

Simultaneous Elections: A Sure Recipe for Democratic Disaster

Sumit Howladar

Abstract

The journey of India's democracy has been an exciting and remarkable one. It has traversed several uncharted and difficult paths. Elections have been one of the core components and drivers behind this project of democratic expansion and consolidation. With changing times both the scale and mode of conducting elections have also changed drastically. While in the earlier years simultaneous elections of both the Lok Sabha and the State Assemblies took place, in the last fifty years this system became defunct. But recently the present incumbent government has pushed for renewing this system of conducting simultaneous elections. This paper argues that with the changed socio-political scenario revival of this system is not in the best interest of the nation's democratic fabric. It highlights that the arguments put forward behind the desirability and feasibility of the said proposal largely based on faulty assumptions and lack sound argumentative base. Delving into the various layers of the issue, the paper underlines the core point that though on a technocratic level conducting simultaneous elections might seem highly appealing, but from a perspective of democratic fructification, this system is bound to prove regressive and counter-productive.

Keywords: Simultaneous, Elections, Democracy, Constitution, Policy, Federal, Government

1. Introduction

The idea of conducting simultaneous elections, interestingly, is not a new idea and was also a promise in Bharatiya Janata Party's (hereafter BJP) party manifesto for the Lok Sabha elections held in 2014. The basic argument presented behind this idea is to save precious time which gets wasted in the process of repeated elections and instead devote it to actual developmental work. Earlier also this idea was floated by the veteran BJP leader Mr. LK Advani. Interestingly, the Model Code of Conduct (hereafter MCC) has been cited as a major hindrance in carrying out developmental work and has been used as a justification for the implementation of the said proposal.

2. What is this idea of Simultaneous Elections?

The idea of Simultaneous Elections to the Lok Sabha and State Assemblies is not something new both in theory and practice. This practice has been in force in the country till the late 1960s where after it got disrupted. The first general elections to the Lok Sabha and all State Legislative Assemblies were held together in 1951-52. However, with the premature dissolution of some state assemblies in 1968 and 1969, this cycle was disrupted. In 1970, the Lok Sabha itself was dissolved early and fresh elections were held in 1971. The term of the 5th Lok Sabha was extended till 1977 under article 352 of the Constitution (emergency). The 8th, 10th, 14th and

15th Lok Sabha could complete their full five-year terms while the 6th, 7th, 9th, 11th, 12th and 13th Lok Sabha was dissolved prematurely. As a result of premature dissolutions and extension of terms of both the Lok Sabha and various state legislative assemblies, there have been separate elections to Lok Sabha and state legislative assemblies and the cycle of simultaneous elections has been disturbed in the last 48 years. The Niti Aayog in its paper has talked in details regarding the technicalities. Simultaneous elections do not mean that voting across the country for Lok Sabha and State Assemblies needs to happen on a single day. This can be conducted in a phase-wise manner as per the existing practice provided voters in a particular constituency vote for both State Assembly and Lok Sabha the same day (Debroy and Desai, 2016).

3. Recommendations by government bodies in favor of Simultaneous Elections

Several bodies of the government have recommended in favor of conducting simultaneous elections. Some prominent among them have opined in the following manner.

- A- **Law Commission of India 170th Report on Reform of Electoral Laws (1999):** In the year 1999, the Law Commission of India headed by Hon'ble Justice B.P. Jeevan Reddy in its One Hundred Seventieth Report on Reform of Electoral Laws recommended simultaneous elections to Lok Sabha and State Legislative Assemblies while examining measures for improving the electoral system in the country.
- B- **79th Report of the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice:** The Standing Committee on Personnel, Public Grievances, Law and Justice (Chairperson: Dr. E.M. Sudarsana Natchiappan) submitted its report on the Feasibility of Holding Simultaneous Elections to House of People (Lok Sabha) and State Legislative Assemblies on December 17, 2015. The Committee supported the idea of simultaneous elections and said that it would reduce expenditure, help in countering policy paralysis due to the imposition of Model Code of Conduct, improve delivery of essential services, etc.
- C- **Election Commission of India:** Six months after a parliamentary standing committee recommended it, the Election Commission of India (hereafter EC) told the law ministry that it supports the idea of simultaneous elections to the Lok Sabha and Legislative Assemblies.
- D- **The Niti Aayog's Discussion paper on Simultaneous elections:** In a discussion paper titled, 'Analysis of Simultaneous Elections: The "What", "Why" and "How"', authored by Bibek Debroy and Kishore Desai, the Niti Aayog has argued that simultaneous election system is good for the Indian polity as it will improve governance and initiate electoral reforms.

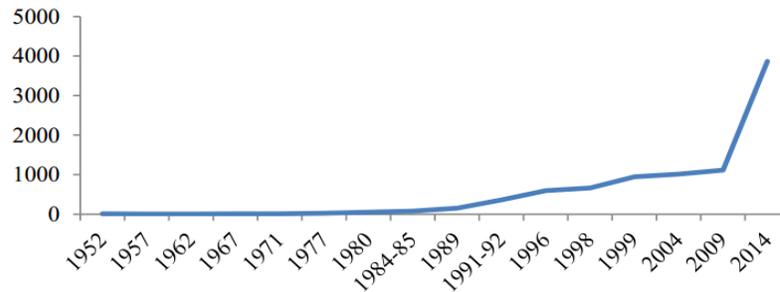
4. Arguments surrounding the idea of simultaneous elections

Since the re-inception of this idea of conducting simultaneous elections, there has been a volley of arguments both in its favor and opposition presented by the various stakeholders and the general public.

Arguments in favor of simultaneous elections

- A. **Reduces massive expenditure:** The government has argued that simultaneous elections will heavily reduce massive expenditure incurred in conducting separate elections as is the present norm. In this context, the Niti Aayog has presented an analysis of the Election expenditure incurred in the previous years.

Figure: Election expenditure (Provisional) by Government of India towards Lok Sabha Elections (Figures along Y-axis are in INR Crores)



Source: Figure 8.1, Election Commission of India Pocket book 2015-16

As evident from the figure, there has been a stiff rise in election expenditure. The Niti Aayog paper has further emphasized that compared to the cost incurred for conducting 2009 Lok Sabha elections at about Rs. 1115 crores, the same for the year 2014 more than tripled to about Rs. 3870 crores.

- B. **Checks the policy paralysis caused by MCC:** The 79th Report of the Parliamentary Standing Committee on ‘Personnel, Public Grievances, Law and Justice’ talks about the problems faced due to the imposition of MCC at regular intervals. The Committee states that this puts on hold the entire development programme and activities of the Union and State Governments in the poll-bound State. Frequent elections lead to the imposition of MCC over prolonged periods of time. This often leads to policy paralysis and governance deficit (Debroy and Desai, 2016).
- C. **Solves the problem of crucial manpower deployment:** The introduction of simultaneous elections will help the effective deployment of crucial

security personnel who otherwise get tied up for prolonged periods because of the periodic conduct of elections. Even in the 16th Lok Sabha elections, the EC had to avail the services of 10 million personal to conduct the election, which included the deployment of 1349 Companies of Central Armed Police Forces (CAPF). With the introduction of simultaneous elections, this manpower problem will be solved.

- D. **Checks corruption and use of black money:** With the prevalence of the system of frequent elections, the political parties are tied up in the efforts of ensuring inflow of funds and contributions which act as the key drivers of corruption and circulation of black money. The introduction of simultaneous elections will help to check this vicious circle and will promote a clean economy and polity.
- E. **Helps in the ushering of better governance and policy-making:** The immediacy of electoral gains forces the political class to compromise on the idea of good governance. Frequent elections act as a blockade in taking up difficult structural reform programs and encourage populist measures. Simultaneous elections will help make policy-making more focused, consistent and bold, thus leading to better governance.

Arguments in opposition to simultaneous elections

- A. **Risk of misuse of the Constitution:** There is a risk of the misuse of the Constitution whereby the Parliament and State assemblies might be dissolved prematurely for specific political gains. This will also violate Articles 83(2) and 172(1) of the Constitution which provides for a set term for the Lok Sabha and the Assemblies respectively.
- B. **There is a risk that it will benefit the party in power:** In a scenario where the dominance and deployment of national issues are on the rise, the implementation of simultaneous elections has the potential of affecting the voting behavior of the voters whereby the important and specific state-level issues might get side lined. The voter might end up voting for the same both at the Centre and the State. In this connection, IDFC institute has published a study where by it has argued that there is a 77% possibility of the voter voting for the same party at both the Centre and the State if simultaneous elections take place. The authors analyzed electoral data for four rounds of Lok Sabha elections- 1999, 2004, 2009 and 2014 and they chose states where the state elections coincided with the Lok Sabha elections. Interestingly, this fear is not totally unfounded as proved by India's electoral history itself. A look at the electoral scenario back in the 1960s (particularly the 1962 Lok Sabha elections) when simultaneous elections were in vogue, proves that it is the incumbent government which benefits the most.

- C. **It will be an operational nightmare:** Implementation of simultaneous election can be an operational nightmare for the Election Commission and more importantly holds the potential of severely undermining democratic fundamentals. Even after the conducting of phased election coupled with Election Commission's enormous efforts, there have been allegations of nepotism, highhandedness, and use of corrupt means in the elections. In such a scenario the obvious question which arises is whether it is feasible for the Election Commission to conduct simultaneous elections whose scale will be massive from the perspective of logistics, security, and manpower.

Though in its reply to the Law Ministry in May, 2016 the EC has supported the government proposal of simultaneous elections but it has cautioned the government of the enormous expenditure to execute this idea. There are two major issues involved in this process. First, there is a requirement of purchasing on a massive scale of Electronic Voting Machines (EVMs) and Voter Verifiable Audit Trail (VVPAT) machines. This according to the estimates of the EC would require a massive amount of 9,284.15 crores. In addition to this, there will be an additional cost to be incurred on replacing these EVMs after every 15 years. There will also be warehousing cost to store these machines. The second problem is regarding the availability of adequate manpower and security personnel for the effective conduct of the elections. That this is highly improbable and can lead to ineffective monitoring can be gauged from a simple fact. According to the Election Commission of India in the 2014 Lok Sabha elections, it required 10 million personnel as polling officials across 9,30,000 polling stations. Apart from this, it required the help of 1349 Companies of Central Armed Police Forces (CAPFs). This gives us a fair idea of the mammoth arrangement required to conduct simultaneous elections and raises severe questions regarding its feasibility.

- D. **Misuse of Article 356:** There is a fear of the misuse of President's Rule by the Union Government. As seen in the judgment by the Constitutional Bench of Supreme Court of India in *S.R. Bommai v. Union of India*, the dissolution of State Legislative Assembly by the President of India is subject to the approval of both houses of Parliament. In a scenario where a particular political party has a majority in both the houses of Parliament, Article 356 can be grossly misused and it might act as a centrally sponsored toppling operation.
- E. **Further Discourages politicians from being accountable:** Accountability of political representatives has been a major issue in Indian politics. Periodic elections somehow acted as a meeting point for the represented and the representatives which ensured some accountability. With the introduction of simultaneous elections, even this minimum accountability will get affected.

- F. **Challenges the ‘Basic Structure’ of the Constitution:** The system of simultaneous elections will act detrimental to the ‘basic structure’ of the Constitution as it involves certain exercises which encroach upon the established federal principles defining the relationship between the center and the states. If this system is applied today then there is a risk of many features under the rubric of ‘basic structure’ getting violated, some primary among them being: the principle of separation of power, Federalism (including financial liberty of the states), etc. The fundamental right of the citizen to choose the government will also be tampered with by the dissolving of the state assemblies for the sake of maintaining consistency and reducing the expenses.

5. Major loopholes in the arguments of the Government

- A. **The 79th report of the Parliamentary Standing Committee is based on assumptions and gives rise to dangerous precedents:**

The Standing Committee on Personnel, Public Grievances, Law, and Justice in its 79th report observed that of the 16 (sixteen) Lok Sabhas that have been constituted so far, seven were dissolved pre-maturely due to the coalition governments but of late the legislatures have been completing their full term. There are severe problems in this sort of observations which lack a solid argumentative base and are largely hinged on pure speculation. Though, factually true, but this observation or inference has two major problematic areas: **(a)** Portraying coalition governments (which is a democratic development) in a bad light and blaming it for pre-mature dissolution of Lok Sabha somewhere reflects the urge towards a notion of majoritarian government and, **(b)** It is in no way equipped to guarantee the course of future political developments.

In order to maintain the stability of the Lok Sabha and the State Assemblies, the Parliamentary Standing Committee has given some suggestions. Some of them are:

The committee suggested that the Lok Sabha would commence and expire on a particular date and the election to constitute the new House has to be conducted in such a way that the Lok Sabha and assemblies could commence their term on a predetermined date. To avoid any pre-mature dissolution the committee suggested primarily four broad steps:

- Any ‘no-confidence motion’ against the government has to be accompanied by a further ‘confidence motion’ in favour of a government to be headed by a named individual as the future Prime Minister and voting should take place for the two motions together. This also applies to the Legislative Assemblies.

- In spite of this if a situation arises, where dissolution of Lok Sabha cannot be avoided, then the following options can be considered: **(a)** If the remainder of the term of the Lok Sabha is not long, there could be a provision where the President can carry out the administration, on the aid and advice of his Council of Ministers to be appointed by him, until the time the next House is constituted, **(b)** If the remainder of the term is long, then fresh election may be held and the term of the House in such case should be for the rest of what would have been the original term.
- If following a general election, none of the political parties is able to form a government and another general election becomes necessary, the term of the House in such case after the election should be only for the remainder if what would have been the original term.
- As far as the issue of bye-elections is concerned, two windows of one-and-a-half months each may be fixed for holding them that become due in a particular year.

On examining the suggestions of the Parliamentary Standing Committee which it claims to promote stability, there are some serious questions which certainly arise. They are:

- First, on the suggestion of placing a parallel confidence motion, the basic question is whether this arrangement is in tandem with the Constitutional ethos where the power to choose the government lies solely with the people. The political representatives are constitutionally equipped to represent in matters of governance and administration only and not to form governments on people's behalf. The amendment to Rule 198 of the Lok Sabha thereby introducing the system of a parallel confidence motion is in direct contrast to the cardinal principle of democracy that is a government formed by the people through periodic elections. It will also lead to distortion of Article 75(3) of the Constitution as the council of ministers who will be collectively responsible to the House are technically appointed through the backdoor mechanism and will not necessarily enjoy the support of the people.
- Second, this practice of forming alternative governments will further encourage defections on a large scale and resultantly massive corruption and use of black money.
- Third, the proposal that the President can carry out the functions of the Lok Sabha by appointing a council of ministers is a blatant misuse of the powers of the President. The concept of President's rule can in no way be an alternative to a democratically elected government by the people.

- Fourth, the suggestion that if the House gets dissolved and fresh elections are held to form a new House, then the tenure of the particular House will be of only for the remainder of the days of the previously dissolved House will be a sheer wastage of money, time and manpower. Interestingly, these were the very factors which the simultaneous elections tried to deal with in the first place.

If disruptions happen more than expected keeping in mind the multifarious nature of politics in the country how does the government intend to defend the imposition of MCC and the expenditure which are bound to happen?

B. Anti-Defection Law has little bearing on the term of the legislature:

The claim by the ‘The Standing Committee on Personnel, Public Grievances, Law and Justice’ in its 79th report that the introduction of the Anti Defection Act, 1985 has prevented political defection in the ruling party and that this has had a direct bearing on the term of the legislature is factually wrong. The reality is that though the 1985 law was to make politics cleaner this has instead taken a toll on our legislative and political systems. It originally made it illegal for individual legislators to take voting decisions without the permission of their whip. Though this was supposed to minimize corruption what it actually did was that it transferred the process of government formation to the level of party high commands away from public scrutiny.

C. Simultaneous elections will have little or no bearing on the use and circulation of black money in the electoral process: The argument of the government that the re-introduction of simultaneous election will help combat corruption and use of black money does not hold much ground and there are specific reasons for that. Even if the system of simultaneous elections is reintroduced, there is no guarantee that the use of black money in the elections process will be stopped. This argument makes more sense after the drastic changes made by the government in the Representation of the People Act, 1951, the Reserve Bank of India Act, 1934 and the Income Tax Act, 1961. With the amendment in Subsection (3) of Section 29C of the Representation of the People Act, 1951 cash donation to political parties has been slashed from Rs. 20,000 to Rs. 2000. But this in no way stops the misuse of the law by political parties who can still tame the system by enhancing simply the number of receipts for the donations they receive. In addition to this the Finance Bill, 2017 also made amendments in the Reserve Bank of India Act, 1934 and the Income Tax Act, 1961 whereby political parties have now been exempted from disclosing the identity of individuals and companies who make donations through electoral bonds bought from the commercial banks. Moreover, the RBI and the Income Tax department now have practically no means to probe the funding of political parties. In addition to this, a political party’s treasure and where it spends

the money is still beyond the reach of the RTI Act. If transparency is to be brought about in the real sense that it demands the revising of the government's affidavit in the Supreme Court- which upholds the Central Information Commission's full bench decision in 2013 to consider the six national political parties public authorities under the RTI Act. In this scenario of anonymous corporate funding and policy of anonymity, the introduction of the simultaneous election will have no impact on the use of black money in the elections process.

- D. Government's take on simultaneous elections that it is a do-able proposition betrays the facts on the ground:** The government's position that simultaneous elections can be conducted seems impractical keeping the ground realities in mind. After the debacle in the Srinagar Lok Sabha by-poll elections, the EC had asked the Home Ministry to deploy 750 companies (75,000 central forces) of central forces for the Lok Sabha by-poll in Anantnag, rescheduled for 25th May, 2017. In a situation where logistics are still such a huge problem, claiming that conducting simultaneous elections is feasible does not seem to hold much ground. In addition to this keeping in view, the fact that tenure of the Jammu and Kashmir assembly is of six years, how the government plans to bring it under the synchronized arrangement is anybody's guess.

6. Some Constitutional questions

There are some serious Constitutional questions which need to be answered before the implementation of simultaneous elections. Some broad questions include:

- To implement the idea, the tenure of some of the State Assemblies needs to be curtailed. How to do it, when the government of the day enjoys the legitimate confidence of the legislature?
- How to maintain simultaneity especially in the event of a no-confidence? Will the amendment to Rule 198 of the Lok Sabha to introduce a parallel confidence motion be in tandem with the democratic principles?
- How far can be the idea of 'collective responsibility of the council of ministers to the House' stretched for the maintenance of stability under the scheme of simultaneous elections? Will it not be a distortion of Article 75(3) of the Constitution?
- How can the system of simultaneous elections work without changes being brought to Article 83(2) and Article 172(1) of the Constitution which presently only talks about the existence of Lok Sabha and state legislatures respectively for five years from the date of its first meeting unless dissolved earlier and not guarantee fixed terms for them? Simultaneous elections are not possible without fixed terms.

7. What will be at stake?

There are some fundamental issues which will be at stake if simultaneous elections are introduced.

- A. **The fundamental ethos of the Constitutional provision of elections:** The fundamental ethos of the Constitutional provision of elections in a democracy is the rule of the people and a proper representation of their wishes and demands. The basic ethos behind this exercise of elections is the primacy of people's mandate over any other technocratic preferences. What this simultaneous election scheme does is to undermine or rather challenge this very central Constitutional ethos and tries to subsume it under the spurious argument of economic benefit and administrative efficiency.
- B. **Plurality of Indian Democracy:** Post-independence and especially after the discontinuation of simultaneous elections, the socio-political scenario of the country has gone fundamental and drastic changes. Reintroducing simultaneous elections in the present times will hit at the concept of plural democracy which has evolved over-time and has now entrenched in the political system of the country. With this system in place, there is a high risk of the dominance of a single political force.
- C. **The fairness of the election process:** For democracy to be really meaningful and profound, the implementation aspect is as important as the concept itself. As far as the logistical aspect of conducting elections, simultaneous elections will increase the risk of use of corrupt practices as the monitoring capacity of the EC will get severely limited. This is going to have a profound impact on the democratic credentials of the system of electing political representatives.
- D. **Democratic accountability of the representatives:** Reintroduction of simultaneous elections will further shrink the already paltry democratic space when the electorate and the representatives can meet and have to some extent a fair discussion. With elections taking place in one go, the representatives will not have to face the electorate at regular intervals. This has the potential of having a negative impact on the sense of accountability of the representatives.
- E. **The federal structure of the polity:** In a country like India, especially whose formation has witnessed the amalgamation of diverse socio-cultural groups and identities', maintaining the federal structure of the polity is important. The basic idea of maintaining uniformity and in the process compromising on the tenure of state assemblies (which represent regional aspirations) goes against the federal structure of the polity and even crosses the quasi-federal mechanism on which there has been some agreement.

8. Conclusion

The proponents of this idea of simultaneous elections seem to undermine the fact that elections are a blend of both subjective and objective conditions and are not merely a sanctified legal-constitutional exercise. The fundamental question is whether the concept of technocracy can be privileged over the idea of democracy. Utmost care needs to be taken that the federal structure and the diversity of the country are not compromised for the sake of bringing technical uniformity. Having structural reforms is not a bad thing in itself but one needs to be confident that it will have the desired effect as proclaimed. But at the present stage, the arguments presented by the government seem to be based more on assumptions and hope rather any concrete logic. One need not forget the effects of demonetization which was also pitched as a great structural reform but has not yielded any significant results till now as interestingly evident from continuously emerging government reports itself. If the government is sincere about good governance and particularly curbing election expenditure, then it should seriously look for alternative ways such as reforms in the expenditure of political parties, issue of funding of political parties, etc. The solution lies in cleaning up the political system and enhancing the legitimacy of political parties and not in technocratic solutions like simultaneous elections.

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Dr. Assistant Professor

Jagran Lakecity University, Bhopal

Email: sumit.hwl@gmail.com