

Polls apart

With the Election Commission of India (ECI) having indicated that it is ready to execute simultaneous elections, the issue has gathered momentum. While it would actually take a lot of time, the “preparations” by the ECI suggest that the powers-that-be might not be willing to consider the larger implications, nor wait for a consensus to evolve, nor bother with constitutional proprieties. The issue is made out to be about homogenisation — a pet theme of the current dispensation — and hence it is being packaged as “One Nation One Poll”. Nothing can be farther from the spirit of the Constitution or, for that matter, from democratic principles.

NITI Aayog has prepared a “discussion paper” justifying a far-reaching revision of the Constitution. It summarises key arguments in favour of simultaneous elections and also proposes a plan to implement and institutionalise them. Discussions on this issue have so far mainly focused on the likely effect of this measure on election outcomes and the practical aspects of conducting elections simultaneously. Just as the “why” of simultaneous election is problematic, the “how” of this measure, too, requires more detailed discussion and debate.

The discussion of electoral reforms in the Indian context often deflects from the main issues and tends to bring solutions that might be both irrelevant and more harmful than the pre-existing challenges. The move for simultaneous elections is yet another instance of this tendency. Among other justifications, the proponents have argued that it is necessary because of “governance” issues — the imposition of the model code of conduct and because of the influx of money into politics. It is evident that both these issues need to be addressed by the political establishment through serious debate, introspection and self-regulation. Instead, all the blame is laid at the door “continuous elections” in different parts of the country, round the year.

Perhaps the least debated but most worrying part about the proposal for simultaneous elections is the actual mechanism to ensure its “workability”. Elections to Lok Sabha and state assemblies become staggered because of a core principle of the parliamentary form of government: The legislature shall be accountable to elected representatives. Supporters of the measure often point to simultaneous elections until 1967. But it is often forgotten that those simultaneous elections were not constitutionally mandated; they occurred simultaneously only because historically, electoral competition with adult suffrage formally took off at the same time at the national and state level and for the first two decades, electoral mandates for national and state legislatures ordinarily remained stable (barring in Kerala). In other words, simultaneous elections were not a principle but a function of historical coincidence and initial political stability. The overarching principle of legislative majority remained sacrosanct.

If we now decide to artificially and forcibly implement simultaneous elections as a principle rather than as an incidental outcome of the political process, we must ensure a certain hierarchy of principles. Supporters of simultaneous elections, however, are so excited that they are even prepared to sacrifice the higher and constitutionally mandated principles of the parliamentary system. These are the twin principles of accountability to the legislature and the five-year term. If a legislature throws out a government and is unable to form another, then elections become inevitable. On the other hand, a legislature has a five-year term once elected — if it can throw up an executive with legislative majority.

This is where the proposed mechanism falters. In the first place, it brings to the table the proposition earlier made by L.K. Advani involving the “confidence vote”. This means that a no-confidence vote becomes infructuous in the absence of a confidence vote accompanying it. This looks attractive to those who posit less value in popular mandates and more in stability. But whether this proposal passes the test of a parliamentary system or not remains a question. The

implication of such a provision would be that a government cannot be removed, however anti-people or under-performing it may be, or in spite of being hopelessly in a minority, if the Opposition is not united enough on an alternative to replace the existing ministry. In either case, will this not violate the basic features of the parliamentary system? By this logic, the improbable governments of [Charan Singh](#) (1979) or Chandra Shekhar (1990) could not have been removed, nor could no-confidence in the United Front government (1998) or the Vajpayee government (1999) be articulated by the then parliaments.

Two, another mechanism that is proposed is even more problematic. As the NITI Aayog mentions, if the mechanism of confidence vote fails and the Lok Sabha is to be prematurely dissolved, then, instead of fresh elections, if the period is short, the president can carry on the administration with advice from a council of ministers (which obviously does not have the support of the legislature). This would be the most blatant violation of the principle of responsible government and such a proposal is nothing short of rewriting the Constitution via a back door and bringing in of the provision of “president’s rule” at the national level. It would also accord to the president an unreasonably wide discretion of appointing such an interim, non-responsible government.

Three, if the legislature is to be inevitably dissolved with a larger portion of the five-year term still remaining, then it is suggested that fresh elections are held but the legislature shall not have the full five-year term; instead, it would have a truncated term that remained from the previous legislature’s term. This would jeopardise the constitutional protection that a legislature, once elected, gets a five-year term.

Thus, three key mechanisms are in danger of arbitrary and unnecessary revision: Removing a government by the no-confidence measure, the mechanism that the president shall appoint as prime minister only a leader with a majority in the Lok Sabha and the five-year term of elected legislatures. All these changes would require both a constitutional amendment and judicial approval that they do not violate the “basic structure” of the Constitution. But primarily, they would require a rewriting of it on a scale and scope larger than that of the infamous 42nd Amendment.

It can be argued that constitutions do require massive changes. So, one need not go into the question of rigidity or inability to make suitable changes. The key question here is whether this effort and violation of existing provisions and principles is really required. This takes us back to the purpose behind pursuing this change. If expenditure is an issue, that logic would finally take us to the argument that elections are expensive and hence problematic. If the interference of the model code of conduct is an issue, political parties need to impose self-regulation when in power and ensure that the boundaries between rightful and legitimate decision-making and wrongful advantage of positions of power to win votes are strictly and legally defined. If black (illegal) money is the problem, then it can hardly be addressed by this measure; changing both laws and practices involving electoral finance will be the best route to adopt.

While questions over how and why the ECI allowed itself to sideline these fundamental issues are moot, it is also necessary that we take with a fistful of salt the NITI Aayog’s pious-sounding conclusion that simultaneous elections “would be a stepping stone towards... larger ‘electoral reforms’”. We surely need to “re-boot Indian polity” but not at the cost of giving democracy the boot.

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