

THE IDEA OF ONE NATION, ONE ELECTION IS AGAINST FEDERALISM

Relevant for: Indian Polity | Topic: Elections, Election Commission and the Electoral Reforms in India Incl. Political Parties

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In September 2023, the Union Government set up a '[High Level Committee on One Nation, One Election](#)' under the chairmanship of former President of India, Ramnath Kovind. The High Level Committee has met on three occasions and sought the views of various national and State political parties on the subject of a common elections schedule. Recently, public views and those of eminent jurists were also solicited in this regard. Though there is no definitive timeline for the Committee to submit its recommendations, the fact that the timing of this exercise coincides with the lead-up to the general elections in 2024 raises pertinent doubts. Nevertheless, as the outcome of this exercise has the potential to alter the fundamentals of our democratic set-up and reset the federal structure, it is necessary to examine the legal issues at the earliest juncture.

There are compelling reasons to believe that the High Level Committee is likely to return a recommendation in favour of a common schedule comprising elections to the Lok Sabha and the State Legislative Assemblies overlooking genuine constitutional and legal concerns. This is why all the attention, in the aftermath of this exercise, would entirely focus on the Supreme Court of India. This would be India's *Baker v. Carr* moment where the Supreme Court of the U.S. deliberated the concept of "entering the political thicket". The Indian Supreme Court, which has self-characterised its constitutional role as the "sentinel on the qui vive", would be called upon to determine, quickly and purposefully, the ultimate fate of Indian democracy.

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One of the reasons assigned in support of One Nation, One Election is the high amount of expenditure towards the conduct of elections. It is reported that the 2014 general elections cost the public exchequer an estimated 3,870 crore. It is argued that common elections for the Union Parliament and State Assemblies would reduce expenditure significantly. Another reason put forth by proponents of a common election is that the Model Code of Conduct comes into effect twice in a five year cycle, which affects the seamless conduct of government business and results in 'governance downtime'.

Opponents of the common elections contend that these reasons are logically and factually

untenable. The cost of holding free and fair elections to elect a government of the choice of the people is a price that can never be high. There are occasions where a government may not complete a full term of five years, and elections may be held again. Such occurrences are expressions of the democratic system and ought to be accepted. Likewise, the Model Code of Conduct and other guidelines issued by the Election Commission are necessary pains to ensure that executive influence over voters is kept to a minimum and the playing field, during the election period, remains level. In any case, it sounds strange for a Union government and the Election Commission that have refrained from holding Assembly elections in Jammu and Kashmir, for nearly five years, to express strong concerns regarding governance downtime.

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In *S.R. Bommai v. Union of India* (1994), the Supreme Court declared that the States have an independent constitutional existence, and they have as important a role to play in the political, social, educational and cultural life of the people as the Union. The Constitution provides for a specific tenure for the State Legislatures, which is five years from the date appointed for the first meeting. A similar provision also exists for the tenure of the Union Parliament. Therefore, the introduction of a common election process would necessarily require alteration of the existing duration of a number of State Legislatures. This would go against the express language in the Constitution and be in violation of the view expressed by the Supreme Court in the *S.R. Bommai* case. Therefore, any such action that impinges upon the independent constitutional existence of a State by altering the duration of its Legislative Assembly would naturally be anti-federal and unconstitutional.

The next test would be that of bias, exclusion, and inequality adopted in this exercise. A cursory glance of the website created by the High Level Committee, intended to be a repository of all relevant information on the subject and act as a platform for interaction from all stakeholders, shows that it is available only in English and Hindi. This is to say that such a landmark consultation process is being conducted in one of the 22 official languages of the Union.

Finally, there is a question that goes to the root of the independence of the Election Commission, a constitutional body endowed with autonomy to take independent decisions regarding elections. Similar to demonetisation, when the Reserve Bank of India was kept in the dark, the Election Commission seems to be a silent spectator to the entire process undertaken by the High Level Committee set up by the Union government.

DATA | [Why 'one nation, one election' would strike a blow against federalism](#)

In the U.K., home of the common law jurisprudence, Parliament is supreme. However, the Indian constitutional architecture is structured differently granting higher courts inherent and broad powers of judicial review when executive actions transgress the fields assigned to them. The stage is set for a constitutional showdown in the not-too-distant future — one that will raise the question of whether constitutional courts, especially the Supreme Court, will enter the political thicket. At the moment, there seems to be no alternative but to enter and wade through the thicket, if the constitutional architecture of this country is to be preserved.

Manuraj Shunmugasundaram is Advocate, Madras High Court, and DMK spokesperson. Dhileepan P. provided inputs for the article

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