



City Montessori School Model United Nations  
Aliganj, 2019

AIPPM

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# INTRODUCTION

Electoral reforms are a very integral part of nation building and as long as the situation in India is concerned reforms in the election procedure have always carried either a political background or at least a political interpretation.

One such proposal by the incumbent government is the idea of Simultaneous Elections at State and Union level. Since, the first General Elections in 1951-52, our country followed this practice of holding elections simultaneously at the Lok Sabha and the different State Assemblies which was done due to several different factors which led to the this practice and which continued till 1968-69, when it first got hindered due to the pre-mature dissolution of the state assemblies.

Initially, India being a newly independent country worked on national issues and regionalism was definitely impeded as it had recently faced a partition and also, at that time the Indian National Congress commanded decisive majority in most elections and reduced the scope of hung assemblies and pre-mature dissolution. All these factors resulted in simultaneous elections being conducted at that time but, in the contemporary scenario the idea of **“One Nation, One Election”** even though, with quite a few merits up its sleeve, faces severe challenges of implementation and pragmatism.

## PREVIEW OF INDIAN DEMOCRATIC STRUCTURE

India is a *FEDERAL PARLIAMENTARY DEMOCRACY* which follows a very confusing parliamentary procedure when it comes to the relationship between the Union and the States.

Under the Part XI of the Constitution of India which deals with the Union-State Relationship ranging from articles 245 to 263 portrays a very complex federal setup which also has unitary features in it making India a *QUASI-FEDERAL* Parliamentary Democracy with a proper distinction and distribution of power between the two entities where, the Union enjoys more powers than States giving it a unitary feature but due to the administrative and legislative autonomy given to them, India also is a federation.

The Indian Democratic Structure with regards to the electoral and political arrangement is totally federal in nature with regional and national politics set explicitly on different stages. It might also carry several other features such as socialism, secularism, communalism, regionalism, lingualism, or any other feature of polity but ‘constitutionally’, India follows the a system of federalism as far as politics, legislature and administration is considered and all these factors depend upon the electoral procedure of the country which should pursue the ideals of federalism into it.

## SIMULTANEOUS ELECTIONS

### Defining “Simultaneous Elections”

As the focus of this note is on examining the need and feasibility of holding “Simultaneous Elections”, it is essential to outline the scope and meaning of this term at the very outset. In accordance with the fundamental basis of a democratic polity, the Constitution of India provides for determining composition of key constitutional institutions such as the offices of President, Vice President, both houses of Parliament (Lok Sabha and Rajya Sabha), Legislatures of various States etc. through free and fair elections for specified terms of each of these institutions - which normally is 5 years. Out of the above, composition of the Lok Sabha (House of the People) and State Legislative Assemblies is determined through direct voting by eligible voters through universal adult suffrage. Composition of other institutions (office of the President of India, Vice President of India, Rajya Sabha etc.) is determined through indirect voting by an electoral college as per applicable constitutional and statutory provisions.

The Constitution and other relevant statutes enacted thereof by the Parliament further lay down guidelines and stipulations related to key constituents of elections such as which institutions is/are responsible for directing and controlling elections, frequency of elections i.e. terms of constitutional institutions (Lok Sabha, State Assemblies etc.), eligibility of electorates and so on.

What the above paragraphs essentially mean is that, subject to the fulfilment of eligibility conditions, any adult individual in India would normally cast his vote to elect. Just as an example, provisions to determine Electoral College for the

elections to the office of President of India have been specified under Article 54, 55 of the constitution. Detailed rules and guidelines have been provided under relevant statutes such as Presidential and Vice Presidential Elections Act 1952, Presidential and Vice Presidential Elections Rules 1974 etc. to facilitate the conduct of elections by the Election Commission of India, the Parliament has enacted the Representation of People Act, 1950 and Representation of People Act, 1951 and the Rules framed there under, viz., Registration of Electors Rules, 1960 and Conduct of Election Rules, 1961. Source: Para 2.4 – Report of the Parliamentary Standing committee on Personnel, Public grievances, Law and Justice - 79th Report (Dec 2015) on the topic of simultaneous elections Page 4 of 36 members of Lok Sabha, State Assembly and the third tier every 5 years as and when the respective terms of these institutions are about to expire.

Article 324 of the Constitution mandates the Election Commission of India (ECI) to supervise, direct and control elections to the offices of President, Vice President, both houses of Parliament (Lok Sabha & Rajya Sabha), State Legislative Assemblies and State Legislative Councils. Similarly, 73rd and 74th amendments to the Constitution in 1992 facilitated creation of State Election Commissions (SECs) as authorities mandated to perform the above duties for constituting the third tier of Government in both rural and urban areas (Panchayati raj institutions, municipal bodies etc.). There are 31 SECs in the country.

Now, coming back to the scope and definition of the term “Simultaneous Elections”, ideally simultaneous elections should imply that elections to all the three tiers of constitutional institutions take place in a synchronized and co-ordinated fashion. What this effectively means is that a voter casts his vote for electing members for all tiers of the Government on a single day. Having said that, the third tier institutions is primarily a State subject as per the Constitution. Further, considering the facts that elections to the third tier institutions are directed and controlled by the State Election Commissions and their sheer numbers in the country is significantly large, it would be impractical and possibly impossible to synchronize and align election schedules to the third tier with that of Lok Sabha and State Assembly elections.

Accordingly, for the purposes of this note, the term “Simultaneous Elections” is defined as structuring the Indian election cycle in a manner that elections to Lok



Sabha and State Assemblies are synchronized together. In such a scenario, a voter would normally cast his/her vote for electing members of Lok Sabha and State Assembly on a single day and at the same time. To clarify further, 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.

## **Relevant Constitutional and Statutory Provisions**

Election timings for a legislature (Lok Sabha / State Assemblies) is determined by its term which in-turn is governed by relevant constitutional and statutory provisions that drive various aspects of constitution, dissolution and expiration of such legislatures.

a) Term of House of People and State Legislative Assemblies: Article 83 of the Constitution of India provides for the tenure of both Houses of the Parliament (Lok Sabha and Rajya Sabha). Article 83(2) provides for a term of five years for Lok Sabha, from the date of its first sitting unless dissolved earlier. Similar provisions under Article 172 (1) provides for five year tenure for State Legislative Assembly from the date of its first sitting. Further, the provision to Article 83(2) of the Constitution provides that when a proclamation of emergency is in operation, the term of the House may be extended for a period not exceeding one year at a time by Parliament by law and not extending in any case beyond a period of six months after the Proclamation has ceased to operate. Similar provision also exists for State Legislative Assembly under the provision to Article 172(1) of the Constitution.

The above provisions effectively mean that the tenure of the House cannot be extended beyond 5 years except in emergency but it can be prematurely dissolved before expiration of its tenure.

### b) Pre-mature dissolution of Lok Sabha or State Assemblies

Article 85(2) (b) of the Constitution of India provides the President with the power to dissolve Lok Sabha. Similar provision for dissolution of State Legislative Assemblies by the Governor of State is provided under Article 174 (2) (b). Further, in respect of premature dissolution of a State Legislative Assembly,

Article 356 is also relevant. In the event of a State being under President's Rule as provided under Article 356, the Legislative Assembly of the said State may be prematurely dissolved by the President. While there have been several cases of proclamation of President's Rule in States under Article 356 in the past, premature dissolution of State Assemblies has been made significantly stringent in the light of Anti-Defection Act 1985 and the judgement by the Constitutional Bench of Supreme Court of India in *S.R. Bommai v. Union of India*. In this judgement, the apex court laid down certain guidelines circumscribing the conditions for proclamation of President's Rule by the Union Government. The guidelines state: a) the dissolution of State Legislative Assembly by the President of India is subject to approval of both houses of Parliament; and b) the validity of proclamation of President's Rule is subject to judicial review. In effect, the President can put Legislative Assembly in suspended animation but cannot dissolve it without concurrence of both Houses of Parliament. The Judiciary can examine validity of such proclamation and restore the dismissed State Government and revive dissolved Legislative Assembly if Article 356 is found to be mala fide in its use. As per Article 75(3), "The Council of Ministers shall be collectively responsible to the House of the People". Article 164(2) provides a similar responsibility of the Council of Ministers. Article 83(2) states that "The House of the People, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer and the expiration of the said period of five years shall operate as a dissolution of the House..." The Executive therefore derives its legitimacy from the legislature and remains in power as long as it enjoys the confidence of the latter. A no-confidence motion can be passed if either Lok Sabha or the State Legislative Assembly loses confidence in the Council of Ministers. It can fall any time with the passage of non-confidence motion in that House.

What the above provisions imply is that fall of an elected government, even though contemplated in the Constitution, cannot be predicted.

c) Responsibility for conduct of elections to Lok Sabha and State Legislative Assemblies: As stated earlier, Article 324 mandates the Election Commission of India (ECI) to supervise, direct and control elections to Lok Sabha & State Legislative Councils. Besides the above, to facilitate the conduct of elections by the Election Commission of India, the Parliament has enacted the Representation

of People Act, 1950 and Representation of People Act, 1951 and the Rules framed there under, viz., Registration of Electors Rules, 1960 and Conduct of Election Rules, 1961.

d) The Representation of People Act, 1951 The Representation of People Act 1951 covers various modalities of conducting elections in the country. It provides the statutory basis for ECI to conduct elections in the country. It prescribes the qualifications for being elected as a Member of Parliament or Member of State Legislatures, general procedure to conduct elections, method of counting of votes, publication of results, resolution of disputes arising of elections, etc. Section 14 of the Act provides for the notification for General Elections to the Lok Sabha. The proviso to the Section 14(2) states: "Provided that where a general election is held otherwise than on the dissolution of the existing House of the People, no such notification shall be issued at any time earlier than six months prior to the date on which the duration of the House would expire under the provisions of clause (2) of Article 83." 2.22 Section 15 (2) of the Act provides a similar provision for State legislatures. This means that the ECI is empowered to notify elections to both Lok Sabha and State Legislative Assemblies six months prior to the end of normal terms of these Houses. This would not alter their term in any way.

## IS THERE A NEED FOR SIMULTANEOUS ELECTIONS?

As mentioned earlier, the concept of simultaneous elections is not new to the country and in-fact the country started its first election cycle to Lok Sabha and State Assemblies simultaneously post-independence in 1951-52. This synchronized cycle continued till the end of third Lok Sabha when it finally got disrupted during the fourth Lok Sabha and has continued so ever since. In the current situation, the country witnesses elections to about 5-7 State Assemblies every year (except few exceptional years). Such a situation ends up adversely impacting all the key stakeholders – the Government (both Union and the State Governments), government employees/officials on election duty, general electors/voters, as well as political parties and candidates



The key adverse impacts that the existing electoral cycle leads to could be broadly categorized into the following:

- A. Impact on Governance due to imposition of Model Code of Conduct: The Model Code of Conduct (MCC) is a set of norms that lays down several do's and do not's that political parties, contesting candidates, party (ies) in power have to strictly abide by during the process of elections. The MCC has been evolved with the consensus of political parties who have agreed to abide by its principles and to respect and observe it in its letter and spirit. The Model Code is enforced from the date of announcement of election schedule by the Election Commission and is operational till the process of elections is completed. During general elections to Lok Sabha, the code is applicable throughout the country. During general elections to the Legislative Assembly, the code is applicable in the entire State. Effectively, except the routine administrative activities, other development programs, welfare schemes, capital projects etc. remain largely suspended till the time the model code is applicable and in the area it is in operation. Problems due to imposition of the above code have been articulated by the Parliamentary Standing committee in its 79th report. The Committee states "...The imposition of Model Code of Conduct (MCC) puts on hold the entire development programme and activities of the Union and State Governments in the poll bound State. It even affects the normal governance. Frequent elections lead to imposition of MCC over prolonged periods of time. This often leads to policy paralysis and governance deficit".
- B. Frequent elections lead to massive expenditures by Government & other stakeholders: Elections lead to huge expenditures by various stakeholders. Every year, the Government of India and/or respective State Governments bear expenditures on account of conduct, control and supervision of elections. Besides the Government, candidates contesting elections and political parties also incur huge expenditures. The candidates normally incur expenditures on account of various necessary aspects such as travel to constituencies, general publicity, organizing outreach events for electorates etc. while the political parties incur expenditures to run the party's electoral machinery during elections, campaigning by star leaders and so on.

With regards to the expenditure incurred by the Government, the following framework applies for working out cost-sharing principles between the Union Government and States: a) The entire expenditure on actual conduct of elections to

**Table: Impact of Model Code in governance (time period and area where applicable)**

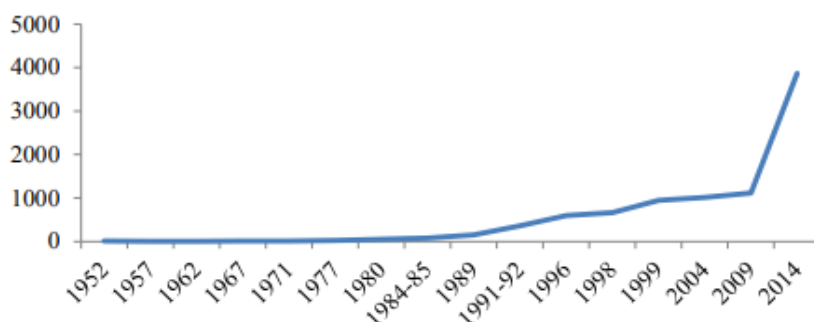
Elections to State Assembly / Lok Sabha	Approx. timelines of Model Code*	Approx. Total period** of Model Code operation (in months)	Applicable to (States / Country)
<b>Applicability in 2016</b>		<b>2 months</b>	
State Assemblies	March - May 2016	2 months	Assam, Kerala, Puducherry, Tamil Nadu and West Bengal
<b>Applicability in 2015</b>		<b>More than 3 months</b>	
State Assembly	Sept - Nov 2015	2 months	Bihar
State Assembly	Jan - Feb 2015	More than 1 month	Delhi
<b>Applicability in 2014</b>		<b>7 months</b>	
State Assemblies	Oct - Dec 2014	2 months	Jharkhand & J&K
State Assemblies	Sept - Oct 2014	2 months	Maharashtra & Haryana
Lok Sabha - 16 <sup>th</sup> & State Assemblies	March - May 2014	3 months	Entire Country

Source: \*Dates from the website of Election Commission of India, \*\*Total Period- NITI Analysis

Lok Sabha is borne by Government of India and such expenditure on conduct of election to State Legislatures by the respective State Governments when such elections are held independently. b) If concurrent election to Lok Sabha and State Legislative Assembly is held, then the expenditure is shared between Government of India and respective State Governments. The initial expenditure is borne by the respective State Governments and on submission of the audited report; Government of India share is reimbursed. c) Expenditure incurred on items of common concern to the Union and the State Governments like expenditure on regular election establishment, preparation and revision of electoral roll etc. is shared on 50:50 basis irrespective of whether such expenditure is incurred in connection with the elections to the Lok Sabha or State Legislatures. Even if election is to Lok Sabha, expenditure towards law & order maintenance is borne by respective State Governments only. The figure below presents historical trends of expenditures incurred by the Government of India for Lok Sabha elections.

As can be seen from the table below, the cost to the Government of India for conducting Lok Sabha elections has seen a significant jump in the recent years. 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.

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



Source: Figure 8.1, ECI Pocket book 2015-16

C. Engagement of security forces for significantly prolonged periods Conducting elections is a mammoth, complex and time consuming activity. The Election Commission of India takes help of a significant number of polling officials as well as armed forces to ensure smooth, peaceful and impartial polls. While conducting elections to the 16th Lok Sabha, the ECI took the help of approximately 10 million personnel as polling officials for running and supervising the election process across 9,30,000 Polling Stations of the country. This translates to an average of about 10.75 personnel per polling station. For providing the required security arrangements, the Election Commission generally involves Central Armed Police Forces (CAPF). As the demand for CAPF is typically higher than the supply, police forces such as State Armed Police, Home Guards, and District Police etc. are often deployed as well to complement security arrangements. The role of such security forces starts much before polling and ends only after the counting of votes and declaration of results effectively covering the entire duration of the elections. In the elections to the 16th Lok Sabha, the Election Commission deployed 134926 Companies of CAPFs. While the deployment of polling officials is still for a smaller duration (typically few days before and after the day of voting and few days before and after the day of counting), the deployment of security forces (particularly the CAPF) is normally throughout the elections and they remain mobile from one place to another. Considering that about 2-5 State Assemblies go to polls every 6 month period as stated previously, this situation leads to a lock-in of CAPF and state police forces for prolonged periods of time.

D. Other Issues Besides the key issues with frequent election cycle elaborated above, there are few other issues worth considering that have been highlighted by expert committees and key stakeholders. These are summarized below: a) Frequent elections disrupt normal public life: The Parliamentary Standing committee on Personnel, Public grievances, Law and justice noted that “....frequent elections lead to disruption of normal public life and impact the functioning of essential services. Holding of political rallies disrupts road traffic and also leads to noise pollution”. Continuing further, the Committee suggested that “If simultaneous elections are held, this period of disruption would be limited to a certain pre-determined period of time”. b) Frequent elections perpetuate caste, religion and communal issues across the country: In a recent

article published in Bloomberg Quint, Dr. S. Y. Quarishi (former Chief Election Commissioner) noted that "...elections are polarising events which have accentuated casteism, communalism, corruption and crony capitalism. If the country is perpetually on election mode, there is no respite from these evils. Holding simultaneous elections would certainly help in this context". c) Frequent elections adversely impact the focus of governance and policy making: In a recent article, the Hon'ble Vice-President Shri M. Venkaiah Naidu noted that "...the cycle of continuous elections was not only affecting the developmental process and good governance, but also forcing the political class to typically think in terms of immediate electoral gains rather than focus on long-term programmes and policies for the overall progress of the nation and its people".

## CRITICISM AND DEMERITS OF THE IDEA:

The idea of simultaneous elections at centre and at state level draws severe criticism on various fields as it is very much ignorant to numerous problems tackling which would definitely be an enormous task. Some Points of Criticism presenting the demerits of the idea are:

1. **Mammoth Task to Accomplish:** The logistics involved in holding simultaneous elections would perhaps be difficult to manage. In India, the electorate exceeds 670 million in about 700000 polling stations spread across the country which has varying geographic and climatic zones. Many polling stations are located in the deserts of the Rajasthan, the snow-clad mountains in Himalayas, and in randomly populated islands in the Indian Ocean. Hence, in a large and diverse country like India, finding a period when elections can be held throughout the country is difficult. The EC has to take into account the weather, the agricultural cycle, exam schedules and religious festivals and public holidays. The commission has to ensure peaceful polling, prevent booth capturing and violence, check expenditure of candidates, deal with petition during the election, all of which requires a vast number of paramilitary forces who are moved from one part of the country to another. There is also the question of what happens to simultaneous polls if a ruling party or coalition loses the confidence of an assembly before the five year term of



its government has ended. Will there then be an extended period of President's rule, to ensure synchronicity with the election calendar?

2. **Diversity in Election Results:** In India, regions with diverse culture and languages have co-existed on the Indian subcontinent from historic periods. In the colonial period, the rise of regional consciousness based on movements was witnessed that provided regions an identity of their own. This eventually converted into the demand for linguistic states, post-independence. Today, these states have strong parties which are able to maintain control over their home turf and also formed alliances in national coalitions. Regional parties got only 11% of the total votes cast in the 1984 national election. And by 2009 this rose to 28.4%. In 2014, it was 27.6%. The BJP in the 2014 elections could gain only 31% of popular votes. As parliamentary majorities are manufactured in the states, it is worth asking whether there would be stability in newly formed governments in simultaneous elections as well or what would happen if a coalition fails or if a hung assembly is not able to command the mandate of the people.
3. **The Risk of Centralization of Power in one Party:** Many critics of simultaneous say that conducting national and state elections together could help one political party create a 'wave' by an aggressive, well-organized, campaign to persuade the electorate to vote for the same party, and capture power at the states and the centre. Also the use of social media today may make it possible for parties to reach out to voters in remote areas without holding rallies and if a situation like this occurs where due to a wave a party gets into power in more than 21 states as well as the centre then that might lead to authoritative regime as any constitutional provision then may be altered.
4. **Death of the Composite Federal Structure:** Simultaneous elections is a feature belonging to the Unitary States such as the UK or France where, instead of states they have provinces. Therefore, a step such as this might lead to the death of the quasi-federal setup of parliamentary democracy in India and lead to a Unitary Presidential form of democracy.



5. **Nationalism at the cost of Regionalism:** One of the very big reasons for the development of India as federalist country was administrative assistance as the autonomous state governments may work on Regional Issues which under simultaneous elections would definitely be subjugated in the light of National Issues, which would cause eventually the end of regional politics in India and further deterioration of the federalist structure.
6. **Reducing the checks and balances on the governments:** Frequent elections help in maintaining checks and balances on the governments and simultaneous elections would obliterate those checks.

## STANCE OF DIFFERENT POLITICAL PARTIES ON THIS ISSUE

**Bharatiya Janta Party (BJP):** The BJP is the party which proposed this idea under its incumbent government as an electoral reform nearly two years back. The party initially proposed this idea under the Atal Bihari Vajpayee government in 2002 and later on made it one of its main ideas. Even after the nod given by the election commission to this conceptualized idea, the BJP itself kept silent while the July, 2018 Law Commission Consultations on the issue but finally included it as a poll promise for 2019 General Elections in its Manifesto.

**Congress (INC):** The main opposition party came out totally against the idea and termed it as constitutional perversity and an attack on federalism. The party even issued a press release condemning the idea. Senior leaders of the party including leader of the largest opposition party in Lok Sabha Mallikarjun Karge, Anand Sharma, Kapil Sibbal and the party President also came out against this proposal and gave a letter regarding the same to the law commission of India.

**All India Trinamool Congress:** Like all the other opposition parties the Trinamool Congress also opposed the proposal and termed it as a gimmick and an attack on regionalism and opposed it in the 8<sup>th</sup> July, 2018 meeting with the Law Commission regarding the same.

Communist Party of India (CPI): The CPI had at various occasions opposed the proposal and rejected it by stating it as against the letter and spirit of the constitution of India.

Communist Party of India (Marxist): The CPI (M) had also voiced against the proposal and termed it as illogical and impractical in nature. The Party also denounced the idea of weakening the federal setup of India by this in a letter to the Law Commission dated 14<sup>th</sup> June, 2018.

Bahujan Samaj Party: The party never expressed its clear concern towards the issue but, its General-Secretary Satish Chandra Mishra in his speech in Rajya Sabha during the monsoon session of 2018 regarded this proposal as another “jumla” by BJP.

Samajwadi Party: The Samajwadi Party at several occasions has shown different reactions to the issue, but in a delegation level meet with the law commission in June, 2018 its representative Ram Gopal Yadav supported the idea and asked to implement it starting from 2019 so that, the Yogi Government in UP dissolves before the completion of its term.

J&K People’s Democratic Party: The PDP stood in support of the idea and even wrote to the election Commission on the 4<sup>th</sup> of March, 2019 asking for simultaneous polls in Jammu and Kashmir along with the General Elections.

Shiv Sena: The NDA ally of the BJP, several times through its mouth piece *Saamna* had denounced the idea and also mocked it as non-pragmatic and illogical.

Shiromani Akali Dal: The old faithful NDA ally of the BJP, stood in clear support of the proposal.

J&K National Conference: The National Conference stood against the proposal and an attempt to demolish the federalist features of our country, but later on asked the Election Commission for Simultaneous polls in Jammu and Kashmir along with the General elections in 2019.

Biju Janta Dal: The BJD supported the idea for simultaneous centre and state elections proposed by the incumbent government as a welcome step.

Aam Aadmi Party: The AAP stood in full opposition of the idea of Simultaneous Elections and branded it as an attempt to establish dictatorship in India. The party organised various *dharnas* and protests against it throughout Delhi and Punjab in May, 2018 and also wrote against it to the Election Commission and the Law Commission.

Janata Dal (United): The NDA ally of BJP, stood in full support of the proposal.

All India Majlis-e-Ittehadul Muslimeen (AIMIM): The AIMIM opposed the proposal for simultaneous state and centre election several times. The President of the Party, Assaduddin Owaisi wrote to the law commission stating that it is still unclear that what public interest is being fulfilled by simultaneous elections rather, it seems as a step to destroy the regional political issues and subjugate the political existence of regional parties.

