

## **Comments/suggestions from Association for Democratic Reforms (ADR), New Delhi to the Joint Committee on The Constitution (One Hundred and Twenty-Ninth Amendment) Bill, 2024 and the Union Territories Laws (Amendment) Bill, 2024**

The High-Level Committee (HLC), Chair: Former President Shri Ram Nath Kovind, constituted by the central government submitted its report on simultaneous elections and put forth the following key observations and recommendations supporting the feasibility and suggesting a framework for conducting elections of Lok Sabha, State Assemblies, and Local Bodies at the same time.

1. **Rationale:** Simultaneous elections will ensure stability and predictability in governance by minimizing disruption and policy paralysis resulting from application of the Model Code of Conduct (MCC) and its adverse impact on economic growth due to populist measures announced around election period. Simultaneous elections will help reduce costs given the massive expenditure that is currently incurred for the conduct of separate elections. They will also increase voter participation and enhance opportunities for political workers in elections. Additionally, it will help mitigate the diversion of government machinery and resources of public institutions.
2. **Framework:** The HLC recommended that at the time of the next election for Lok Sabha, all State Assemblies and Local Bodies should be dissolved, irrespective of the remaining term as a one-time measure.
3. The Committee recommended holding elections for Lok Sabha and all State Assemblies at the same time, and that of local bodies within 100 days from then.
4. Fresh election should be held for a hung legislature or a Local Body for a reduced term. The reduced term will be equivalent to the remaining period of the five-year cycle for the simultaneous election. This implies that if a fresh election for a State Assembly or Lok Sabha is held two years after the simultaneous election, its term will be only three years.
5. The Committee observed that constitutional amendments in relation to terms of Parliament and State Assemblies will not require ratification by States. However, constitutional amendments in relation to Local Bodies will be required to be passed with ratification by at least half of the states.
6. The Committee recommended that a single electoral roll and single elector's photo identity card should be adopted. This will reduce redundancy and duplication across multiple agencies. The Committee recommended empowering ECI to prepare the single electoral roll in consultation with SECs. To give effect to this single electoral roll, a constitutional amendment will be required.

The key provisions of the bills for consideration - The Constitution (One Hundred and Twenty-Ninth Amendment) Bill, 2024 and the Union Territories Laws (Amendment) Bill, 2024 and ADR's arguments are as follows:

1. **Insertion of new Article 82A (1), (2), (3) & (4): The President may issue a notification on the date of the first sitting of Lok Sabha after a general election. The terms of all State Assemblies constituted after the date of the notification will expire with the expiry of the full term of Lok Sabha. The provisions of simultaneous elections extend to UT Assemblies. Hence, elections to Lok Sabha and all State and UT Assemblies thereafter will be conducted together.**

**Key Rebuttal: States are not subservient to the Union.** Both stand on an equal footing fundamentally deriving their power, autonomy, authority and responsibility from the Constitution. Therefore, any attempt to validate the idea of dissolving the tenure of State Assemblies before their stipulated time with the expiry of full term of Lok Sabha not only undermines the strong and robust status given to the States under the Constitution but such a step would also weaken the mandate of people of those States Assemblies. In the telling words of Dr. B.R Ambedkar on States and Union during Constituent Assembly debates, it was stated;

*“A dual polity with Union at the Centre and States at the periphery, each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution. The Union is not the League of States, united in a loose relationship, nor are the States the agencies of the Union, deriving powers from it. Both Union and States are created by the Constitution; both derive their respective authority from the Constitution. The one is not subordinate to other in its own field; the authority of one is coordinate with that of other”*

**Any attempt to meddle with the autonomy of elected State governments amounts to disrupting the federal character of the Constitution, held to be part of the Basic Structure of the Constitution.** Indian Constitution has laid down a fixed five years term for State Assembly barring midterm elections in cases where government falls or is dismissed. Simultaneous elections to Lok Sabha and State Assemblies are not possible without significant amendments to the Constitution. At least five articles of the Constitution (83, 85, 172, 174, 356) will require amendments for elections to Parliament and the State Assemblies to be held simultaneously. Such **attempts at changing the character of the Constitution will violate the Basic Structure Doctrine -- which has been held to be inviolable by the Supreme Court – and can thus be struck down.**

The curtailment of the tenure of State Assemblies has also been a major concern for several state political parties. Holding of simultaneous elections which encroach into state autonomy is not likely to stand judicial scrutiny. This argument has been validated by Supreme Court judges and many legal experts. In addition, curtailing the tenure of State Assemblies where “substantial term” of an Assembly is yet to be concluded would be considered a violation of the basic structure of the Constitution. Nevertheless,

**in no scenario, Indian Constitution allows dissolving a fully functional State Assembly (barring few instances of mid-term elections) and holding fresh elections for the remaining period of five years.**

- 2. Insertion of Article 82(5), (6) & (7):** If the Election Commission is of the opinion that the election for a particular State Assembly cannot be held as part of the simultaneous election, it may make a recommendation to the President in this regard. Upon this recommendation, the President may issue an order to conduct election for this State Assembly at a later date. Where the election for a State Assembly is deferred to after the simultaneous election, its term will end with the end of Lok Sabha constituted in that simultaneous election.

**Key Rebuttal:** Giving unchecked, unrestricted and unregulated powers to the Election Commission (ECI) to not only decide when to hold State Assembly elections but to also give Commission the powers to determine the tenure of Assemblies goes against the whole scheme of the Constitution. The broad ambit of scope, powers and duties of the ECI are clearly defined under Article 324. Article 324 empowers the Commission with superintendence, direction and control of elections which in turn implies that ECI is responsible for the conduct of free and fair elections held at regular intervals as envisaged under the Constitution, electoral laws and other rules and regulations. Curtailing the tenures of State Assemblies before the expiry of five years period is beyond the powers of the Parliament let alone the ECI. The framers of Indian Constitution had specifically laid down the tenure of State Assemblies for five years with a clear intent i.e to give defined, distinct and equal powers and functions to the State and Union. Therefore, the EC cannot arbitrarily override the federal powers of the Constitution.

- 3. Amendment of Article 83:** If Lok Sabha or a State Assembly or a UT Assembly is dissolved sooner than its full term of five years, fresh election will be held for a term equal to the remainder of the five-year term.

**Key Rebuttal:** A defining characteristic of a participatory democracy is its representativeness. **Democracy as visualised by the Constitution implies true and fair representation of people in State Assemblies and Parliament.** Election is not just a matter between the government and various political contestants. It is rather a Constitutional as well as statutory prerogative of every stakeholder in a democracy which first and foremost includes the citizens of this nation. Therefore, when an elected representative of the people, chosen by the people, for the people is cancelled unconstitutionally without any sound logic and without completing the stipulated tenure provided under the Constitution, it will amount to a grave violation of the Constitution and failure of democracy in every conceivable way. Holding elections to Parliament and State Assemblies simultaneously amounts to indirectly interfering with the '*federal character of the Constitution*' by changing it into a "*unitary structure*". In consequence this would amount to an attempted interference/change in the '*Basic Structure of the Constitution*' as held in the *Kesavananda Bharati Vs. State of Kerala and Anr. (1973 4 SCC 225)* and many other landmark judicial pronouncements. This argument can be further substantiated by

the observations given by former Supreme Court Judge Justice P.B. Sawant in the following terms:

*“India is a federal State with its constituting units, the states, having the autonomy of governance in the subjects specified by the Constitution. Federalism is one of the basic features of the Constitution. The constitution of Legislative Assemblies and formation of State governments are autonomous functions. The Union government cannot interfere with the governance of a State except when there is a proclamation of Emergency under articles 352, 355 and 356 of the Constitution”. (Emphasis added).*

### *Other observations & suggestions of ADR regarding the recommendations in the HLC report and the provisions of the aforesaid two bills*

1. **Misinterpreting the MCC:** The argument that the Model Code of Conduct enforced in the run up to elections is an interference in governance is inaccurate given that the code imposes no restrictions that affect governance. The MCC does not ask for existing programmes to be put on hold at all. Normal governance obviously has to go on and it does go on. ECI only says, “no new announcement will be done, which would seduce the voter.” And if during an ongoing election, the government feels the urgency to carry out an act in the public interest, which it is sure will not “seduce the voter”, it can always ask for the opinion of the ECI.

In fact, the [ECI itself has opined](#) that “it would not be correct to view the application of MCC in terms of disruption as it is a vital instrumentality aimed at providing level playing field to all stakeholders involved in the campaign”. Additionally, in its submission to the Law Commission in 2023, the polling body mentioned that it has itself consistently evolved a strategy to keep the MCC period to the “bare minimum” required from the date of announcement to completion of election process.

The government in the Centre and States have a full five years period to work on the development and welfare of their area and the country at large. The government in no possible scenario can take refuge for their inaction under the pretext of MCC period which is spread over a limited period of time. The imposition of the MCC merely prevents the party in power from attempting to misuse the fact of it being power to acquire unfair advantage over the opposing parties and candidates. **Therefore, to say that the MCC prevents usual development and governance activities is not wholly true.**

Additionally, it is the central leadership of the ruling party including the PM and his cabinet who are always in election mode, campaigning even for elections to different state assemblies. The state-level leadership of a party in a given state including ministers of that state often tend to campaign for elections in other states. Thus, it is not the issue of the MCC, campaigning to state elections can be left to the state level politicians of the

respective state and instead the PM and other central ministers can devote their time to their primary responsibilities, so that the governance does not suffer.

2. **Defeats the original purpose:** Reducing the tenure of the State/UT Assemblies not only undercuts both the justifications for simultaneous elections — cost and an avoidance of continuous campaign — but, rather, leads to perverse incentives (for example, how much ‘governance’ will a State government be able to do if elections are scheduled in a year?). The candidates and parties would end up spending crores on an election for a truncated term which could be as short as one to two years. Additionally, it will be even more difficult to promote long-term thinking and the obsession of parties and governments will be to please the electorate by maximising instant gratification at the cost of long-term economic future that was the original premise of ONOE.
3. The Committee observed that constitutional amendments in relation to terms of Parliament and State Assemblies will not require ratification by states. However, constitutional amendments in relation to local bodies will be required to be passed with ratification by at least half of the states. This undermines their constitutional position as autonomous units of government by positioning states as subservient to the Union. It is worth noting that the High Level Committee constituted to make recommendations for holding simultaneous elections had no representatives from state governments or regional parties. This is problematic as states and regional parties will be most directly affected by the implementation of ONOE.
4. **Better alternatives exist:** It is true that all elections in India “lead to massive expenditures” irrespective of whether these are frequent or not. Once again, the key is to understand why elections “lead to massive expenditures”, and who incurs these ‘massive expenditures’. It is easier to answer the second question. By far the greatest expenditure during elections is incurred by political parties followed by candidates. Against this background, it seems inexplicable that there should be a disproportionate **focus on holding simultaneous elections to the Lok Sabha and State Assemblies, as the only or the most effective solution to reduce election expenditure. We must try to look at several other seemingly easier and more effective options, if the logic of having simultaneous polls rests primarily on reducing expenses.** The exorbitant cost of elections could be tackled by putting a cap on campaign expenditure by political parties, which is a long pending reform that must be examined and necessary steps can be taken for its implementation. Establishing limits on expenditure incurred by political parties for electoral campaigns is necessary to prevent excessive funding requirements to parties and candidates, as suggested in the 170<sup>th</sup> and 255<sup>th</sup> Law Commission of India reports.
5. All political parties are indulging in competitive populist measures to lure the voters. Promises are made to voters prior to the polls and huge amounts are doled out for various schemes after the political party comes to power. This is unplanned expenditure without the justifying from where & how the funds will be generated, especially when the central

and state governments are already burdened with huge debts and deficit financing. These schemes are in addition to the freebies which are given to voters in cash and kind during the election campaign period by all parties. Curbing such expenditure itself would save lakhs of crore rupees and reduce the burden on the exchequer.

6. Alternatively, the duration of the elections can be reduced and one can consider going back to single-phase elections for states, given that even some state elections are being held in a multi-phased manner. It is within EC's powers to club all the assembly elections falling within six months to one another. It is worth looking into these issues.
7. There is also an opinion that perhaps all Parliamentary constituencies can have elections in one go and Assembly constituencies together can have in one go in another cycle after two and a half years. That will take care of the wave issues, the electorate will also not get confused, and national and local issues will each have salience. This will also have a positive impact on election expenditure. This is logistically more sound given the number of EVMs needed for simultaneous polls to Parliament and state assemblies together is way higher.
8. Arguments in favor of simultaneous elections such as equitable opportunity to political workers, voter fatigue, reduction in instances of hate speeches, reinforcing bonds of national unity, and it mitigates diversion of government machinery and resources are untenable. It is to be noted that such vices in our electoral system can be remedied by introducing inner party democracy within parties, criteria for ticket distribution, holding political contestants accountable for their actions and inactions, rightful implementation of the already existing laws, resolve on part of the law-making wing and executive to bring reforms suggested by various committees for more than 25 years. The argument is made that election duty is done at the cost of normal duties but to what extent this is inimical or undesirable is a matter of debate because elections are undoubtedly "essential duty" for security forces. Services of full-time public officials are also utilised for occasional activities such as Census.
9. **Logistical challenges in holding simultaneous elections:** As per one estimate, the EC will require around 30 lakh EVMs and a preparation time of nearly one-and-half years for smooth conduct of simultaneous elections to the Lok Sabha and State elections. The Commission will require 30 lakh control units, about 43 lakh ballot units and about 32 lakh VVPATs for the simultaneous polls, taking into consideration the reserve units kept for replacement in case of any malfunction or damage. Additionally, the security forces required to be posted to ensure smooth simultaneous polls will also be humongous. Through this bill, the duration or number of phases required for holding simultaneous elections are not clear but, in any case, it will require deployment of a large number of security forces all over the country. It is not clear what will be the quantum of those security forces and won't it be at the cost of denuding certain sensitive areas where the security forces are required?

Former CEC Dr SY Quraishi also mentions that holding simultaneous elections will require at least three times the current number of 55 million EVMs and VVPATs, which would entail enormous expenses. This is paradoxical since cost reduction was one of the main reasons for the proposal.

10. Holding local bodies' elections within 100 days is absolutely a new election, requiring logistical preparation all over again. This includes setting up polling stations, selecting and training polling staff, and redeploying security — all within three months. Mobilising millions of staff again before they get over their fatigue would be an insurmountable challenge. Many voters would not be able to return to the polling stations as they come from outside. Those employed may not be able to take leave again and wage workers would lose their earnings. This would amount to stripping them of their important constitutional right, an argument also put forth by Dr S Y Quraishi.

11. **Lack of data-based evidence:** [Some experts](#) point out that the savings to the country on account of simultaneous elections are marginal. The expenditure incurred by the central government on holding separate elections is miniscule compared to other expenditures. It is estimated that an average of about [Rs 100 per voter](#) was spent as per the size of the electorate in 2019 Lok Sabha elections, which was about 91 crore. The total expenditure on elections is only 0.09 per cent of the total Union government expenditure of Rs 37.35 trillion per annum during NDA government's second tenure from 2019-2024. The Government of India spends many times more on several development programmes.

Former EC Ashok Lavasa also pointed out that there is no analysis of total public expenditure incurred on the conduct of Lok Sabha and Vidhan Sabha elections separately or together and the expected savings in the event of simultaneous polls. While it is reasonable to presume that some administrative cost could be saved but in the absence of reliable data this is, at best, what he calls an instinctive surmise that cannot form a sufficient basis for taking a decision that has significant implications.

12. **Impact on voter behaviour:** When elections to the Lok Sabha and State Assembly are held at the same time, there is a strong tendency for voters to vote for the same political party for both legislatures. This is also a big reason why the ruling party has been keen to promote simultaneous elections as it would align votes in their favor at all tiers. Most recent observation on voter behaviour comes from no less a person than a former judge of the Supreme Court of India. Justice P.B. Sawant wrote on March 06, 2018: *"It is common experience that people vote differently for the Lok Sabha and the state assemblies — for various reasons... Voters vote on local issues while voting for the state assemblies and are motivated by national and international concerns while electing their representatives in the Lok Sabha. But **simultaneous elections may steamroll them into voting for the same party for both the Houses, although they do not desire to do so.**"*

***This may distort the true opinion of the people. The purpose of election itself may thus be defeated.***

13. A research study titled, "[Voting in Synchronised Elections: Evidence from India](#)", makes the following observations:
- Synchronized elections, compared to closely timed but asynchronous elections, result in a 21% higher probability of the same political party winning across tiers, without altering candidate composition. Voters reduce the diversity of their choices during simultaneous elections; they are more likely to choose the same party across elections when they are held simultaneously.
  - Synchronization does not have a significant impact on the economic development of the area. The paper examines agricultural performance, allocation of credit, and capital investment, along with nightlights as an aggregate measure. In all of these cases, it observes statistically insignificant impacts of synchronization.
  - Voters are more confused about election issues during synchronized elections. Both information overload and costly information processing are consistent with this finding. [Research](#) from Belgium has also shown that when regional and federal elections in that country have been held simultaneously, not only voters but candidates themselves tend to mix up regional and federal issues in their campaigns.
  - Voters are significantly less likely to participate in campaign activities during simultaneous elections (compared to a single national or state election).
14. Dr Sanjay Kumar from CSDS quotes the data from all elections to Lok Sabha and State Assemblies that were held together 1989 and 2014, 31 such state elections held with Lok Sabha elections during this time. If we look at the results of these elections, the outcome of state elections matched with General elections, electorate votes more or less matched for around 24 such elections. Thus, there is some indication from similar studies that simultaneous polls can distort votes. Regional parties, proportionately get higher votes when polls take place separately while National parties get more votes during simultaneous elections. State parties reflect the voices of marginalized communities and focus on local issues, simultaneous elections can result in a blow to the relevance of such parties.
15. Another study by Praveen Chakravarty which analyses whether simultaneous elections affect electoral behaviour. He analysed 2600 assembly constituencies in 16 elections (both simultaneous and non-simultaneous). In simultaneous elections, 77% of the time, the results matched for Parliamentary and assembly constituencies. In non-simultaneous elections, the difference was 61%. This trend of choosing the same party has gone from 68 per cent in 1999 to 77 per cent in 2004 to 76 per cent in 2009 and 86 per cent in 2014.

The aforesaid analysis shows, the ability or willingness of the voter to vote differently is only decreasing with time.

16. **Result in centralisation of Indian politics:** The vision of rapid country-wide development lends itself superbly to the idea of single party governance in the Centre and the States. Indeed, **when ruling parties command a strong majority in Parliament, they display a common tendency to want to perpetuate that majority by trying to ensure a similar majority in the States.** The government in power refrain has been to urge voters to elect the same party at the Centre and the States to facilitate uninterrupted development and cash flow. **This objective can be more easily met by holding simultaneous elections** to Parliament and State Assemblies. However, such a situation may not necessarily result in a strong democracy.
17. It is also true that if a party is dominated by a single powerful leader with very few alternative voices within the party, as is the case with the ruling party, then a lot of state and local leaders can get carried across the finishing line with the help of votes garnered by the top leader's charisma and not on the strength of their individual merit. This state of affairs does not make for a healthy democracy. Former EC Ashok Lavasa [opines](#) that it is the centralisation of politics in India that has not let local democratic institutions flourish. Simultaneous elections would further diminish the focus on elected local bodies and turn them into nondescript representatives of their central leadership rather than effective representatives of local voters.
18. **Shrinks scope for public participation:** Frequent elections are not without their own benefits. Politicians are notorious for disappearing once an election is over. Frequent elections at least ensure that they 'show their face' to the people regularly. Legal scholars such as Gautam Bhatia say that unlike many other Constitutions, where public participation in law-making is a guaranteed right, along with other rights such as the right to recall, in the Indian constitutional scheme, elections are the only form of public participation in the public sphere. Relatively regular and frequent elections allow for more extended public participation and debate; simultaneous elections would shrink this scope substantially, without any countervailing changes to deepen it in other domains.
19. **Promotes Horse-trading:** Some legal experts have argued that simultaneous elections will result in a strong push towards avoiding the fall of a government, even when it has lost the confidence of the House in the ordinary course of things. And, as we have seen in India, there is an almost institutionalised remedy for this: defections, or "horse-trading". As was pointed out by lawyer and parliamentarian Kapil Sibal in an interview recently, simultaneous elections are likely to see an explosion of horse-trading, where the political parties with the biggest pockets will be the biggest beneficiaries.
20. **Separate elections provide space for course correction:** It is also seen that holding separate elections to the Parliament and state assemblies provide the electorate with the

opportunity to reflect on the policies in a state and signal their displeasure in the next elections. In case of Karnataka, Telangana state elections, while voters voted decisively for short term welfare guarantees by a party but the same party could not win support in the Lok Sabha elections. Similar feedback was given by voters in Madhya Pradesh, Chhattisgarh and Rajasthan elections. Thus, such a system provides space for voter feedback that informs better economic policies in the long run.

21. **Few countries in the world hold simultaneous elections:** Almost [nowhere among federal parliamentary democracies](#) are simultaneous elections held at the federal and provincial (state) levels. Fixed dates for elections to assemblies and federal parliaments are a more common feature than simultaneous elections at different levels of the political structure in a country. There is also concern over the potential shift to a List Party Proportional Representation (LPPR) system used alongside ONOE, which is practiced in countries like South Africa, Belgium, and Sweden that have been successful in practicing ONOE. A fixed tenure system and simultaneous elections are workable primarily with the pre-condition that there is a PR System. However, these are nations with far smaller populations and geographical areas compared to India (with a FPTP system) where it would be a difficult task to implement.
  22. **Need for flexibility:** Simultaneous elections should not be made mandatory. First, efforts should be made to move in this direction rather than forcing it by law. We must remain flexible rather than sticking to the rule that simultaneous elections will strictly happen in two stages or during a certain fixed time only. Such a major reform should not be rushed and, instead, be introduced in a phased manner to prevent unintended disruptions.
  23. **Quality of democracy at stake:** At the same time, the simple, and crucial, questions to ask are: Should the nation be looking to create the '**most effective**' democracy or the '**least expensive**' democracy? Is it possible, or is it even desirable or advisable, to assign a monetary value or cost to democracy? Should the country entertain the idea of "development" without or at the cost of democracy? Only after addressing these questions, the true value of holding simultaneous elections will be clear.
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