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To
Secretary
High Level Committee – One Nation One Election
Jodhpur Officers Hostel, Block No. 9,
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New Delhi 110003

Comments from Association for Democratic Reforms (ADR), New Delhi to the High Level Committee – One Nation, One Election

Simultaneous Elections strike at the root of Parliamentary Democracy

Several views on simultaneous elections have been put forth by department-related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, the Election Commission of India, the Niti Ayog, the Law Commission etc. The key observations for supporting the need for one nation one poll are as follows:

The NITI Aayog Discussion Paper classified the “key adverse impacts” of the existing electoral cycle, into four broad categories:

- Impact on development programs and governance due to imposition of Model Code of Conduct by the Election Commission;
- Frequent elections lead to massive expenditures by Government and other stakeholders;
- Engagement of security forces for significantly prolonged periods and
- other issues;

While the Parliamentary Committee report underscored only one reason which is “elections have become big budget affair and expensive and in most of the cases expenditures by the candidates are exceeding the ceiling fixed by the ECI.”

- The repetitive state elections of all the 36 states and UTs causes lots of disruption, both in terms of implementation of various schemes as well as socio-economic scenario. Frequent elections in one part of the country or another, which adversely impact the economy and development. Frequent elections not only impose a huge burden on human resources but also impede the development process due to the promulgation of the model code of conduct. Problems due to imposition of the above code have been articulated by the Parliamentary Standing committee in its 79th report. The Committee states: ‘...The imposition of Model Code of Conduct (MCC) puts on hold the entire development programme and activities of the Union

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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.”

- Frequent elections lead to massive expenditures by Government and other stakeholders. Elections have become big-budget affair and expensive and in most of the cases expenditures by the candidates are exceeding the ceiling fixed by the ECI. Apart from reducing election expenses for both political parties and Government, this will also ensure certain stability for State Governments.
- NITI Aayog on the adverse impact of frequent elections on the engagement of security forces says: *“Such a situation is clearly unwarranted as it takes away a portion of such armed police force which could otherwise be better deployed for other internal security purposes – the basic responsibilities for which these forces were developed for.”*
- **Former President of India, Shri Ram Nath Kovind**, who heads the government-appointed high-level committee on ‘one nation, one election’, opined that holding simultaneous elections would benefit the public and whichever party was in power at the Centre, adding that the funds saved could be used for development work.

Observations of ADR regarding the above committee views

1. Attempts to hold elections to Lok Sabha and State Assemblies are not new. These have been around for a long time.
2. The idea gains momentum whenever a party feels it is in a dominant position and wishes to perpetuate its hold on the country.
3. The argument that the Model Code of Conduct enforced in the run up to elections is an interference in governance by pointing out that the code imposed 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. 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. **To say that the MCC prevents usual development and governance activities is not wholly true.**
4. 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 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.

5. 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.
6. Some also opine that simultaneous elections can be held in 2 cycles in five years. However, there will still be some outlier states (ex 2013 Delhi assembly elections and 2005 Bihar elections) that may need urgent elections in case a government falls (due to no-confidence motion etc) or govt. could not be formed due to the inability to get a majority and we need to prepare for such situations. How these outliers will be handled? Hence, should it be 2 cycles or will four cycles be more appropriate? A direction is required to this end. 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 cycles or during a certain fixed time only.
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. That will take care of the wave issues, electorate will also not get confused, and national and local issues each will 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. **The slogan "One nation, One election" is misleading because while the discussion is initiated with a stated intention to hold simultaneous elections to all three tiers of governance, the Union, the States, and the Local Bodies, the last tier of Local Bodies is invariably dropped from the discourse. Here it is important to ask: What exactly are simultaneous elections? And what legislative bodies do they include? Niti Ayog's definition limits the synchronised elections to the Lok Sabha and State Assemblies. Niti Ayog dismissed the inclusion of the third tier as impractical. Many normally forget the Panchayat elections while discussing the idea. The former President of India, Shri Ram Nath Kovind (when holding the office) and the Prime Minister have mooted an idea of holding simultaneous polls from the panchayat level to Lok Sabha. Thus, it is important to give more clarity on this.**
9. Another **substantial issue is voter behaviour** in the case of simultaneous elections. 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. 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."

10. 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, whether 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.
11. 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 of 61%. Thus, simultaneous elections divert attention from local issues to national issues, and similar behavior has been seen in the US. It's worth thinking whether this is desirable?
12. There are **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.
13. Simultaneous elections can lead to focus away from local issues to national issues. They affect the electoral behavior of voters by a substantial margin as per some studies. Is that a desirable outcome?
14. **Simultaneous elections to Lok Sabha and State Assemblies are not possible without significant amendments to the Constitution**. It is widely known, and accepted, that 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. Opinions differ on the feasibility of amending the Constitution given the current political climate. Proponents of simultaneous elections maintain that public opinion can be guided and built over time since, according to them, this is in the larger national interest. Opponents however see no national interest in carrying out large-scale amendments and say that such constitutional amendments are neither possible nor desirable. The reason for doubting the validity of such amendments lies in the federal character of the Constitution. 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**.

15. There are serious apprehensions that the advocacy of simultaneous elections is a sleight of hand aimed at changing the 'federal' character of the Constitution to a 'unitary' structure. The apprehensions arise from the fact that the justifications held out so far, such as lowering of expenses on elections, and improved governance, are found untenable on a deeper examination. The question then is: Will holding elections to Parliament and State Assemblies simultaneously amount to indirectly interfering with the 'federal character' of the Constitution, in effect changing it into a "unitary structure"? Will this in consequence amount to an attempted change in the Basic Structure of the Constitution, thus violating the Kesavananda Bharati judgment?
16. The answer to this question has been provided very recently by former Supreme Court judge, 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).
- It is therefore clear that 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. **Extending the logic, holding of simultaneous elections which encroach into state autonomy is not likely to stand judicial scrutiny.**
17. To start with, there is the problematic issue of involving the President of the Republic in matters such as simultaneous elections, which, because of their strong political undertones, can undermine the impartiality of the President's office. The government and its various arms have been quoting from the speeches of high constitutional authorities such as the President of India to gather support for the idea. However, late Shri Pranab Mukherjee who recommended simultaneous elections when in office has since resiled from that position, which shows that as President he merely reproduced the views of the government. His personal views are in conflict with that of the government. It is an open question how much credence can be given when government officials quote statements by Presidents in support of what a government wants to say.
18. Another striking fact about simultaneous elections is the relentless, almost feverish, campaign by the government and by any party which will come to power at the centre. On the other hand, numerous instances show that actions taken by certain state governments are in a direction opposite to the goal of simultaneous elections. While the **urge to institute simultaneous elections is very strong in the ruling party at the centre**, overall there is a **lack of coherence because the policies of the governments at the states and the centre are not always in sync.**
19. 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

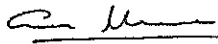
uninterrupted development and cash flow. **This objective can be more easily met by holding simultaneous elections** to Parliament and State Assemblies. However, such a situation may not necessarily result in a strong democracy.

20. It is also a bit disturbing to be faced with a slogan like **'One nation, one poll'**. This creates the **apprehension that even those with reasoned objections to holding simultaneous elections will be accused of going against the unity of the country.**
21. 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.
22. In practical terms, **simultaneous elections will mean artificially cutting short or extending the terms of elected assemblies which strikes at the root of Parliamentary democracy.**
23. *Quoting some observations from the Former Chief Election Commissioner, Dr S.Y. Quraishi's new book 'India's Experiments with Democracy'. He says that in India, there are various reasons why simultaneous elections, even if desirable, are not feasible, at least in the near future:*
 - Being a federal republic, every state in India follows its own political course. **What is one to do, for example, if a particular state witnesses an upturned majority after a few MLAs decide to shift 'loyalties'? How are simultaneous elections to be continued in such a scenario?** Or as was the case in 1996, what happens if the Lok Sabha is dissolved within thirteen days of its formation? Do we also dissolve all the state assemblies? And what happens if one of the state assemblies is dissolved? Does the entire country go to the polls again?
 - The idea sounds problematic and appears against the ethos of democracy as it undermines the people's choice. How can we dissolve state assemblies because of events happening outside the state (like the dissolution of parliament), when the assembly members have been democratically chosen by the people of the state?
 - Realizing these problems, NITI Aayog had proposed the holding of two elections in five years — elections to fourteen states to be held along with the Lok Sabha election in 2019 in the first phase, and elections to the remaining states to be held in October-November 2021. Once these elections were synchronized, then polls would be held in India once every two-and-a-half years. This, however, seems to be a radical dilution of the original proposal to conduct elections at the national, state and panchayat levels at the same time. With panchayat elections and its 30 lakh representatives now already out of the discussion and the bifurcation of the remaining two tiers of governance (4,120 MLAs and 543 MPs), what is left is a very watered-down version of the original proposal. It does not seem to be worth the effort in the face of serious questions being raised about the federal structure of the Constitution.

- Further, 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.
- Election time results in the creation of work opportunities at the grassroots level. That's why people love elections. For the poor, this is the only power they have. Finally, separate elections at three tiers ensure that local, regional and national issues do not get mixed up.
- Two recent developments have put a question mark on the authenticity of the proposal. First, Gujarat and Himachal Pradesh elections, which were always held simultaneously, could not be held together when political exigency decided otherwise. More recently, when the Karnataka elections were held in May 2018, sixteen by-elections were held three weeks later, prolonging the MCC period and the consequent disruption of normal development activities. What moral authority is then left in the proposal?

Till simultaneous elections become a possibility, could we not look at alternative routes? The exorbitant cost of elections could be tackled by putting a cap on campaign expenditure by political parties.

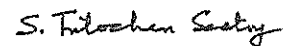
24. The optimal course of action, to conserve **precious national resources that are currently being expended on multiple discussions on holding simultaneous elections, is to give up this attempt, and focus on real issues facing the nation and its people.**



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