

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**

[ISSN 2581-5369]

Volume 4 | Issue 3

2021

© 2021 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at submission@ijlmh.com.

Electoral Reform

VIVEK RAJ¹ AND YASHASVI²

ABSTRACT

“Winning or losing of the election is less important than strengthening the country”

- Indira Gandhi.

*Multiplicity of elections in our country makes the entire nation in a permanent election mode. Our country, in a span of five years apart from Lok-Sabha Elections, our country witnesses at least **eight rounds** of elections, sometimes even two rounds are held in one year and many rounds of local elections including municipalities elections and gram panchayat elections. Nation has been paying a heavy price for this seemingly **inevitable Multiplicity of Elections**. It starts with a long, arduous Code of Conduct, which is ethically correct but **practically problematic** and hard. In the name of Election Code, the entire Government machinery gets an official license to stop working or at least stop completing the undergoing work. Election Code has become a stumbling block than a true code of administrative impartiality ending every kind of favoritism. The idea of good governance habitually takes a beating every time when elections are round the corner. Governance involves **larger good of the people** and not just earning popularity. But when elections are around, rulers of the nation are scared to take even simple and basic regulatory mechanism related decisions as the lurking fear of people going against them which cause political loss to the ruling party. As a consequence, postponing unpopular decisions has set in as a practice and we all are paying its price. When elections are near, populist demands are pushed by various groups as they knows that, the Government may not dare to say no at this time. All this has promoted both, competitive populism and a tendency to indulge in competitive compromises with good governance. The financial cost of conducting elections independently is so huge that a nation like India doesn't able to afford the same in any way. From electoral rolls to distribution of booths and polling stations, either there is needless differentiation or duplication or that causes both, needless expenditure and wanton creation of confusion. **One Nation One Election** has the potential of taking care of many such issues, undoubtedly. Large number of government employees including a large number of teachers are involved in electoral process causing maximum harm to the education sector. Security forces too have to be diverted for the electoral work leaving the borders precarious. It is the Election Commission to take this exercise forward in consultation with political parties. The paper*

¹ Author is a student at Lloyd Law College, India.

² Author is a student at Lloyd Law College, India.

aims to highlight the One Nation One Election system, role of Election Commission in the view to cleanse the political funding and decriminalize politics, also its working towards a comprehensive review of the election laws. Another thing which is important in different mode election is that, all have different issue. The lok sabha election has another issue i.e nation level issue and legislative election has different issue which is also known as local issue.

Keywords: *One Nation, One Election, Policy, Democracy, India.*

“For democracy to survive, it is essential that the best available men should be chosen as representatives of the people for proper governance of the country. This can be best achieved through men of high moral and ethical values, who win the elections on a positive vote. “Thus in a vibrant democracy, the voter must be given an opportunity to choose none of the above button and also will compel the political parties to choose a sound candidate. This situation palpably tells us the dire need of negative voting.”

– The Honorable Supreme Court

I. INTRODUCTION

India is the largest Democracy in the World. Elections are the most important and integral part of politics in a democratic system of governance .Democracy can function only upon this faith that elections are free and fair and not manipulated and rigged. But for certain reasons, system of Democracy is not working properly and common man feels that there is something wrong in the Electoral process. While the first three general elections (1952-62) in our country were accepted by and large free and fair, a decline in standards began with the fourth general election in 1967³. Over the years, Indian electoral system suffered from serious maladies. Thus, the election process in our country is considered as the basis of political corruption. The ideal conditions require that an honest, and upright person who is public spirited and wants to serve the people, should be able to contest and get elected as people’s representatives. But in actual fact, such a person has no chance of either contesting or in any case winning the election. One Nation One Election is one of the major growing concept in India which requires a total change in the structure of conducting elections within India. The basic idea behind this concept is to conduct a single election for the Lok Sabha, the State Legislatures and the Panchayats in place of series of elections done regularly over a period of time⁴. This concept is increasingly growing

³ Chakravarty P. 2017. Has 70 Years Of Redistribution From Rich States To Poor States Worked? Bloomberg Quint, July 6.

⁴ Sinha, S. 2017. “The Protesting Tamil Farmer Pays For The UP Farmer’s Loan Waiver”, SP Publ., May 29.

popular within India as many political leaders have put forth their views over its application within India which includes Narendra Modi (Prime Minister of India), former President of India Pranab Mukherjee and also Ram Nath Kovind (President of India). The latest pitch for a common electoral roll has been raised by the Law Commission of India which seems eager in implementing the policy and voiced the concerns with the Election Commission of India. A National Seminar was held in Mumbai in January 2018 by Rashtriya Swayamsevak Sangh-backed Rambhau Mhalgi Prabodhini to echo Modi's call of 'One Nation One Election'⁵. India witnesses about 5-7 State Assembly Elections at an average every year. Elections in India for the Lok Sabha, the State Assemblies and the Panchayats are held every 5 years. Elections in India are conducted and regulated by the Election Commission of India whose head is a Chief Election Commissioner. A Chief Election Commissioner is elected for a term of 6 years and is appointed by the President of India. The objective of this report is to study the feasibility of implementation of 'One Nation One Election' in India. To implement a certain policy in a country, various pros and cons of the policy need to be evaluated. So, this policy of One Nation One Election needs to be evaluated by taking into consideration all the parameters and its pros and cons needs to be weighted based on a detailed study and research. We will also look into the relevant provisions of the Constitution and various statutes the needs to be amended in order to implement the policy of 'One Nation One Election'⁶. The government if decides to complete its full term till May 2019 then there are three phrases that can lead to conduction of elections for more than half of the states simultaneously.

1. Dissolve the state legislatures of four states (Mizoram, Madhya Pradesh, Chhattisgarh and Rajasthan) by imposing President's Rule and extending the period for 6 months so that the date for elections may fall near May 2019.
2. Five states (Arunachal Pradesh, Odisha, Telangana, Andhra Pradesh and Sikkim) have due date for elections in April 2019.
3. If elections are pulled back for about 6 to 8 months by dissolving the state legislatures of four states (Maharashtra, Haryana, Jharkhand, Delhi), then the election dates of these states shall coincide with the Lok Sabha elections in May 2019.

II. HISTORY

India got its independence from the British rule on 15 August 1947. It took around 2 years for India to prepare the longest written constitution of the world that will govern all the aspects of

⁵ Dehejia, V. 2017. "Will GST exacerbate regional divergence?", *Economic & Political Weekly*, June 24.

⁶ Dehejia, V. "A more perfect union", *Indian Express*, March 13, 2017.

the country. On 26 January 1950, India became republic as the Constitution came into force on this date. To run the country, a representative body was must that would represent the will of the people. To form this representative body, general elections were held for the first time in India in the year 1952. India being run by a three-tier government, the elections were held for both the Lok Sabha and the State Assemblies of the respective states simultaneously⁷. India is not new to the concept of simultaneous elections. The elections were held once and for all; the Lok Sabha and the State Legislatures. India carried on the simultaneous elections for the Lok Sabha and the State Assemblies which continued for three subsequent general elections⁸. The instances for simultaneous elections can be seen in the election conducted for the period of 1957, 1962, and 1967 barring the first general elections held in 1951-52. This cycle of simultaneous elections was disrupted due premature dissolution of:

- Haryana Legislative Assembly in 1968,
- Bihar and West Bengal Legislative Assemblies in 1969, and
- Some major reforms taken –broadly classified as pre-2000 and post- 20002

The reports of various election reform commissions and a number of formal and informal group discussions at various forums and by individuals, have categorically pointed out the defects in the electoral system and came out with some useful suggestions. Yet the problems remaining to be as critical and challenging as ever. However government has accepted recommendations of many commission reports only partially. Some of the important committees are-the Dinesh Goswami Committee on electoral reforms 1990, committee on criminalization of politics by vohra ,committee on state funding of elections by Indrajith Gupta, subsequent reports by the law commission, election commission, national commission to review the constitution headed by the M N Venkatachaliaha, second ARC on ethics in governance headed by Veerapa Moily, law commission report headed by A P Shaw 2015⁹.

III. REFORMS PRE 2000

1. Lowering of Voting Age: The Constitution (Sixty-first Amendment) Act, 1988 reduced the voting age from 21 years to 18 years for the Loksabha (house of the people) and state assembly elections. This has given the youth of the country an opportunity to participate and express their feeling in political processes¹⁰.

⁷ Gandhi, V. "Will the GST increase political fragmentation?", Mint, 10 April 2017.

⁸ Basu, Durga D. (2009). "11". Introduction to the Constitution of India. Nagpur, India: LexisNexis Butterworths Wadhwa Nagpur. p. 199.

⁹ Ramakrishnan, T. "Voter Verifiable Paper Audit Trail system comes to Chennai". The Hindu. 23 November 2014.

¹⁰ Chidambaram P. Speaking truth to power by Rupa publication, 2018.

2. Deputation to Election Commission: officers or staff engaged in preparation, revision and correction of electoral rolls for elections shall be deemed to be on deputation of Election Commission for the period of such employment .and these personnel during that period, would be under the control, superintendence and discipline of the Election Commission.

3. Increase in Number of proposers: Number of electors required to sign as proposers in nomination papers for elections to Council of States (Rajyasabha) and State Legislative Council has been increased to 10% of the electors of the constituency or ten such electors, whichever is less mainly to prevent frivolous candidates¹¹.

4. Electronic Voting Machine: Electronic Voting Machines (EVMs) were first used in 1998 during the State elections of Rajasthan, Madhya Pradesh and Delhi. EVMs have been widely used in the sixteen Loksabha Elections in 2015.as they are-fool proof, efficient and eco-friendly (limited use of papers).

5. Booth Capturing: EC May either declare the poll of the particular polling station as void and may appoint a date for fresh poll or countermand election in that constituency because of booth capturing. Booth capturing has been defined in Section 135 A of the RPA 1951.as seizure of a polling station and making polling authorities surrender ballot papers or voting machines, seizure of the polling place, threatening and preventing voters, taking possession of polling stations etc Election Commission on such report may¹².

6. Disqualification on Conviction for Insulting the National Honors Act, 1971: shall lead to disqualification for contesting elections to Parliament and State Legislatures for a period of six years from the date of such conviction.

7. Increase in Security Deposits and Number of Proposers: The amount of security deposit which a candidate needs to deposit at an election to the Loksabha or a State Legislative Assembly has been enhanced to check the multiplicity of non-serious candidates. In the case of an election to the Loksabha, the security deposit has been increased to Rs. 10,000 for the general candidate and to Rs. 5,000 for a candidate who is a member of a Scheduled cast/tribe. In the case of elections to a State Legislative Assembly, the candidates will have to make a deposit of Rs. 5,000 if they are general candidates and Rs. 2,500 if they belong to a Scheduled Caste or Scheduled Tribe respectively¹³.

8. Death of a contesting Candidate: Previously, the election was countermanded on the death of a contesting candidate. In future, no election will be countermanded on the death of a

¹¹ AGARWAL, R.C. HEARNshaw: DEMOCRACY OF THE CROSSWAYS, PRINCIPLES OF POLITICAL SCIENCE, 17 (1982).

¹² Id. at 296.

¹³ Agarwal, supra note 2, at 392.

contesting candidate and If the deceased candidate, however, was set up by a recognized national or State party, then the party concerned will be given an option to nominate another candidate within seven days of the issue of a notice to that effect to the party concerned by the Election Commission. 10. Prohibition with respect to Going Armed to or Near a Polling Station: is a cognizable offence punishable with imprisonment up to two years or with fine or with both.

9. Paid Holiday to Employees on the Poll day: violation of this amounts to a fine up to 500rs.

10. Prohibition on Sale of Liquor-: No liquor or other intoxicants shall be sold or given or distributed at any shop, eating place, or any other place, whether private or public, within a polling area during the period of 48 hours ending with the hour fixed for the conclusion of poll. The violation of this rule is punished with imprisonment up to 6 months or fine up to Rs 2000 or both¹⁴.

11. Time Limit for Bye-elections: Bye-elections to any House of Parliament or a State Legislature will now be held within six months of occurrence of the vacancy in that House. But, this stipulation will not apply in two cases- where the remainder of the term of the member whose vacancy is to be filled is less than one year or where the Election Commission, in consultation with the Central Government, certifies that it is difficult to hold the bye-election within the said period.

12. The effective campaigning period –has been reduced. The gap between the last date for withdrawal of nomination and the polling date has been reduced from 20days to 14 days.

IV. REFORMS SINCE 2000

- 1. Restriction on exit polls-** exit poll is an opinion survey regarding how electors have voted etc Thus conducting exit polls and publishing results of exit polls during the election to theLoksabha and state legislative assemblies during the period notified by the election commission shall be punishable with imprisonment up to 2 years and with fine or both¹⁵.
- 2. Ceiling on election expenditure**– ceiling on election expenditure for a Loksabha seat has been increased to 40 lakhs in bigger states and it varies between16 to40lakhs in other states and union territories. Similarly, ceiling on election expenditure has been increased in assembly elections to 16 lakhs in bigger states and it varies between 8 to16 lakhs in other states and union territories.

¹⁴ ALTEKAR, A.S. STATE AND GOVERNMENT IN MODERN INDIA, 80-84 (1972).

¹⁵ Government of India, Press Information Bureau, “2014 General Elections”.

3. **Appellate authority-** appellate authority within the district is before the district /additional district magistrate/officer of equivalent rank against the orders of the electoral registration officers instead of chief electoral officer of the state and appeal against the order of district magistrate will now lie before the chief electoral officer.
4. **Voting through postal ballot**– allows government servants and certain other class of persons to vote via postal ballot following the Election Commission’s consent. Voting rights to citizens of India living abroad – for employment , education etc ,who has not acquired the citizenship of any other country and has his name registered in the electoral roll of a particular constituency (place of his residence) can vote.
5. **Awareness Creation-** to encourage more young voters to take part in the electoral process. The Government of India has decided to celebrate January 25th of every year as ‘National Voters Day’¹⁶. It started from January 25, 2011 to mark Commission’s foundation day.
6. **To report contributions-** Political parties need to report any contribution in excess of Rupees 20000 to the EC for claiming income tax benefit.

V. ARGUMENTS IN FAVOUR OF ONE ELECTION

(A) Reduce the burden of expenditure

If there are common elections, it can save a lot of money of nations. Those who are on duty are paid during elections and other types of expenditure taking booths and keeping security at that time involves a lot of cost.

(B) Expenses incurred by State Governments in Elections

Sr. No.	Name of State/UT	2013-14	2014-15	2015-16
1	Andhra Pradesh	1,70,000	1,70,000	7,40,000
2	Arunachal Pradesh	0	1,00,000	90,000
3	Assam	0	80,000	3,00,000
4	Bihar	0	1,10,000	6,40,000
5	Chhattisgarh	0	60,000	1,79,000

¹⁶ Pratap, B. M. “Reform Political Parties First,” Seminar 497 (January 2001).

6	Goa	1,33,100	1,10,000	80,000
7	Gujarat	2,80,000	9,90,000	6,10,000
8	Haryana	2,00,000	1,00,000	1,10,000
9	Himachal Pradesh	1,00,000	1,60,000	1,10,000
10	Jammu and Kashmir	0	60,000	3,40,000
11	Jharkhand	5,00,000	4,24,000	3,20,000
12	Karnataka	1,53,000	1,80,000	6,30,000
13	Kerala	0	1,10,000	2,70,000
14	Madhya Pradesh	0	1,10,000	3,40,000
15	Maharashtra	0	1,10,000	13,30,000
16	Manipur	0	1,00,000	18,000
17	Meghalaya	62,700	1,10,000	1,20,000
18	Mizoram	34,000	93,000	60,000
19	Nagaland	60,000	1,10,000	30,000
20	Odisha	1,30,000	1,80,000	2,50,000
21	Punjab	2,70,000	1,20,000	2,90,000
22	Rajasthan	3,60,000	4,18,000	4,90,000
23	Sikkim	63,200	81,000	20,000
24	Tamil Nadu	80,000	1,60,000	7,70,000
25	Tripura	0	60,000	73,000

26	Uttar Pradesh	3,20,000	4,15,000	8,80,000
27	Uttarakhand	0	80,000	1,20,000
28	West Bengal	1,50,000	1,20,000	10,30,000
29	Andaman and Nicobar	0	20,000	10,000
30	Chandigarh	0	20,000	10,000
31	Dadra and Nagar Haveli	0	34,000	10,000
32	Daman and Diu	0	20,000	10,000
33	Delhi	1,40,000	20,000	2,60,000
34	Lakshadweep	0	20,000	10,000
35	Puducherry	80,000	45,000	20,000

(C) Reduce of noise pollution

One election will reduce the noise pollution in country. Different political parties rally in different states for getting popularity or to convince people to give votes.

(D) Stability to government

One nation, one election will bring better stability and a better functioning of the government for a longer period of time. It will enable the ministers to focus on welfare instead of the next elections being held at some other states. Instability of government Situations like the one which happened in Delhi during 2013 assembly elections where BJP despite being single largest party refused to form government and AAP government resigned after just 49 days in offer and later Arvind Kejriwal went on to contest in Lok Sabha elections¹⁷. Such situations could be avoided with one election policy.

¹⁷ Subramanian, A. "The India Vote," Wall Street Journal Online, April 17, 2009.

(E) Transfer of Government officials

Government officers who are transferred prior to every election can be stopped. This practice is used before every election and common people do not know about these tactics, this can be controlled, if there will be large number of parties at the same time.

(F) Reduction in buying votes and EVM tampering

There is chance that malpractices of buying votes and EVM tampering will be reduced as the election commissioner will be able to bring the best technology and chances of buying votes after one defeat in election can be reduced.

VI. ARGUMENTS IN AGAINST OF ONE ELECTION

Scarcity of resources In India, there is a great scarcity/ limited resources and the area is quite large as well as population is vast so it would be quite difficult to control and govern all things at the same time. If both the elections will happened at same time, large number of police force is required at the same time and there are chances of riots. Centralisation of power One Nation one election shouldn't be there as it will lead to centralization of power and decrease power of states. There International Journal of Law 99 will be no opposition and it can lead to monopoly of power in few hands¹⁸. For the growth of a nation opposition parties are necessary to take a decision.

(A) Difficulty in implementations

If all elections will be happened at the same time, it will be difficult to implement policies by election commissioner smoothly and there may be chances of some irregularities or malpractices which will be again challenged by defeated party in court or in public and it will go on¹⁹.

(B) Adverse impact on nation

IF there is only one leader ruling the whole nation and if that particular party is corrupt then it can lead to adverse effect on the whole nation. If people are not satisfied with administration of one party and want to change the minister of states/centre it would not be possible for them and they have to bear one government for five years.

(C) Dictatorship

It can lead to dictatorship because control of nation will go in few hands.

¹⁸ Michael S. Lewis-Beck and Mary Stegmaier, "Economic Determinants of Electoral Outcomes," *Annual Review of Political Science* 3 (2000): 183–219.

¹⁹ Pratap B. M. "Mandate for a Dream," *Indian Express*, March 7, 2012.

VII. PROPOSED REFORMS OF ELECTION COMMISSION OF INDIA

(A) The EC's proposals could broadly be divided into three categories

- *Firstly*, reforms to cleanse the electoral system (debaring criminally-tainted politicians from contesting, checking money power, empowering the EC to deregister defunct and dubious parties)²⁰;
- *Secondly*, reforms to make the EC stronger and more independent (appointment of election commissioners through a collegium, their elevation to CEC on the criterion of seniority and their protection from removal only through impeachment as available to the CEC and²¹;
- *Thirdly*, reforms to make the electoral system more efficient (like the introduction of totaliser machines to prevent disclosure of polling patterns in a polling booth)²². The prime minister has been talking of electoral reforms for several months. In articles, media interactions and conversations, I have expressed optimism that the time for electoral reforms may finally have arrived. I have been asked if I really believe that the PM is serious about electoral reforms. I sincerely hope my optimism is not ill-founded. The answer, of course, rests with the prime minister.

VIII. ONE NATION ONE ELECTION

The present Prime Minister Mr. Narendra Modi Events happen, reasons follow. Much like the Trump victory that they didn't see coming, political analysts underestimated the world's largest Democratic Party's landslide win in Uttar Pradesh due to grassroots approval for demonetisation as a factor for its electoral sweep. India is the most complex marketplace for democratic choices on offer, so when UP's voters, comprising 16 per cent of India's population, delivered a historic mandate, it clearly confers: *Modi is India*—presaging the trend for 2019. With BJP's renewed political invincibility, a prime minister who revels in risk-taking is now expected to roll out a rapid sequel to economic and systemic reforms, and the one for which Modi has been rooting for is One Nation One Election (ONOE). As a lone star campaigner, omnipresent in all state elections, most of which were seen as a referendum on his policies, few prime ministers have plunged so deeply into state electioneering, a reason for contemplating ONOE—an idea whose time may not yet have come, even as Indian elections turn more presidential²³. Till 1960s,

²⁰ Suri, S.K. "Andhra Pradesh: Fall of the Integrity in Arena of Democracy," *Economic and Political Weekly* 39, no. 51 (December 2004): 5404–11.

²¹ Gupta, P. and Panagariya, A. "Growth and Election Outcomes in a Developing Country," *Government & Politics* 26, no. 2 (July 2014): 332–54.

²² Saran, C. and Tiwari, A. "What Voters Reward: Evidence From the 2009 Indian Parliamentary Elections," *Vox*, March 17, 2014.

²³ Rai, S. and Vaishnav, M. "The Politics and Plumbing of Reforms," *Mint*, July 28, 2014.

general and state elections were held combined in the period of single-party dominance by the Congress. But the advent of coalition politics led to premature dissolution of the Assemblies, altering timelines for the state elections. A call for simultaneous Lok Sabha and Vidhan Sabha elections has its merits in curtailing spends by political parties with large war chests used for manufacturing consent through advertisements, rallies and distributing freebies, as also channeling the state machinery needed for administering polls. Besides, frequent imposition of the EC's Model Code of Conduct months before elections puts on freeze capital expenditure much needed for developmental projects. With 29 states and seven Union Territories holding elections cyclically, government efficiency is reduced due to being on campaign overdrive. The cost to the exchequer in 2014 LS elections was estimated at 3,870 crore, while state elections averaged 300 crore per state, inflating successively²⁴. Fiscal prudence is unlikely to convince satraps to consent to convergence, apprehending that voter behaviour is loaded in favour of the central government, should ONOE be implemented. For example, BJP swept Lok Sabha in 2014, but lost Delhi and Bihar in 2015, which may not have happened had ONOE prevailed. An IDFC research, with a sample size of 513 million voters, points to 77 per cent of them choosing the same party if elections were combined²⁵. Given India's demographic diversity, federalism necessitates that individual states exercise franchise through a staggered three-tier structure more than once in five years addressing: local, civic issues through municipal elections; developmental issues such as health, housing, infrastructure etc. through state elections; and finance, defence and foreign affairs through central elections. Frequent elections provide momentary employment, boost domestic consumption, as also prevent transfer of power to a single entity due to a popularity surge that could help annex both the state and central rule through the dual election filter. For example, the Modi wave in recent UP polls could have translated into a national victory due to transient euphoria, with no interim exit option to overthrow if the incumbent underperformed, as voter power is limited to being king-for-a-day in the lustrum' (the fiveyear tenure of appointed governments). As BJP rides the momentum after its resounding success in UP elections, ONOE is the next big gamble, just as demonetization, that can bring a huge win for the party in the central and state elections²⁶. Voters are tired of revolving door patterns' in states, such as Mayawati followed by a Mulayam rule, and seem to prefer national formations replicated in states too. Going for ONE could well be a winner-takes-all for the Modi sarkar in 2019 if the reform gets passed.

²⁴ Data sourced from www.indiavotes.com.

²⁵ Kulkarni, F. "Vote for India, Free It of Dynasty Rule: Narendra Modi," DNA India, December 23, 2013.

²⁶ Danish, C. "Succeeding in Politics: Dynasties in Democracies," Dissertation, Department of Political Science, University of Gaya, 2012.

IX. EFFECT ON CONSTITUTIONAL AND STATUTORY PROVISIONS

Implementation of ‘One Nation One Election’ is a handful task to perform. The Constitution of India being rigidly not rigid always creates a doubt in the mind of every individual. The constitution makers have given the Parliamentarians the option to amend the Constitution but the process being so lengthy and cumbersome that the idea of amending the constitution seems a farce²⁷. But still the process of amending the constitution is not impossible. In order to implement the policy of ‘One Nation One Election’, there are certain amendments that needs to be effectuated so that a single election can be conducted both for the Lok Sabha and the State Legislative Assemblies.

The articles of the Constitution that needs to be amended to implement this policy are discussed below.

(A) Article 83

Article 83 of the Constitution of India provides for the duration of both the Houses of the Parliament, Council of States (Rajya Sabha) and House of People (Lok Sabha). This article says that the Council of states shall not be subject to dissolution unless one-third of its members retire as soon as the expiry of every second year. This dissolution shall be subject to the provisions made in this behalf by the Parliament.

The article continues to talk about the duration of the House of People. It says that the House of people shall continue to function for a period of 5 years unless dissolved earlier. The Parliament is subject to the Proclamation of Emergency, i.e., in case of emergency, the term of the two houses can extend for a maximum period of one year²⁸.

(B) Article 172

Article 172 spells out the duration of the State Legislatures. It says that every State Legislature shall continue to function for a period of 5 years unless dissolved earlier. Every State Legislature is subject to the Proclamation of Emergency, i.e., in case of emergency, the term of the State Legislature can extend for a maximum period of one year. Clause 2 of the Constitution says that the Legislative Council shall not be subject to dissolution unless one-third of the members retire as soon as the expiry of every second year. The dissolution is subject

²⁷ Yogesh, U. “The Disadvantaged Incumbents: Estimating Incumbency Effects in Indian State Legislatures,” *Public Choice* 138 (2009): 9–27.

²⁸ Shukla, J. “The Complicated Rise of India’s Regional Parties,” *Carnegie Endowment for International Peace*, November 13, 2013.

to provisions made by Parliament in this behalf²⁹.

(C) Article 85

Article 85 (2) (b) of the Constitution empowers the President of India to dissolve the House of People. If the President may find it fit to dissolve the Lok Sabha, then he may by a proclamation and a notice to the Speaker of the House of People may dissolve such house³⁰.

(D) Article 174 and Article 356

Article 174 (2) (b) of the Constitution empowers the Governor of the State to dissolve the Legislative Assembly. If the Governor may find it fit to dissolve the State Legislature, then he may be a proclamation and a notice to the Speaker of the State Legislature may dissolve such assembly. In case of emergency as under Article 356 of the Constitution, the state being under the President's rule, the legislative assembly can be prematurely dissolved by the President of India³¹.

The proclamation of President's rule is significantly stringent in light of the Anti-Defection Act, 1985. In the case of *S.R. Bommai v Union of India*³², the Supreme Court has laid down the guidelines that need to be followed in order to establish President's Rule in a state. The guidelines are as follows:

1. The dissolution of State Legislative Assembly by the President of India is subject to approval of both houses of Parliament; and
2. The validity of proclamation of President's Rule is subject to judicial review. In case the proclamation of emergency is mala fide, the court may set aside the President's Rule and restore the original government.

(E) Article 75

Article 75(3) of the Constitution says that the Council of Ministers shall be directly and collectively responsible to the House of People. The Council of Ministers derive their legitimacy from the Legislature and remains in power as long as it enjoys the confidence of the latter³³. A no-confidence motion can be passed if Lok Sabha loses confidence in the Council of Ministers. It can fall any time with the passage of non-confidence motion in that House.

²⁹ Basu, D.D (2007), Introduction to the Constitution of India, S.Chand and Company, p.98.

³⁰ Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225: AIR 1973 SC 1461.

³¹ Basu, D.D (2007), Introduction to the Constitution of India, S.Chand and Company, p.226.

³² 1994 AIR 1918, 1994 SCC (3) 1.

³³ Sharma, G (2003), India & Election, Deep & Deep Publications Pvt. Ltd., New Delhi.

(F) Article 164

Article 164(2) of the Constitution says that the Council of Ministers shall be directly and collectively responsible to the Legislative Assembly of the State. The Council of Ministers remains in power as long as it enjoys the confidence of the assembly. A no-confidence motion can be passed if State Legislature loses confidence in the Council of Ministers. It can fall any time with the passage of non-confidence motion in that assembly.

(G) Article 324

This article empowers the Election Commission of India to supervise, direct and control elections to Lok Sabha and the State Legislative Councils³⁴.

(H) Ten Schedule³⁵

The 10th Schedule of the Constitution of India which deals with Anti Defection Law. It prohibits the MP or an MLA from disobeying a party Whip on voting for a motion. It particularly lays down the grounds on which a MP or an MLA can be disqualified. A member is disqualified when he/she voluntarily gives up the membership of a party to join an opposing party.

X. THE REPRESENTATION OF PEOPLE'S ACT, 1951

In addition to the powers given to the Election Commission of India to conduct the elections in India, the Parliament has enacted the Representation of People Act, 1951 which covers the various modalities of conducting elections in India. This act lays down every detail with regard to conducting elections in India, like method of counting, result declaration, resolution of disputes, etc.

Thus, in order to effectuate the policy of 'One Nation One Election', the Parliament needs to bring an amendment to the above-mentioned provisions of the Constitution and statue so that there can be simultaneous elections in India³⁶. For the purpose of an amendment, the Parliamentarians must follow the rules laid down in Article 368 of the Constitution of India.

(A) Consequences of implementing one Nation One election policy

Muammar Mohammed Abu Minyar Gaddafi implemented policy of one Nation, one election policy in Libya, to bring dictatorship. He first gained trust of people by reforming the country and then imposed this policy and thus gave him the power of dictatorship that was not a healthy

³⁴ Kothari, R. (1987), Special Issue on the Constitution & Government, Lokayan, Bulletin, p.33.

³⁵ Pandey J.N., Constitutional Law of India, (Central Law Agency, Allahabad, 1997) p. 137.

³⁶ Bijoe Emmanuel v. State of Kerala (AIR 1987 SC 748).

practice for that country. But if we look at China, One Nation, One election policy, it is growing but there is only one party but in India there are various parties, therefore we can't compare our policy with China to know the consequences of implementing this policy³⁷. In North Korea, there is a dictatorship of Kim Jong-un. Elections are happened there but it is sure that he will win; it may possible that dictatorship can happen in future if policy is not implemented properly.

XI. CONCLUSION

The 'One Nation, One Election' proposal being advocated by Prime Minister Narendra Modi was therefore a welcome reform and it will save the country time, resources and energy and allow governance to proceed without distractions. It may require the constitution to be amended but such amendment is desirable and is good for nation. Apart from changing the nature of elections, reducing vote buying and eliminating role of unaccounted money in politics, direct election of head of government in states will have profound positive impact on governance. Once there is separation of powers, the Cabinet will be drawn not from legislature, but from society. The best public-spirited citizens with expertise and competence can be appointed to the Cabinet, improving quality of governance tremendously. As the legislature controls budget and law-making, the executive has to act within its boundaries. The system of checks and balances will ensure that government is held to account. As individual legislators no longer have a say in executive functioning, they will no longer see local governments as a threat to their political survival, and true third tier federalism will be institutionalized. Once stability, tenure, honesty and competence in states are assured by direct election of head of government, synchronizing state polls with Lok Sabha will be easy, permanent and sustainable. Given local government structure, simultaneous local polls along with Lok Sabha, State head of government and Assembly will be easy and sustainable. Such a framework of ensuring Lok Sabha's fixed term, direct election of head of state government along with state Assemblies, empowered local governments, and simultaneous polls in all three tiers – Union, State and Local – will transform Indian democracy and make good governance and integrity in public life integral to the system. One Nation – One Election will be a reality.

³⁷ Donald Eugene Smith, *India as a Secular State* (Princeton University Press, Princeton 1963).