

RGICS



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RGICS ISSUE BRIEF

Introduction of Simultaneous Elections to National and State Legislatures

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KEY MESSAGES

- **Attack on the representative nature of democracy:** Since data reveals that simultaneous elections are inevitably favorable towards the national parties, a single poll might overshadow the smaller regional parties and their agendas. This directly affects the representative nature of our democracy which thrives on a multi-party system.
- **Shift towards a presidential system:** As the recommendations suggest, implementation of simultaneous elections will involve delegating a lot more power to the President in various aspects. While this might strengthen the centre's control over the country, it is counterproductive for the federal structure.
- **Redundancy of the bicameral legislature:** While the actual impact of this electoral reform can only be analyzed after its implementation, the function of the Rajya Sabha and the election of its members might be rendered redundant if majority of the states have the same party in power as the centre.
- **Dissolution of the government:** There has been no consensus on the most important aspect of implementation of this reform, i.e., the recourse to be taken if a government loses majority. The suggestions put forth presuppose a fixed 5-year term and appears undemocratic.

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PART I: INTRODUCTION

The issue of holding simultaneous elections to both national and state legislatures has been debated since 1999 when the Law Commission recommended a single poll for the entire country. Ever since, several committee reports have also promoted the idea, citing various reasons ranging from efficiency to decreased expenditure. A combined analysis of all the reports and debates highlights the following pros and cons that might emerge from implementation of this suggestion:

Pros

- Curb the massive expenditure and burden on manpower that is incurred on holding separate elections to Centre and State assemblies as well as the expenses for holding by-elections
- Avoid policy paralysis on account of Model Code of Conduct frequently imposed due to continuous elections to one body/seat or another thus affecting delivery of essential services.
- Focus on the larger national interest and increased accountability of the Centre towards the states

Cons:

- Attack on the federal structure of the country by compromising the provision for division of powers and functions between centre and states
- Shift towards a more Unitary form of government with emphasis on pan-India parties at the cost of regional or marginalized parties
- Logistical and functional difficulty of organizing a massive one time country-wide exercise
- Lack of a coherent roadmap towards synchronizing elections including safeguards against premature elections
- Extension of tenures of certain assemblies without fulfilling the requirements laid down in the constitution
- Lack of accountability leading to complacency especially since the idea of a fixed term is suggested

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PART II: KEY ISSUES

Issues from the Reports on simultaneous elections

Issues	Standing Committee Report 2015	Election Commission Report 2017	NITI Aayog Report 2017
Timeline for implementation	Does not mention any specific date but suggests implementing it gradually in phases	CEC has mentioned it is ready to conduct simultaneous elections starting with the General Elections to be held in 2019	Implementation in phases starting from 2019 2019 General Elections will have to be preponed to synchronize it with the pending elections of 4 states in between December 2018-January 2019 However, some recent statements state that implementation will only begin from 2024.
Tenure	5years-starting and ending on pre determined dates and not on the dates it completes its 5 year sitting Referred to UK's Fixed Term Act 2011	Few states may have to curtail or extend or their tenure beyond 5 years initially	Phase I will only involve curtailing of tenure of few states

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<p>Premature dissolution</p>	<p>Either pass a confidence motion along with no confidence motion to elect a new government or President's Rule will be imposed if the term remaining is short.</p> <p>If a long period remains, re elections take place and the new government takes power only for remainder of the tenure of the previous government</p>	<p>Adopt Germany's constructive vote of no-confidence.</p>	<p>No confidence motion to dissolve the government can only be taken if other government can be formed within 14 days</p> <p>Germany's model given as an example</p>
<p>No confidence motion</p>	<p>Allowed only if introduced simultaneously with a confidence motion.</p> <p>Another no confidence motion cannot be passed for the next two years</p> <p>Amendment required to Rule 198 of the Rules of Procedure and Conduct of Business for Lok Sabha</p>	<p>Allowed only as a constructive vote of no confidence</p>	<p>Allowed if an alternate government can be formed in 14 days</p>
<p>By-elections</p>	<p>Two windows of one and half years for every by-elections</p> <p>Filled in temporarily by the governor from the same party from a list of three candidates drawn up by the party.</p>	<p>Yearly basis</p>	<p>All the by-elections pending will be done on an annual basis</p>

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<p>Election Commission</p>	<p>One common National Election Commission at the Centre with a separate secretariat having constitutional powers similar to that of the Lok Sabha and Rajya Sabha Secretariat</p>	<p>Mentions in detail the role and powers of the CEC and the two Election Commissioners and recommends constitutional positions for all of them and not just the CEC.</p>	<p>Supports the suggestion of a single National Election Commission responsible for conducting simultaneous polls</p>
<p>Proposed Constitutional/Statutory Amendments</p>	<p>Amendments to Article 83(2) and 172(1)</p> <p>Amendment to Article 324</p> <p>Amendment to Rule 198 of the Rules of Conduct of Business in Lok Sabha</p>	<p>Article 324 to be amended to make changes in the EC</p>	<p>No amendments immediately</p> <p>Subsequent amendments to 10th Schedule and Anti Defection Law to determine the grounds of disqualification</p>

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PART III: ANALYSIS

- 1. Federal Structure:** Syncing all elections to the parliamentary election is an indirect attack at the roots of the federal structure which forms a fundamental part of the Indian constitution and cannot be corroded by any legislation. Any effort to hold simultaneous elections undermines the federal nature of the constitution which provides for two separate bodies and separate elections for both the parliament and the state assemblies. An attempt to synchronize the two has the risk of national pan-Indian parties overshadowing smaller regional parties and thus the emergence of a hierarchy between the states and the centre.
- 2. Representative nature of democracy:** One of the fundamental disadvantages that arise out of synchronizing elections is the clear dominance of national agenda. While the major parties have a pan-India presence, they are often not responsive towards issues that are exclusive to each state and marginalized communities that exist in every state. State elections are more focused on these communities and their problems which might not be on New Delhi's list of priorities. Overshadowing these parties and the regional agendas by putting the spotlight on national interest will be harmful to the representative character of democracy. Different issues hold sway during state and national elections and both should not be combined.
- 3. Increase in the powers and functions of the President:** The implicit powers of the President increases significantly if the recommendations of the Law Commission are implemented. It gives him the power to dissolve state assemblies unilaterally or impose President's rule indefinitely in case of dissolution of state government. There is scope of misuse of Article 356 although it is subject to judicial review. The power of disqualification of MPs will be shifted from the speaker to the President. Temporary government in the parliament will be appointed by the President if the ruling party loses confidence.
- 4. Premature dissolution of the government:** This aspect is the most problematic while implementing simultaneous elections. The premature dissolution of any of the state governments or the Central Government can immediately undo the carefully synced elections. In such a circumstance, the proposals given by the NITI Aayog are vague and impractical. For such an arrangement to be successful, one must presuppose a fixed term for the governments, much like the presidential system or else adhere to Germany's version of constructive no-confidence motion. All of this involves reworking the entire constitution to concentrate more power on the Centre with the states functioning as its subsidiaries.
- 5. Redundancy of the bicameral nature of parliament:** A bicameral system of legislature reflects the country's pluralistic character and safeguards the interests of the states in the true spirit of federalism as Rajya Sabha is envisaged as a Council of States. Election to this house is an annual process where 1/3rd of its members retire each year. This House is indirectly elected and it is meant to be Parliament's more deliberative body which truly represents the views of the states, unlike the lower house which gets embroiled in narrow, short term goals. Changing the nature and election process of the Rajya Sabha in an attempt to synchronize it with the rest of the country's election will render the very purpose of the House redundant and will impact the Basic Structure of the Indian Constitution. In an eventuality where most of the states are dominated by the party in power at the centre, election to the Rajya Sabha will be a foregone conclusion. This undermines the purpose of a bicameral legislature.
- 6. Accountability:** The spirit of democracy lies in an elaborate mechanism of checks and balances imposed on every tier of government through frequent elections and by-elections. It ensures that the government is in tune with the realities and people have a chance to voice their feedback. It also keeps the government on check from becoming an authoritative entity while at the same time allowing for course correction in policy formulation. These are aspects that risk being lost out on in the pretext of efficiency, which the government has cited as the primary reason for syncing elections.

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PART IV: CONCLUSION

Changes in law:

Simultaneous elections would also involve several statutory amendments as well as amendments to the constitution as is elaborated above but the phase wise implementation as suggested by the NITI Aayog would not require any immediate changes in the law. However, as and when it is implemented, it will require the amendments as discussed above, mainly amendments to Article 83(2) and 172(1) and Rule 198 of the Rules of Conduct of Business in Lok Sabha.

Effect on political parties and electoral outcome:

Implementation of simultaneous elections, as suggested by available data, will immensely benefit the ruling party in the centre. In such a case, regional parties might lose out on their due representation because of the dominance of the national parties, thus overshadowing their agendas. In the long term, this form of elections might not be ideal for an effective democracy.

Long term impact on democracy:

If past results are to be relied on, implementing simultaneous elections and syncing the cycles of state and national elections will result in a corrosion of the federal structure apart from eliminating the diversity of multi party system by ensuring that only one single party or two major national parties are in power in the entire country. This is also bound to affect the bicameral system by effectively rendering the Rajya Sabha redundant. Thus, there is a visible disadvantage to the democratic functioning of the country if simultaneous elections in national and state legislatures are implemented.

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PART V: BACKGROUND INFORMATION/ REFERENCE DOCUMENTS

- Parliamentary Standing Committee Report on The Feasibility of Holding Simultaneous Elections to the House of People and State Legislative Assemblies presented to the Rajya Sabha on 17 December 2015
<http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Personnel,%20PublicGrievances,%20Law%20and%20Justice/79.pdf>
- Report on Proposed Electoral Reforms prepared by the Election Commission of India on January 2017
http://eci.nic.in/eci_main/ElectoralLaws/HandBooks/PROPOSED_ELECTORAL_REFORMS_01052017.pdf
- Analysis of Simultaneous Elections: The “What”, “Why” and “How”-A Discussion Paper prepared by NITI Aayog
http://niti.gov.in/writereaddata/files/document_publication/Note%20on%20Simultaneous%20Elections.pdf
- Report No. 255 on Electoral Reforms prepared by Law Commission of India, 2015
<http://lawcommissionofindia.nic.in/reports/Report255.pdf>