



# International Journal of Research Publication and Reviews

Journal homepage: [www.ijrpr.com](http://www.ijrpr.com) ISSN 2582-7421

## Constitutional Aspects and Challenges for Implementing One Nation One Election

*Pratyush Prabhakar*

Research Scholar (SRF), University Department of Political Science, B.R.A. Bihar University, Muzaffarpur

Email- [pratyushprabhakar1@gmail.com](mailto:pratyushprabhakar1@gmail.com)

Mobile no.- +919471974622

### ABSTRACT

The primary force behind the slated reform of *One Nation-One Election (ONOE)* is to synchronise Lok Sabha and State Assembly elections across all States, in order to lessen the frequency of polls across the country. This was the norm until 1967, but gradually got disrupted due to factors such as defections, dismissals, and government dissolutions. The Centre had invoked Article 356 in 1959 to depose the then-Kerala administration. Following that, several Legislative Assemblies were dissolved in 1960s, resulting in separate elections for the Lok Sabha and State Assemblies. It is to be noted that Assembly elections are still held concurrently with the Lok Sabha elections in Arunachal Pradesh, Sikkim, Andhra Pradesh, and Odisha. The Law Commission, chaired by BP Jeevan Reddy, had called for simultaneous elections in 1999. According to Articles 83(2) and 172 of the Constitution, the duration of the Lok Sabha and State Assemblies is five years unless dissolved earlier, and there are circumstances, such as Article 356, where assemblies might be dissolved prematurely. As a result, the One Nation One Election plan raises several concerns about what would happen if the Central or State governments collapsed in the middle of their terms. Will elections be held in all states again, or will the President's authority be imposed? Another challenge with the concept is that it does not gel with the concept of 'federalism', because it is founded on the premise that the entire nation is one, which contradicts the very substance of Article 1, envisioning India as a 'Union of States.' The paper seeks to put into perspective, the various aspects and challenges involved with the implementation of One Nation-One Election idea in the Indian polity, from a constitutional angle.

Keywords- Elections, Lok Sabha, Constitution, Polity, Federalism.

### Introduction

In this paper, the inherent mechanisms underlying the One-Nation, One-Election proposal, which has already drawn a great deal of criticism has been investigated upon. The validity of the arguments put out by each side, as opposed to the majority of contemporary public debates, which, regrettably and predictably, focus more on the debater than the debate itself has been examined. The preliminary conclusion reached is that there is no reason to reject the concept; rather, it has to be carefully redesigned to make it practical and, more significantly, agreeable. Ideas in the public sphere must be rigorous and intended to serve the purpose of enlightening the audience, rather than taking positions and making normative claims fed by contexts, because such debates have the potential to put a great deal of stress on democratic governance and values, particularly in a polarising times like these. Given the significance of this subject, it is astonishing that the majority of commentaries have only recently appeared in newspapers and other popular media. In order to decode the potential effects that such comprehensive transformation may unleash on our democracy, a much deeper study is imperative. Through this piece, an endeavour has been made to put forth various perspectives on the topical issue, primarily based on the trifecta of political, constitutional and legal aspects. Though the prospect of reverting to simultaneous elections was first mentioned in the Election Commission's annual report in 1983, the concept has since been addressed in three reports as mentioned below;

\*Law Commission Report, 1999

The Law Commission, led by Justice B P Jeevan Reddy, stated in its 170th Report in May 1999 that the cycle of elections every year, and out of season, should be ended. We must return to the days when elections to the Lok Sabha and all Legislative Assemblies were held simultaneously. The rule should be: one election every five years for the Lok Sabha and all Legislative Assemblies.

\*Parliamentary Standing Committee Report, 2015

On December 17, 2015, the Standing Committee on Personnel, Public Grievances, Law, and Justice published its report on the 'Feasibility of Holding Simultaneous Elections to the House of People (Lok Sabha) and State Legislative Assemblies'.

This committee was chaired at the time by Dr. EM Sudarsana Natchiappan. The Committee noted that holding simultaneous elections would reduce massive expenditures incurred for separate elections, policy paralysis caused by the imposition of the Model Code of Conduct during elections, impact on delivery of essential services, and burden on critical manpower deployed during election time.

\*Law Commission Draft Report, 2018

The Commission headed by Justice B.S. Chauhan had noted in its August draft report that holding simultaneous elections would save the public money, ease the burden on the security forces and administrative structure, ensure timely implementation of government policies, and ensure that the administrative machinery is engaged in development activities rather than electioneering.

## Challenges

- Obtaining consensus among different political parties, particularly regional ones, on holding simultaneous elections entails legal and political difficulties in itself. It would be tiresome to persuade all political players to reach an understanding on the necessary legal adjustments.
- Simultaneous elections may necessitate changes to 'anti-defection' laws which were made to effectuate the 52<sup>nd</sup> amendment, 1985 of the Indian constitution to thwart legislators from changing parties in response to the election cycle. Later, tenth schedule was inserted into the constitution.
- Legal representation in court may also be impacted. During elections, the volume of cases in courts at various levels (national, state, and municipal) may increase, influencing the judicial process.
- Simultaneous elections may save election costs, but they may pose financial and administrative issues. Its implementation will necessitate vast resources. A solid legislative framework for budget allocation and resource coordination would be required to implement such a transition.
- It is legally complicated to coordinate the terms of multiple levels of government to coincide with the election cycle. State governments, for example, have different terms, and 11 states enjoy special status under Article 371 of the Constitution. In India, state governments enjoy a considerable degree of autonomy and can resist those measures that infringe upon their authority. Thus, the imposition of ONOE would amount to an assault over state autonomy. It may have an impact on their independent operation, which is guaranteed under the constitution.
- Similarly, local elections feature a decentralised governance structure in which local governments have extensive authority. To comply with the new election cycle, simultaneous elections would necessitate revisions to the legislation regulating local body elections.
- Implementing ONOE in India raises numerous legal obstacles due to the country's complicated political and constitutional framework. Significant revisions to the Indian Constitution, such as important clauses dealing to the periods of elected bodies (e.g., Lok Sabha, state assemblies, and municipal bodies), will be required. Before such a suggestion could be adopted, at least five Articles of the Constitution - 83, 85, 172, 174, and 356 and various statutes would have to be altered.
- Union and state legislatures would also need to have fixed terms. This means that, unless in the case of a proclaimed emergency, the House's tenure cannot be prolonged at any cost. It would also not allow the House to be dissolved before its term expired. Amending the Constitution in this case would be a time-consuming and politically difficult procedure necessitating a two-third majority in both Houses of Parliament. At-least half of the States' assembly ratification would also be needed.
- It is a logistical difficulty in our country, which has a population of above 140 crore people. Elections are celebrations of democracy in India. This necessitates careful preparation and coordination, which can be challenging if multiple decisions must be taken at the same time.
- Some claim that holding elections at the same time can prevent voter weariness. Others warn of the risk of information overload for voters, owing to the fact that they must choose leaders at various levels of government at the same time. Every voter has various considerations and, as a result, voting preferences at the national, state, and regional levels. Simultaneous elections raise the risk of national problems overshadowing local issues. Due to uncertainty or overwhelm, this might have a negative impact on voters' decision-making ability while selecting candidates.
- The viability of holding simultaneous elections in India is currently being explored by a eight member committee, formally notified on September 2<sup>nd</sup>, to be led by former President Ramnath Kovind. Critics claim that the proposal runs against the fundamental concept of multi-tiered governance. One of the committee's terms of reference is to examine whether a constitutional amendment in this case would require ratification by state legislatures. Some constitutional experts contend that it would be labelled unconstitutional and would not stand up to legal examination.
- The proposal also seems impractical unless the terms of Lok Sabha and State Assemblies are fixed and premature dissolution for whatever cause is prohibited.
- An Indian Parliament standing committee had highlighted, elections to national and provincial legislatures in South Africa are held simultaneously after five years, with municipal elections held two years later. Elections to the national legislature (Riksdag), provincial legislature/county council (landsting), and local bodies/municipal assembly (Kommunfullmäktige) in Sweden are held on a fixed date every four years - the second Sunday in September. The Fixed-term Parliament Act, 2011, governs the term of parliament in the United Kingdom.

On August 30, 2018, the Law Commission of India, chaired by Justice B.S. Chauhan, released its report on Simultaneous Elections. It probed into legal and constitutional issues concerning the conduct of simultaneous elections. One of the key findings was that simultaneous elections could not be held under the same Constitutional structure. Through suitable revisions to the Constitution, the Representation of the People Act 1951, and the Rules of

Procedure of the Lok Sabha and State Legislative Assemblies, simultaneous elections may be held. The Commission also recommended that the constitutional amendments be ratified by at least 50% of the states. The Commission stated that holding simultaneous elections would save the government money, reduce the burden on the administrative setup and security forces, ensure timely implementation of government policies, and ensure that the administrative machinery is focused on development rather than electioneering. The commission's take on some of the pressing issues are mentioned below:

### ***No-confidence motion***

The Commission stated that if a no-confidence vote is passed, the tenure of the Lok Sabha/state parliament may be reduced. Through suitable revisions, it advocated replacing the 'no-confidence motion' with a 'constructive vote of no-confidence'. Only if there is confidence in an alternate government can the government be dismissed in a constructive vote of no confidence. It further urged that the number of similar motions be limited during the House/Assembly's tenure.

### ***Hung House/Assembly Case***

If no party has a majority to form a government, the House/Assembly may be hung. To avoid this, the Commission proposed that the President/Governor provide the largest party and their before or post-election alliance the option to form the government. If a government cannot be formed, an all-party meeting may be convened to break the impasse. If this does not work, mid-term elections may be held. The Commission suggested that suitable adjustments be made to provide that any new Lok Sabha/Assembly created following mid-term elections be formed merely for the remainder of the existing term, rather than for the complete five years.

### ***Anti-defection laws' amendment***

The Commission suggested that anti-defection legislation be amended to ensure that all disqualification concerns (arising from defection) are resolved by the presiding officer within six months. If simultaneous elections cannot be held, the Commission suggested that all elections due in a calendar year be held concurrently. The timing of such an election should benefit all state legislatures concerned as well as the Lok Sabha (if it is dissolved earlier). This option will necessitate changes to the Constitution as well as the Representation of the People Act of 1951.

---

## **Discussions**

Critics question that why the above-mentioned committees never saw the imposition of President's rule for whatever time in states, to save money for the exchequer and ease the burden on the government machinery, as a disproportionate step when compared to people's right to be governed by an elected government at all times. The same holds true for the recommendations regarding the swearing-in of new houses, that will remain operational for the remainder of the time. If the Model Code of Conduct allegedly impedes developmental activities, the remainder term might also obstruct such activities if the concerned government is there at the helm, only for three years rather than the conventional five. It is also claimed that our lack of election synchronisation is a tenet of our evolution as a democratic polity with a federal framework. It is further alleged that the successive committees formed on the topical issue merely stood on the shoulders of their predecessors, in recommending various ways to conduct simultaneous elections. They did not add any fresh perspective to the discourse as much as they revisited and reiterated established perspectives without broadening the discussion. Some critics also contend that by disrupting the simultaneous elections in 1968 and 1969, Article 356 of the Constitution set off a series of out-of-sync elections across the nation. As is the case, in the event that the constitutional machinery in a state fails, the President assumes the authority under Article 356. The mechanism states that if the President is convinced that a situation has developed in which the government of a state is unable to function in compliance with the provisions of the Constitution after receiving a report from the governor of a state, the President may either declare that all of the governor's powers have been transferred to her or that the legislature's powers are now exercisable only with the permission of the Parliament. This is referred to as President's Rule in common parlance. The Supreme Court had ruled in the famous case of *SR Bommai v. Union of India* (1994) that the President's authority to dissolve a state government under this article is not unlimited and should only be used after such a proclamation has been approved by both houses of Parliament. This served as a check on the president's authority to dissolve a state legislative body, as it had been in 1968, 1969, and various cases after.

On the other hand, the proponents of ONOE argue that since it would be easier for individuals to cast multiple ballots at once, during simultaneous elections, it might potentially improve voter turnout as well, also reported by the Law Commission itself. The implementation of "One Nation, One Election" will let the government to concentrate more on critical governance issues as opposed to being perpetually arrested in election mode, which often delays the implementation of welfare policies.

---

## **Conclusion and the Way Forward**

During different elections, different power institutions, such as the state government and the centre, are assessed differently. Since the ruling establishment has repeatedly advocated for simultaneous elections, the debate on this topic will only intensify as long as it is in power. However, constitutional modifications and any step towards simultaneous elections might face a variety of hurdles, ranging from opposition from political parties to legal issues.

While simultaneous elections in India have the potential to reduce costs, it is important to carefully evaluate how they will affect federalism and the distinct nature of the several tiers of government. To ensure that the core of Indian democracy, with its decentralised governance structure, is retained and strengthened, the committee, headed by the former President Ramnath Kovind, must thoroughly examine these federal characteristics.

Prioritising a thorough analysis of the federal components of Indian democracy before holding concurrent elections seems imperative. The potential effects on federalism, the various functions of levels of government, and the local autonomy pointers should all be examined. To ensure that citizens are informed about the ramifications of simultaneous elections, open public conversations and awareness initiatives needs to be promoted. The public, professionals, and political organisations ought to be holistically engaged to collect diverse viewpoints. To understand how simultaneous elections may affect state autonomy and governance, comprehensive deliberations with state governments and political parties is the need of the hour. To evaluate the benefits and challenges on a practical level, the idea of launching simultaneous elections on a trial basis in a few selected states or areas deserve to be considered. Pilot projects can offer insightful information about the viability and consequences of such a large electoral reform. Creating a robust legal and constitutional structure that expressly takes into account federalism's guiding principles and the distinctive functions of the various levels of government must be given due chance to manifest. The reform in making should protect the autonomy of local organisations and attend to the unique requirements of each level of government.

## References

- Bansal, M. (2019). The Concept of One Nation One Election: An Analysis from Indian Perspective. *Think India Journal*, 22(4), 3077-3084.
- Bhagat, P., & Pokharyal, M. P. (2020). CONCEPTUAL REFORMS ONE NATION–ONE ELECTION. *Ilkogretim Online*, 19(4), 3929-3935.
- Committee Reports*. (n.d.). PRS Legislative Research. Retrieved September 25, 2023, from <https://prsindia.org/policy/report-summaries/draft-report-simultaneous-elections>
- Decoding One Nation, One Election*. (n.d.). Drishti IAS. <https://www.drishtias.com/daily-updates/daily-news-editorials/decoding-one-nation-one-election>
- Khare, S. (2022). One Nation One Election in India. *Issue 3 Int'l JL Mgmt. & Human.*, 5, 1309.
- Mishra, A. (2023, September 21). Is “One Nation, One Election” really feasible? Frontline. <https://frontline.thehindu.com/politics/bjp-renews-one-nation-one-election-pitch-ahead-of-2024-lok-sabha-election/article67288434.ece>
- Kaushik, A. K., & Goyal, Y. (2019). The desirability of one nation one election in India: Simultaneous elections. *The Journal of Social, Political, and Economic Studies*, 44(1/2), 110-120.
- One Nation, One Election: Prospects and Challenges - Civildaily*. (2023, September 12). <https://www.civildaily.com/story/one-nation-one-election-prospects-and-challenges/>
- One nation, one election plan: How the Constitution is amended, when do states get a say*. (2023, September 3). The Indian Express. <https://indianexpress.com/article/explained/explained-law/one-nation-one-election-how-constitutional-provisions-amended-8922740/>
- One nation, one election: What past committees, commissions have said*. (n.d.). India Today. Retrieved September 25, 2023, from <https://www.indiatoday.in/india/story/one-nation-one-election-simultaneous-polls-law-commission-parliamentary-reports-2429834-2023-09-01>
- sabrang. (2023, September 21). Analysing the Feasibility of Simultaneous Elections in India: A Review of Committee Recommendations and Constitutional Implications. SabrangIndia. <https://sabrangindia.in/analysing-the-feasibility-of-simultaneous-elections-in-india-a-review-of-committee-recommendations-and-constitutional-implications/>
- Singh, K. (2023, September 4). Explained | What is the debate around “one nation, one election”?. *The Hindu*. <https://www.thehindu.com/news/national/explained-what-is-the-debate-around-one-nation-one-election/article67267721.ece>