. 1000. In a scenario of non-concurrent elections, the NP must bifurcate its resources, allocating Rs. 500 to the central elections and the remaining amount across ten states (an average of Rs. 50 per state). This scenario presents a competitive opportunity for an RP with only 5% of the NP's budget. The RP can concentrate its resources within its region of dominance, potentially achieving competitive

¹⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

parity with the NP *despite having a financial disparity*. However, concurrent elections negate this strategic advantage. In such a scenario, the NP can leverage its financial heft to dominate the entire national landscape, effectively eclipsing any investments made by the RP.

This will practically impose single-party dominance—something which is essentially against the Basic Structure Doctrine. In *Kuldip Nayar*,¹⁶ the Supreme court, while dealing with the question of the political party system vis-à-vis democracy, observed that “parliamentary democracy and multi-party system are an inherent part of the basic structure of Indian Constitution. It is political parties that set up candidates at an election who are predominantly elected as “Members of the State Legislatures.”¹⁷ The SC also reiterated the observation in *Kesavananda Bharati* that “a Parliamentary Democracy like ours functions on the basis of the party system. The mechanics of operation of the party system as well as the system of Cabinet Government are such that the people as a whole can have little control in the matter of detailed lawmaking.”¹⁸

The veracity of this assertion is further bolstered by the insights gleaned from Annexure V of the report (‘Summary of Written Representations Submitted by Political Parties’). Within this document, a number of political party delegations have meticulously catalogued their perspectives on the subject matter. Notably, amongst the twenty-six submissions, thirteen entities expressed vehement opposition to the implementation of simultaneous elections, predominantly citing concerns regarding potential constitutional transgressions.

While proponents of the policy argue that mere emergence of new political parties cannot and should not interfere with the primordial constitutional scheme envisioned by our forefathers, a major question arises. Was the pristine nature of simultaneous elections a matter of sheer coincidence? To answer this, we need to go back to the Constituent Assembly Debates. The Constituent Assembly did not discuss the issue of simultaneous elections as such. However, during the discussion on Article 289 of the Draft Constitution, to consider the desirability of having a multi-member permanent Election Commission as against an *ad hoc* body appointed when there is an election on the anvil, Prof. Shibban Lal Saksena stated that “Our Constitution does not provide for a fixed four years cycle like the one in the United States of America. The elections will probably be almost always going on in some province or the other. We shall have about thirty provinces after the states have been integrated. Our Constitution provides for the dissolution of the Legislature when a non-confidence is passed. So, it is quite possible that the elections to, the various Legislatures in the province 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 very (sic.) five or ten years. But after ten or twelve years, at every moment some elections 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.”¹⁹

¹⁶ *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1.

¹⁷ *Id.* at para. 452.

¹⁸ *Kesavananda Bharati*, *supra* note 15, at para. 663.

¹⁹ *Constituent Assembly Debates, Volume 8, 15 Jun 1949*, CONSTITUTION OF INDIA.

A critical analysis of the aforementioned observation reveals two salient points. Firstly, it is evident that the architects of the Constitution did not engage in an exhaustive discourse regarding the implementation of simultaneous elections. This potentially stemmed from their anticipation that, as the political landscape matures, a well-established convention or practice would emerge to address this crucial facet of governance. Secondly, the aforementioned observation suggests that the rarely employed instrument of imposing President's Rule within a state,²⁰ in the event of a vote of no confidence, would likely continue to be exercised with infrequent recourse.

It is also widely acknowledged that numerous administrations have exploited the potent authority enshrined in Article 356 to achieve partisan objectives and suppress burgeoning political opposition. An instance of this has been highlighted later on in the paper. To address this critical issue, an advisory panel under the aegis of the National Commission to Review the Working of the Constitution was established.²¹ This panel was tasked with meticulously scrutinizing the powers vested within this provision. It proffered substantial recommendations aimed at establishing a competent mechanism to curb the potential misuse of Article 356 and ensure that its application aligns with the principles of good governance. However, it is concerning to note that these recommendations have neither been implemented nor been addressed by subsequent governments. This persistent neglect, coupled with the conspicuous lacuna in addressing provisions for hung assemblies—the very rationale behind the defunct simultaneous election cycle—unfortunately paves the way for further exploitation of Article 356.

The solution to this lies with the Sarkaria Commission.²² The Sarkaria Commission considered the issue relating to hung assemblies and suggested a possible guideline for overcoming it. It suggested a uniform method to be followed in the order of preference by the Governor while selecting the Chief Minister when no party has an absolute majority in the Legislative Assembly. The order of preference is as follows:

1. An alliance of parties formed prior to the elections;
2. The largest single party staking a claim to form the government with the support of others, including the 'independents';
3. A post-electoral coalition of parties, with all the parties in the coalition joining the Government; or
4. A post-electoral alliance of parties, with some of the parties in the alliance forming the Government and the others supporting the Government from outside.

<https://www.constitutionofindia.net/debates/15-jun-1949/> (last visited Mar. 06, 2024).

²⁰ INDIA CONST. Art. 356.

²¹ National Commission To Review The Working Of The Constitution, *A Consultation Paper on Article 356 of the Constitution*, DEPARTMENT OF LEGAL AFFAIRS (Mar. 2002), <https://legalaffairs.gov.in/sites/default/files/Article%20356%20of%20the%20Constitution.pdf>.

²² Sarkaria Commission, *Report of the Sarkaria Commission*, INTER-STATE COUNCIL SECRETARIAT (Jan. 1988), <https://interstatecouncil.gov.in/report-of-the-sarkaria-commission/>.

In 2007, the Punchhi Commission²³ also broadly agreed with this recommendation. However, recent instances of discord between gubernatorial incumbents and administrations governed by oppositional political entities, exemplified by the acrimonious relationship between governments in Delhi, Telangana, Punjab, Kerala and Tamil Nadu,²⁴ cast a pall of skepticism over the possibility of entirely eliminating the potential for politically motivated machinations within the aforementioned proceedings

DIFFICULTIES IN THE IMPLEMENTATION OF ONOE

Those not arguing in favor of implementing the ONOE policy for elections to the Parliament and the state legislatures are not merely doing so for technical reasons, or, just because the policy is impractical. The fundamental reason for their vociferous opposition to the policy is the belief that the exercise is anti-democratic to its core and severs the system of parliamentary democracy as prescribed in our Constitution, from its very roots. Conducting elections to the lower house of the Parliament and to the various Legislative Assemblies/Councils at the same time will undoubtedly necessitate a certain degree of interference with the provisions ensuring responsibility of the government to the legislature, enshrined in the Constitution.

It is common knowledge that Article 75(3) of the Constitution²⁵ enforces the “collective responsibility of the Council of Ministers” to the Lok Sabha. Along the same lines, Article 164(2)²⁶ states that the “collective responsibility of the Council of Ministers” of a particular state, is to the Legislative Assembly of the concerned state. As per our Constitution, in the event of a state government losing the confidence of the legislative assembly of the state either due to a successful “No-Confidence Motion”, or, on account of failing to win a vote on a money bill, it shall be compelled to tender its resignation. Provided no replacement government can be forged in the aftermath of such an event, the House would be dissolved by the Governor of the state and a “mid-term election” would be conducted. The House of the People is not afforded any fixed tenure by the Constitution, or for that matter, neither are the Legislative Assemblies of the various states. Both Article 83(2)²⁷ and Article 172(1)²⁸ explicitly state that the tenure of the Lower House of the Parliament and the Legislative Assemblies of states will be 5 years “unless sooner dissolved”. Any endeavor to extend the tenure of the House of the People, or, legislative assemblies, can rightly be labelled as ultra-vires of the Constitution and of the age-old democratic practices of this country.

The exercising of the general will of the citizens through their chosen representatives, is the *sine qua non* for the healthy functioning of the democracy of the country. To the end of implementing the ONOE policy, wide ranging recommendations were made to alter the Constitution. One of the many suggestions put forth in a “discussion paper” made public by the NITI Aayog is that if

²³ Punchhi Commission, *Report of the Commission on Centre-State Relations*, INTER-STATE COUNCIL SECRETARIAT (Mar. 2010), <https://interstatecouncil.gov.in/report-of-the-commission-on-centre-state-relations/>.

²⁴ Tanya Arora, *Are Governors undermining democracy by holding up bills?* CITIZENS FOR JUSTICE AND PEACE (Nov. 2023), <https://cjp.org.in/are-governors-undermining-democracy-by-holding-up-bills/>.

²⁵ <https://indiankanoon.org/doc/1336375/>

²⁶ <https://indiankanoon.org/doc/331399/>

²⁷ <https://indiankanoon.org/doc/1713437/>

²⁸ <https://indiankanoon.org/doc/6135/>

dissolving the Lower House of the Parliament is unavoidable and the left-over term of the House is brief, then a constitutional provision can be put in place enabling the President to execute the governance of the country, based on the counsel of a self-appointed “Council of Ministers” until the re-constitution of the House. This proposal is inherently dangerous in its design as it threatens to introduce an executive Presidency in the country through a back-end channel.

Another precarious suggestion is that, provided the left-over tenure of the Lower House of the Parliament is significant, at the time of it being dissolved, elections would be freshly held and its tenure would merely be for the remainder of the original tenure. i.e., if we suppose that the House is dissolved after the completion of a period of 2-years, then, the fresh elections to the House subsequent to its dissolution, would be for a 3-year tenure. Therefore, it can safely be concluded that in such a scenario, elections to the Lower House will be much more frequent, which beats the very objective of the ONOE policy and its advocates.

Another victim of the ONOE policy (if it is implemented) would be India’s vibrant federalism. Two recommendations made for syncing the elections to the Lower House of the parliament and to the various Legislative Assemblies of states, made by the 79th Report of the Parliamentary Standing Committee, 2015²⁹ and the aforementioned NITI Aayog paper were to prolong the tenure of certain legislative assemblies, or, alternatively, to make brief, the tenure of some assemblies in multiple phases. Both these recommendations, clearly infringe upon the right to federalism of the state governments and also upon the electoral rights of the citizens to choose their own legislators, at least at the state level. Yet another suggestion is that in the event of the dissolution of a state’s Legislative Assembly, following the completion of most of its term, the administration of the state would be executed by the Governor of the State for the remainder of the house’s tenure. This, would basically imply the rule of the central government, which would, just like the previous suggestions, violate the basic principle of federalism.

A plethora of recommendations have been made in relation to ONOE, to the end of circumventing the legislature’s responsibility and to see to it that the tenure of the Lok Sabha does not change. One among these, enumerated in the Law Commission’s 2018 Draft Working Paper, was that in the event of a motion of no-confidence being moved, it must necessarily be moved along with a simultaneous motion to elect a new leader of the Lower House of the Parliament.³⁰ What this implies is, that the parliamentarians’ right to vote a dysfunctional government out of power, is forcibly made subject to their electing a new government, and therefore significantly compromised. This right of the legislators’ cannot be compromised, just as we cannot compromise the right of the party(s) in power enjoying a majority on the floor of the Lok Sabha, to suggest that the Lok Sabha be dissolved and early/fresh elections to the house be held.

Those vociferously recommending the syncing of elections to the Lower House of the Parliament with those to the various State Legislative Assemblies, are either intentionally, or unintentionally, ending up disregarding the principle of federalism, which safeguards the rights of the states. When the government led by Prime Minister Modi makes the bold claim that the ONOE policy worked flawlessly during the 1952-67 period, it must never fail to recollect that, elections to the Legislative

²⁹ https://legalaffairs.gov.in/sites/default/files/simultaneous_elections/79th_Report.pdf

³⁰ https://legalaffairs.gov.in/sites/default/files/simultaneous_elections/LCI_2018_DRAFT_REPORT.pdf

Assemblies of multiple states were separated from the General Elections to the Lok Sabha owing to the draconian and arbitrary abuse of Article 356³¹ by the Central government. The event triggering the separation was that of the dissolution of the “Communist Ministry” of the state of Kerala in 1959 by the erstwhile INC government at the Centre. The promise of reducing the burden on public exchequer by maintaining the simultaneity of elections, is thus a thinly veiled attempt to augment the powers of the Governor in the states and create more opportunities for the undue interference of the Centre. Another reason why the author is resolutely opposed to any attempt to synchronize elections is the fact that the concept of ONOE would undoubtedly result in the marginalizing of regional parties (RPs).

CONCLUSION

The proposition of synchronized national and subnational elections, while ostensibly promoting administrative streamlining, presents a conundrum for a nation as heterogeneous as India. The unique sociocultural tapestry and localized concerns of each state necessitate a nuanced approach to policy formulation, which a singular, overarching electoral event could potentially obfuscate.

Furthermore, the potential for information overload in such a scenario could impede the electorate’s ability to engage in a thorough and critical evaluation of the plethora of political platforms presented. Consequently, the very essence of democracy, predicated upon informed and engaged citizenry, might be inadvertently undermined.

In conclusion, while the concept of ‘One Nation, One Election’ possesses a superficial allure of efficiency, it fails to adequately consider the intricate complexities inherent in the Indian political landscape. A more prudent course of action would be to fortify our existing democratic framework, ensuring unfettered and equitable electoral processes at all levels while safeguarding the autonomy of individual states. This approach would not only preserve the core tenets of our democracy but also enable us to address the multifaceted challenges confronting our diverse regions.

³¹ <https://indiankanoon.org/doc/8019/>