

**Views/ Suggestions on  
Desirability and Feasibility of holding**

**SIMULTANEOUS ELECTIONS**

**Submission to**

**Government of India**

**By**

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**Introduction**

The Constitutional makers have envisioned a federal India with elected representatives for the Union and the states and a parliamentary executive on the lines of the Westminster model. Post- Independence, India as a whole has gone for elections for the first time in the years 1951-1952, where the members of the Lok Sabha and the State Legislative Assemblies have been directly elected by the people. Considering conducting elections Pan-India with a 'Universal adult franchise' was a mammoth exercise the elections have been a huge hit. Later, in the next 3 general elections conducted in the years 1957, 1962 and 1967, the Lok Sabha and State Legislative Assemblies have gone for elections simultaneously with states of Kerala and Orissa being the only exceptions during these years due to the local reasons.

This cycle of 5 years was however broken during the years of 1968 and 1969 and later when several assemblies have been dissolved invoking Article 356 of the Indian Constitution, and have come under the direct control of the Union. Since then, the election cycle has been disrupted.

As was seen in the General elections of 2014, only 5 states namely Andhra Pradesh, Arunachal Pradesh, Telangana, Odisha and Sikkim have gone for elections simultaneously with the Lok Sabha elections. Also, other states namely Jammu and Kashmir, Maharashtra, Haryana and Jharkhand, have also gone for elections in 2014 but at different times of the year. Presently, at least one or more states go for elections every year.

## **WHY ARE SIMULTANEOUS ELECTIONS DESIRED**

### **1.1 Disruption in Governance:**

Firstly, the political parties, including the party in power, are always in election mode which affects the decision-making, thus, hindering governance. Also, the decisions and the stand taken by the parties on important public policies are based on electoral prospects.

Secondly, The Model Code of Conduct (MCC) that comes into force immediately after the announcement of the election schedule increasingly finds itself at odds with even normal, routine aspects of administration. As election schedules are increasingly staggered, governance is paralysed for months in each election. Hence having a simultaneous election once in 5 years, would let the government plan better and implement them, without having to deal with the MCC frequently.

The partisan, narrow political considerations behind early dissolution of legislatures and calling for snap elections would be eliminated.

### **1.2 Competitive populism:**

One of the great challenges in a democracy is reconciliation of the short-term political price a government has to pay with the long-term public good it must pursue. This is particularly painful in a largely poor country. Therefore, it is always tempting and easy to resort to policies that give immediate but temporary relief to the poor and not-so-poor, but are ultimately futile in combating poverty. Already in general elections all over the country, many costly and unsustainable consumption subsidies are offered at the cost of quality education, effective healthcare, infrastructure and income-enhancing policies. In this climate, more frequent elections throughout the five-year election cycle only tend to compel parties and leaders to play to the galleries all the time at the cost of public good. With massive resources and attention squandered on short-term freebies, there is little left to really improve the lot of the poor.

### **1.3 Burden on the exchequer:**

The serial elections are a huge burden on the exchequer. The recent Delhi elections of 2015 have reportedly costed approximately Rs. 70-80 crores, apart from the last year's general election which was the most expensive Lok Sabha elections entailing a cost of approximately Rs. 3400 crore to the national

exchequer, a substantial jump of 131 % over the expenses incurred in 2009. Also, it was widely noted across media reports that the cost of conducting polls has been increasing with every election: in the case of Karnataka, for instance, the expenditure for the 2008 assembly elections was Rs. 70 crore, it touched Rs. 200 crore in 2012 — a rise of 185%.

These huge amounts of tax payers' money being spent on the elections could be avoided by having simultaneous elections. In the words of H.S. Brahma, the former Chief Election Commissioner (CEC), “the cost of assembly elections comes to around Rs.4,500 crore and this could be saved if they are held along with the Lok Sabha polls.” Hence having simultaneous elections would fix the election cycle and help in saving the public money that could be put to use for other developmental activities.

#### **1.4Frequent bye elections:**

Apart from separate elections to Lok Sabha and State Assemblies, we also have very frequent bye elections at state or national level whenever a seat falls vacant on account of death, resignation or disqualification. From 2009 to April 2015, there have been 320 bye elections in State Assembly constituencies and 25 bye elections in the Lok Sabha constituencies. We cannot ignore these bye elections as they are no less a burden on the exchequer costing Rs. 1-2 crores per constituency.

Often bye elections generate enormous political heat. In general, the expenditure incurred by candidates and parties in bye elections is much higher than in a general election because of the exaggerated attention paid to a few seats. Also, the governance is often paralysed for weeks in the same manner as in the general election. The Model Code of Conduct too is applied often for a whole State, paralyzing government's decision-making. In any case, fear of losing a few bye elections forces governments to adopt populist, short-term

policies at the cost of promotion of long-term public good.

Therefore, any reform to ensure regular, synchronized elections for Lok Sabha and State Assemblies must also address the issue of frequent bye elections causing disruption.

### **1.5 Voter Turnout:**

A fixed-term election for both the union and state level may result in high voters' turnout as was seen in the recent past elections held in Germany. In 2012, the German local government elections coincided with the European Union elections, thereby resulting in a significant rise in the numbers of voters (from 48.6% to 54%).

The recent 2014 Assembly elections in India also support the argument of higher voter turnouts during simultaneous elections, as seen in the table below:

<b>Voter turnouts (%) for Assembly elections, simultaneous and non-simultaneous to Lok Sabha elections 2014</b>			
<b>Simultaneous</b>		<b>Non-simultaneous</b>	
<b>State</b>	<b>(%)</b>	<b>State</b>	<b>(%)</b>
Odisha	73.75	Maharashtra	64
Andhra Pradesh	74.47	Jharkhand	66
Arunachal Pradesh	78.61	Haryana	76
Source : Election Commission of India			

### **1.6 Unaccounted expenditure fueling corruption:**

Vast amounts of money are spent on elections by the parties and candidates. This expenditure has two components. The smaller, legitimate component is cost of reaching out to the voters, communicating the message, mobilizing public opinion and persuading people to support or oppose certain policies. That is the very essence of democracy, and the society must find ways of

providing the resources necessary for this vital democratic exercise. Since this expenditure is legitimate, it can be fully accounted for, and will be transparent. This includes cost of pamphlets, posters, public meetings, voter interaction, advertisements etc. But increasingly, the larger component of election expenditure in most states is for vote buying, distribution of liquor, seeking voters' favour by offering material goods like sarees, cricket kits, utensils etc. A significant part of expenditure also goes to please community leaders to get votes controlled or influenced by them, to bribe public officials including police and revenue personnel, to pay astronomical sums for illegal paid 'news', and to hire musclemen to silence or brow-beat opposition. This expenditure is necessarily illegitimate and unlawful, and therefore unaccounted. This expenditure problem cannot be solved by state funding of elections; because by definition these practices are undemocratic, illegal and immoral.

It is this illegitimate, unaccounted expenditure that is at the heart of black money and corruption in politics. Only those who can spend such large sums can survive in politics for long, and the honest individuals in politics are finding survival in public life a difficult daily struggle. Parties are increasingly preferring money bags to stand a fair chance of winning. The candidate who spends vast sums is not guaranteed victory; but the candidate who cannot or will not spend such large sums most often ends up losing the election. Such large expenditure cannot be sustained unless public office is abused for private gains. This in turn is feeding the vicious cycle of corruption, mistrust and low credibility of parties and governments.

Some estimates suggest that in a cycle of five years, about Rs 40,000 – 50,000 crore is spent in India on election expenditure, of which at least 80% is unaccounted and illegitimate. If elections to local governments are added, this expenditure is much higher. The more frequent elections we have, the more this cost escalates, further fueling corruption and eroding our democratic system's

legitimacy. The problem of election expenditure and corruption is very complex, and far reaching and long-term reforms are required to address it. But in the short-term, if all or most elections are held together in a predictable manner, the overall expenditure will be reduced, as will the need for corruption and pressure to compromise on public policy and executive decisions to benefit favoured individuals and funders.

### **1.7 Overburdened staff**

To conduct the elections all over the country the staff required come from various departments of the government. Starting from a District Magistrate, the whole machinery works for smoothly conducting the elections. By having simultaneous elections the government school teachers and other officials would be spared the extra burden of staffing serial elections. Also, the Election Commission of India will follow a pre-determined election calendar which will reduce the efforts of conducting round-the-year elections.

## **THE WAY FORWARD**

### **2. At the Union Level:**

#### **2.1 Constructive No-Confidence Motion:**

In the face of repeated general elections and political instability, several suggestions have been made to adopt the German model of constructive vote of no confidence. According to this model, a government cannot be voted out of office in a no-confidence motion unless another government with majority support can be formed.

The German constitution provides for a constructive vote of no confidence (Art 67), whereby "the House of Representatives can express its lack of confidence in the Chancellor only by electing a successor with the majority of its members and by requesting the President to dismiss the Chancellor." But it is also true that Article 68 provides for dissolution of the house if a motion of the

Chancellor for a vote of confidence is not carried by the majority in the House, and if the chancellor proposes dissolution. The check against casual dissolution is two-fold: the dissolution takes place within 21 days and not immediately; and the right of dissolution shall lapse as soon as the house elects another chancellor with the majority of its members. The German constitution also provides for legislation in case of impasse — when the chancellor no longer enjoys majority support, but a new chancellor could not be elected by the majority, and house is not dissolved. In such a situation, "the President may at the request of the Government, and with the consent of the Senate (Upper House), declare a state of legislative emergency with respect to a bill, where the House of Representatives rejects the bill although the Government has declared it to be urgent. Where, after a state of legislative emergency has been declared, the House again rejects the bill or adopts it in a version stated to be unacceptable to the Government, the bill is deemed to have become a statute to the extent that the Senate consents to it. The same applies to the bill not passed by the House within four weeks of its introduction." (Article - 81).

Therefore, a close reading of the German Constitution shows that these provisions merely make it necessary for the opposition to form an alternative government before voting out a chancellor. There is a gap of 21 days between the Chancellor's recommendation and dissolution of the house, so that the house has an opportunity to elect a new government. It is unlikely to help in the Indian situation. Such a provision may help enhance stability of governments, but may still lead to legislative paralysis. When even governments with majority support are not able to get legislation through on account of the Rajya Sabha, a legislative emergency may further weaken the lower House elected by the people. For all these reasons, constructive no-confidence in itself may bring greater political stability, but may undermine our democracy greatly. In a way, fixed term of parliament amounts to sustaining an unaccountable government in

the guise of Westminster model. A fixed term is possible only when the legislature and executive are clearly separated, both are independently elected, and each does not depend on the other for survival.

## **2.2 Filling the vacant seats:**

As explained above, frequent bye elections cause enormous dislocation of administration, disruption of governance and weak, short-term public policies. It is possible to think of ways of filling vacancies in legislatures without a by-election.

In the US, whenever vacancies arise in the federal Senate, in 36 States the vacancy is temporarily filled by a person appointed by the governor of the State, in some cases from a panel of three candidates submitted by the party that held the office vacated. The election for the Senate vacancy is conducted only in the next cycle of general election for the remainder of the term or for a fresh term as the case may be. Similarly, vacancies in State Legislature in most cases are filled by a temporary appointment by the County Commissioners of the area or the legislature. In the Parliamentary democracies based on Westminster model – Canada, UK, Australia - bye elections are the norm for filling vacancies. In nations with proportional representation – Germany, etc. – a vacancy is filled by appointing the next person drawn from the list of candidates of the party to which the earlier member belongs.

If there is consensus, the Constitution can be suitably amended to fill vacancies by means other than a by-election. For instance, a vacancy may be filled by the governor appointing a person from the same party, drawn from a list of three nominees of the party. Alternatively, the local government leaders – panchayats and municipalities – may elect the member to fill the vacancy for the remainder of the term. Any of these methods could be applied for filling a vacancy in Lok Sabha or State Assembly. If there is consensus, appropriate constitutional

amendment is needed.

### **3. Constructive no-confidence & nominations to avoid bye elections involve major efforts, but with limited gains**

3.1. Even if we start with a clean slate and have all elections together, the problem will crop up again in time. Once the simultaneous elections are conducted there is no guarantee that the five-year cycle would be maintained.

In the Westminster model that we adopted, we can never guarantee a five-year tenure of a government or the lower house. We have a parliamentary executive system in which the government is drawn from the legislature, and the cabinet is collectively responsible to the lower house. In our model, a government loses power once it does not enjoy a majority support in the lower house. This may lead to dissolution of the house unless another government with stable majority can be installed in office. Therefore, even if simultaneous elections are engineered for Lok Sabha and State Assemblies, there is no guarantee that either Lok Sabha or a State Assembly will not be dissolved before the expiry of its term in future.

Even to achieve the limited, short-term objective of simultaneous elections, a major constitutional amendment will be needed. Therefore, any reform we attempt should have the potential to derive maximum benefits to our democratic system in terms of effective and competent governance and promotion of public good commensurate with the effort.

3.2. Both these proposals – constructive no-confidence and filling vacancies without bye elections – will reduce the frequency of elections, minimize disruption of governance on account of frequent elections, and help governments focus on long-term public good. However, these measures require amendments to the Constitution and will have a limited positive impact. Also, they do not guarantee that Lok Sabha and State Assemblies will have

simultaneous elections. In the first instance, with suitable amendments to the Constitution, the tenures of some Assemblies may have to be cut short, and in some other States prolonged President's rule may have to be imposed after expiry of legislative term of five years. By these means it may be possible to have one time synchronous elections to Lok Sabha and State Assemblies, say in 2019. We should note that there are also several local governments – three tiers in panchayats, and municipalities – which have staggered elections causing the same disruption, populism and huge election expenditure. Therefore local government elections may also have to be synchronized with Lok Sabha and State Assemblies. That requires further constitutional amendments to ensure simultaneous elections at all levels – national, state and local. However, as long as there are constitutional provisions for dissolution of Lok Sabha or State Assemblies, we cannot guarantee simultaneous elections in future even after the elaborate Constitutional amendments and a massive exercise to ensure one-time synchronous election.

In Canada with its Westminster model of government and a federal constitution, they have enacted laws to have periodic elections with a tenure for each legislature. But the law does not guarantee assured completion of term of legislature, and therefore mid-term polls are always a possibility.

3.3. In Australia and Germany, both federal republics, national and state elections are often held separately by necessity. Germany's constructive no confidence assures greater stability of governments, but does not preclude mid-term polls. The United Kingdom has enacted a law mandating completion of a term of Parliament before general elections are held. Margaret Thatcher in 1983 and 1987, and Tony Blair in 2001 and 2005, dissolved House of Commons within four years. Now the law at best assures completion of five-year term of House of Commons before it is dissolved. It certainly does not preclude dissolution before completion of term if there is no majority

government. It is questionable whether the law prevents a Prime Minister from seeking dissolution of the House if there is a genuine need to go back to people on an issue of real importance.

The Fixed Term Parliaments Act, 2011 enacted in the United Kingdom (September 15, 2011) provides for:

- i) A specified poll date once in five years.
- ii) Early polls before end of five-year term only if a motion for early general election is agreed by at least two-thirds of the whole house.
- iii) In case, a motion of no-confidence is passed, early polls only if no alternative government is confirmed by the commons within fourteen days by means of a confidence motion.

Thus, the Fixed Term Parliaments Act, 2011 does not guarantee a fixed five-year term for the commons, nor does it prevent mid-term polls in all circumstances. It only ensures that mid-term poll is the last resort.

3.4. Given these circumstances, precedents, and settled practices in other democratic nations, within the Westminster model, simultaneous elections cannot be guaranteed in the long term even if a one-time effort is made to synchronise elections at national and state levels. While simultaneous, regular elections after full term will reduce the disruption, improve stability and to some extent enhance the quality of governance, timely elections in themselves will not address the growing political and governance challenges, particularly at the State level.

From the foregoing analysis of practices in parliamentary democracies, it is clear that institutional mechanisms are available to prevent frequent elections even in parliamentary executive model of governance. Constructive no confidence and prior consent of two-thirds of the membership of the whole house will, in most cases, ensure a stable five-year term for the government and

legislature. However, it does not guarantee a five-year term and fixed election dates in all situations. When we have a complex federal polity with 29 states, it is impossible to guarantee that over a period of one or two decades no state or states will have to resort to mid-term polls. No confidence motion, constitutional crisis, imposition of President's rule, non-compliance with a constitutional directive under Article 355, secessionist threats, prolonged breakdown of public order in a state, failure of a state to protect linguistic or religious minorities – all these or other contingencies may lead to President's rule and / or dissolution of the Legislative Assembly and consequent mid-term polls. By incorporating constructive no confidence motion provision in the constitution, and enacting a law similar to the Fixed-Term Parliaments Act of the UK, and by exercise of restraint by the Parliamentary opposition and government, it is reasonable to assume that the fixed term of Lok Sabha and the Union Government can be assured. But it is unrealistic to assume that such a situation will prevail in respect of all the 29 states forever.

Even if such a massive exercise is completed successfully and elections to Lok Sabha and State Assembly are held simultaneously, there will be no radical transformation of our political process and governance. Even now the Assemblies of Andhra Pradesh, Telangana, Odisha, Arunachal Pradesh and Sikkim are being elected along with the Lok Sabha over the past several election cycles. In erstwhile AP and now AP and Telangana, since 1989 we have had simultaneous polls. In Odisha, since 2004 we have been having simultaneous polls. Similarly, Karnataka had Assembly election in 1989 along with Lok Sabha. However, there is no evidence of significant improvement in the nature of politics, role of vote buying and black money, corruption, or quality of governance in the states with simultaneous elections, when compared with the rest of India.

#### **4. Separation of powers and fixed tenures**

4.1. The one constitutional remedy that guarantees timely, simultaneous, regular elections without mid-term polls would be clear separation of powers and election of head of government for a fixed tenure. In such a system, the executive is directly elected by the people and the Cabinet's continuance in office does not depend on the legislature. Both executive and legislature would be equal partners, and the excesses of one branch are checked by the vigilance of the other branch.

4.2. But such a direct election of executive is not desirable at the national level in India for good reasons. We are the world's most diverse nation. In particular, region, religion and language are of profound political significance. If a single person is the fountain of executive authority as the elected executive, he/she is actually less powerful than a Prime Minister commanding majority support in Parliament. In our system, the majority support in legislature guarantees approval of most legislation and budgets. The Cabinet and Parliament work together in our parliamentary executive system. But even a popular president in the separation of powers model is often powerless in getting budget approved or laws enacted. President Barack Obama, though elected twice with a strong popular support, is often stymied in both legislation and budget-making. Rarely do the President and the Congress work together, and legislative logjam and governance paralysis are often evident in the US at the federal level.

#### **5. Separation of powers – Union vs States**

5.1. The common perception is that the President is the symbol of all authority despite the inherent weakness of a President who does not command legislative majority. In a nation with great divides like Hindi – Non-Hindi, Hindu-Muslim, and North-South, it is preferable that no single person is seen as the embodiment of all executive authority at the national level. The Parliamentary

executive system that we have gives greater political space and representation to all regions, religions and languages, and promotes greater sense of representation, participation and power-sharing at the national level. Also in a society that tends to show exaggerated respect for power, there are legitimate fears that a directly elected executive at the national level could be authoritarian over time. Therefore, the advantages of Westminster model outweigh the difficulties at the national level.

5.2. However, when it comes to states, a different logic operates. In states there are no deep fractures of the kind we see at the national level. And there cannot be any real fears of authoritarianism at state level. The Supreme Court, federal government, other constitutional authorities and the armed forces – all are at the national level. They will individually and collectively act as powerful safeguards against any tendency towards authoritarianism at the state level. A directly elected executive will have a fixed tenure and in case of vacancy of office, there will be a constitutional order of succession without need for a mid-term election. There will be term limits for the executive. Legislature will have a fixed term, and it will never be dissolved prematurely. Therefore, elections will be time-bound, regular and on fixed days. In such a situation, it is easy to ensure simultaneous national and state elections provided we have constructive no confidence system at national level guaranteeing a fixed term for Lok Sabha.

But an important reform of this magnitude must be brought about for compelling reasons of governance, not merely to ensure simultaneous elections. A deeper analysis of governance crisis in states and its underlying causes is necessary before we come to a balanced conclusion about the desirability and need for direct election of the executive at the state level.

## **6. At the State level:**

### **States critical for citizen welfare**

6.1 The Union and states – both are vital partners in shaping India’s future: In particular, the union has a critical role in ensuring national security, sound fiscal policy, transparent natural resource allocation, fair devolution, and conditions for development of essential infrastructure for economic growth and prosperity. Once these key instruments are in place, most things that matter to a citizen’s well being and prosperity are shaped by governance at the state level. Rule of law that gives protection, justice and security, provision of basic amenities and services, sustainable and productive natural resources development, land management, quality education, effective healthcare, ease of doing business to encourage investment and jobs, and welfare of citizens – all are determined by acts of omission or commission at the State level.

6.2 In a fundamental sense, the true challenges of governance are at the state and local level. The people instinctively understand this fact, and therefore as general rule electoral outcomes are often products of people’s response to State government. From time to time some overarching national issues may impact voting patterns. But most often if the State government is perceived to be responsive and efficient, voters tend to reward the party in power in all elections in the State – national, state or local. Equally, if people lose faith in the State government, they tend to defeat the governing party in the State in elections at all levels.

6.3. Competent and effective leaders in certain states have been able to make a significant impact on governance and improve the quality of life. But more often the compulsions of survival and deepening governing crisis in states have resulted in stagnation and underdevelopment. In general, corruption, frequent transfers of officials, inadequate infrastructure, poor services and amenities,

unaccountable bureaucracy, failure of rule of law, low educational outcomes, and ineffective healthcare have been plaguing most states.

6.4. A careful examination reveals that at a certain stage of evolution of a democracy, the political system chosen and the distortion of incentives caused by it have a profound impact on quality of governance. The Westminster model of governance as it evolved in states in our conditions has, over the years, exacerbated our governance crisis.

## **7. Distortions of Westminster model in States:**

7.1. Constitutionally and legally, the Council of ministers is collectively responsible to the legislature. Once the government is assured of a majority support in the Assembly, the Council of Ministers and the state bureaucracy are under its control. Legislators represent the voice of the people, hold the government to account, and play a vital role in legislation and public policy. However, in reality, three factors led to a complex and dysfunctional crisis. First, in a society with limited experience in running democratic institutions and a culture which tends to worship power, the State legislators are very conscious that their support sustains a Chief Minister and his cabinet in power. Second, in an administration evolving from colonial mindset, there is a poor service delivery in even the simplest matters. Delay, harassment, petty corruption and denial have become endemic to the system at grassroots level. As a result, people started looking up to the elected legislator who sought and obtained their vote to somehow get involved in service delivery and administration. Third, local governments were not institutionalized as part of the Constitutional structure for almost five decades after independence. Even where they were created, there was no sustained effort to persevere with them or empower them. Even after the 73<sup>rd</sup> and 74<sup>th</sup> amendments, things have not changed because now we have over-structured, underpowered local governments. As a result, the many local services and amenities that the local governments should normally

have been responsible for are seen by the people as the responsibility of the local legislator.

## **8. Governance crisis in States:**

8.1. As a result of these factors, several serious distortions have crept into governance at State level.

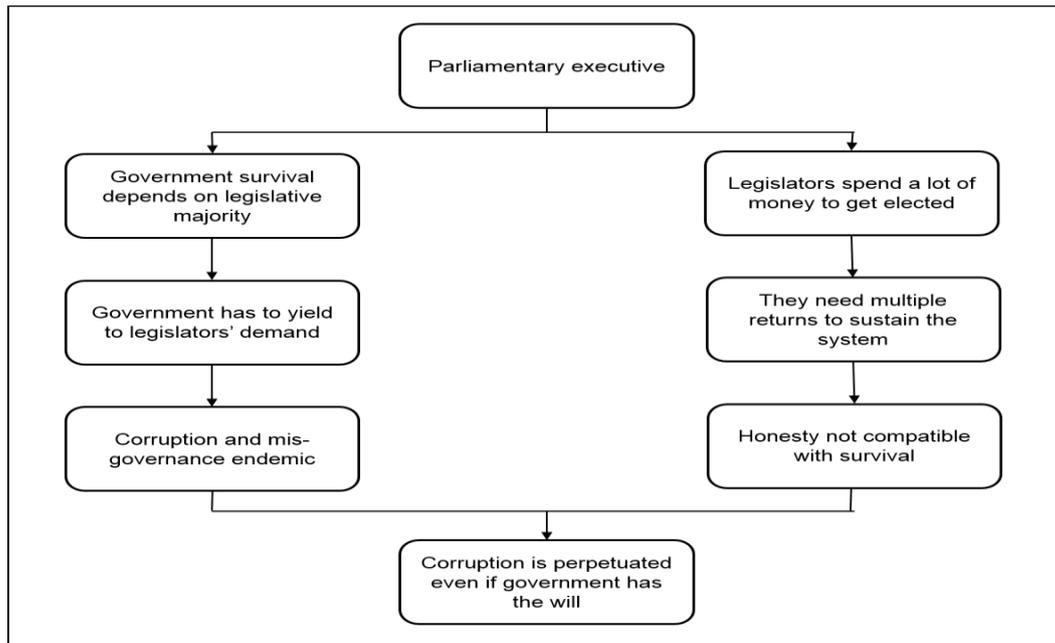
- With the government's survival dependent on MLAs, the Chief Minister and Cabinet are forced to expend vast energy and time in the struggle for survival in power. This meant arbitrary decisions and patronage to please the MLA, and weak policy and execution.
- As people depend on the MLA for service delivery in the face of recalcitrant bureaucracy and weak and ineffective local governments, the MLA has become disguised executive. He is forced to exercise responsibility for delivery without real power. The informal exercise of power in the form of transfers, postings, and a say in purely administrative or financial decisions like contracts and tenders have led to partisanship, lack of accountability and taint of corruption.
- With patronage, transfers and postings, land allotment, natural resources allocation and public procurement increasingly in the hands of local MLA, there is an inevitable rise in the market for public office and patronage. Transfer of officials are often for a price, and legislative office at state level has become a highly valued asset in economic terms. There is enormous hankering for party 'seats' to contest elections. In many states vote buying and unaccounted, illegitimate expenditure for elections is on the rise. The honest, public-spirited leaders are increasingly marginalized, and those with vast money to 'invest' in elections and are ready to convert public office into private gain find politics both lucrative and hospitable. This trend is rising in many states. In some states an expenditure of Rs. 5 crore per Assembly candidate of a major party is the norm. Such a situation created an

insurmountable entry barrier for public-spirited citizens, increased corruption, fueled public mistrust and in general undermined governance in states. This vicious cycle has increasingly installed the MLA as the ‘jagirdar’ of the constituency. The legislator became unaccountable, and often in real terms ineffective de facto executive. The bureaucracy has become further emasculated and became irresponsible and unaccountable. Frequent transfers of officials as part of this cycle have further undermined the capacity to deliver. The average tenure of office of most officials in states is only about nine months!

- This situation could be redressed over time if local governments are effectively empowered, and given time and support for one or two decades. However, the MLAs and the senior officials in States are inimical to local government empowerment. Poor local delivery increases the burden on MLAs and makes the system fragile and vulnerable. But fear of loss of control and mistrust of local governments do not allow real empowerment and accountability of local governments. In this vicious cycle, even the occasional good performance of a local government leader is nullified as they are not sustained, and local leaders are not allowed to emerge or survive for long. In most states local governments are enfeebled and powerless. In the public eye, local elections are as tainted as state elections, and local leaders are perceived to be even more ineffective and corrupt than the MLA! This perpetuated centralization and made systemic correction and institutional accountability even harder.
- States face the most complex challenges of governance. In the present climate, most often state governments find that they are incapable of delivering services vital for public good. Water supply, sewerage, storm water drainage, electricity, traffic, transport, service delivery in government offices – all are generally deeply unsatisfactory, and sometimes in shambles.

In the all important areas of educational outcomes and healthcare delivery, the performance in most of India is appallingly poor. In this climate, cynicism, despair and anger against establishment are inevitable. In order to obtain vote in the face of mounting public anger, short-term competitive populism and promotion of divisive, primordial loyalties and emotions to polarize people have become the inevitable political tools in electoral politics in States. Free rice, free power, loan waiver and many other myriad freebies to appease the voters, or dividing people on emotive issues like caste, region or religion have endangered fiscal health, economic growth and social cohesion.

- If we are to get better delivery in infrastructure, education, healthcare, rule of law or natural resource development, we need the finest talent to lead these sectors, make sound public policy and execute efficiently. But in our Westminster model, the ministers who must lead their departments must be chosen from among the legislators of ruling party. There is no freedom to choose the best talent to produce the outcomes the state needs to come out of the crisis. As explained above, the political and electoral crises make it all but impossible for honest and public-spirited citizens to enter electoral politics and survive or rise to the top. This paucity of recruitment of talent in politics and government had led to a low level equilibrium, and further exacerbated the crisis.



The process described above is complex, interconnected, remorseless, unrelenting and extremely debilitating.

## 9. Context shapes outcomes:

9.1. In a democratic system, the three basic purposes of political activity are: attracting the best and brightest talent into politics and facilitating their rise as leaders; offering alternative vision and policies to the electorate, to enable them to make informed political choices; and once in office, translating people's mandate into tangible results through purposive, ethical and competent governance. In mature Westminster models, after centuries of experience and evolution, trials and tribulations, political process is serving these purposes efficiently. Britain, Canada and Australia are examples of competent governance at all levels in a parliamentary executive system. There are also institutions and practices that work much better in India than in far more mature democracies. For instance, the delimitation of Lok Sabha and State Assembly Constituencies is effected by a non-partisan Commission headed by a Supreme Court judge. By and large delimitation is decided on fair, objective, uniform

criteria without partisan considerations, and without deliberate intent to affect the electoral outcomes. However, in the US, the Congressional redistricting is largely politically driven, and gerrymandering for partisan considerations to affect the electoral outcomes is more or less the norm in most states.

Clearly, any electoral or governance system can achieve good results provided the institutions, culture and practices promote competent and ethical governance. But India has not had the advantage of centuries of democratic evolution. Our need to improve governance coincides with rapid technological advances, intense global competition, the desperate need to achieve high growth with jobs and better quality of life to the bulk of our people. Therefore we need to alter the political incentives, institutions and practices in order to achieve rapid transformation in keeping with the urges of our people.

## **10. Separation of powers in States**

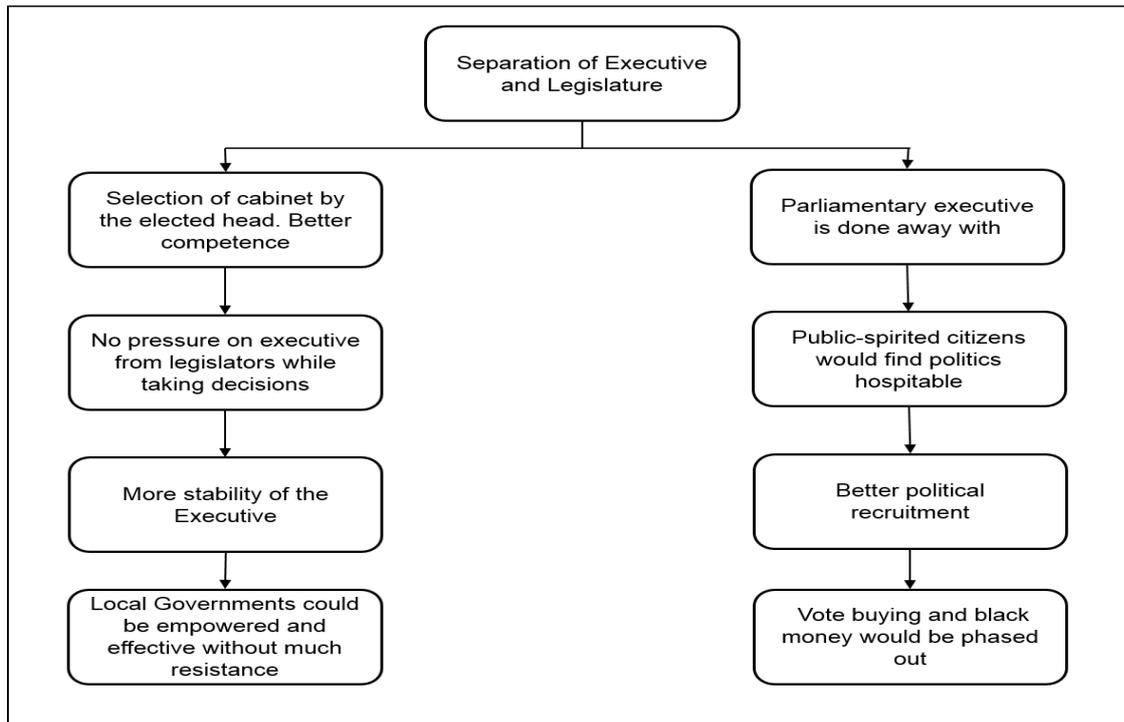
10.1. It is in this context that separation of powers at the State level and direct election of the executive has enormous potential to quickly alter incentives and transform governance. In such a system in States, the legislature will be elected separately and directly while the ministers will be drawn from outside the legislature. The legislature will have a fixed term, and cannot be dissolved prematurely except in exceptional circumstances (sedition, secession etc) by the Union government. The head of government will be directly elected for a fixed term, and cannot be voted out of office by the legislature. Any vacancy of office will be filled by a due process of succession. The elected head of government will have no more than two terms of office. Even though these changes may not be panacea to all evils in the present structure of legislature and executive, they will certainly encourage more healthy and vibrant democracy and democratic processes. Further, clear and periodic delineation of functions between Union and States, and among various tiers of local governments is also a necessary condition for a vibrant democracy. It is only a true federal structure that can

ensure unity in this multi-ethnic and multi-religious society.

10.2. Direct election of the executive and separation of powers have several clear and decisive advantages in States.

- The legislator can no longer be disguised unaccountable executive. Therefore, the local legislative election ceases to be a symbol of oligarchic domination. As legislative office is largely meant for law making and checking the abuse of executive authority, the power of patronage will not be available to legislators.
- Serious minded, public-spirited citizens will aspire for, and be elected to legislature.
- As constituency legislative election does not determine executive office, the incentive for vote-buying and local electoral irregularities disappears. At the same time, as the executive is directly elected for the whole State, no group or oligarchy will have sufficient dominance or incentive to resort to vote-buying and electoral malpractices across a whole State. The very nature of elections will be transformed.
- As the executive will be untrammelled by day-to-day interference of the legislators in local executive decisions, there can be effective governance. The alibis for non-performance will no longer be available, and authority and accountability will be together.
- At the same time, the legislature will have real control in law-making and budget approval. Therefore, the executive is kept constantly in check in institutionalized manner, and it will have to carry the legislature with it in carrying out its legislative agenda and policies.
- As the executive's survival is independent of legislators' support, honest and unbiased action will be possible in matter of governance. Corruption can then be curbed, as honesty and political survival become compatible.

- As the political executive can recruit the finest talent outside the legislature for executive responsibilities, the quality of governance will dramatically improve.
- As there will be no need for nominated governors, federal relations will significantly improve, and democracy and States' autonomy will be strengthened.
- As the executive and legislature would be elected separately for fixed terms, the Union can no longer abuse Article 356. Failure of Constitutional machinery in States as commonly interpreted, viz. in capacity to form a stable, majority government will no longer be an issue. However, new mechanisms may have to be evolved to deal with other Constitutional failures. Many federal countries have such mechanisms. In the US, the federal government can send its troops or marshals to enforce the Constitution, maintain order or implement a court directive. Dismissal of a State government is not a necessary requirement to preserve the Union, except in extraordinarily grave emergencies like secession and civil war.
- Finally local governments can be really strong and effective once the State legislator does not perceive a threat to his position from the local government executive. As the State legislator's position is not based on patronage, he often becomes the effective interlocutor for local government's powers and initiatives, instead of being an adversary.



A similar separation of powers in local governments, and a directly elected executive at the local level would be appropriate for the same reasons. Thus the authority and accountability will fuse at State and local levels and a new political culture will be evolved, making good governance a reality.

### 11. Summary:

To summarize, within the existing parliamentary executive system at Union and State levels there can never be any guarantee of simultaneous State and national elections in the long term. Even for a one-time or short-term synchronicity, major constitutional overhaul will be required with minimal impact on governance. A combination of the German - model of constructive no confidence and a law similar to UK's Fixed Term Parliaments Act will ensure five-year tenure of Lok Sabha and stable governments except in extraordinary circumstances. Even if similar provisions are extended to states, it is much more difficult to ensure stability, fixed term and simultaneous elections in all States. Therefore, the best guarantor of stable governments and simultaneous

elections in States will be a direct election of the head of the government in States, with fixed tenure of government and fixed term of the Legislative Assembly, conterminous with the term of Lok Sabha. Such a direct election of the executive is perhaps not feasible or acceptable at the Union level because of the vastness and complexity of India and the political fractures on grounds of religion, language and region. But in the States, most such concerns do not exist, and the Union government Supreme Court and other constitutional authorities will be able to correct any distortions, abuse of power or violation of rights of sections of people in any State. Therefore, a direct election of government in states with clear separation of powers offers tremendous advantages including simultaneous polls with Lok Sabha and radical improvement of nature of politics and governance. But real and lasting governance transformation will be possible by opting for a system of clear separation of powers in states, where by the executive and legislature are directly elected by the people for a fixed term. A proper succession mechanism of the executive in case of vacancy, and a suitable mechanism to fill vacancies in legislature without bye elections will ensure stability, minimize disruption of governance and facilitate regular, timely, periodic, simultaneous elections. Constructive no confidence at the Union level will in most cases ensure stable government, more or less fixed tenure and timely elections. Once this is combined with direct election of the executive in States guaranteeing fixed tenure, stable government and pre-determined election schedule, there will be a high probability of simultaneous elections at Union and State levels. Similar changes at local government level will ensure fixed election schedule in all three tiers. Far more significantly, separation of powers in States can transform our politics and governance and enhance credibility, efficacy and public good.

We therefore recommend the following steps in order to achieve the twin objectives of simultaneous, regular elections to Lok Sabha and State

Assemblies, and radical improvement of politics and transformation of governance in states:

1. A constructive no confidence provision based on German model for Union government.
2. A Fixed Term Parliaments Act, based on the UK model for Lok Sabha
3. A provision in the rules of Lok Sabha, or by statute, guaranteeing that a no confidence motion cannot be brought before the House within 24 months after the last such motion.
4. Direct election of head of government in each State, along with the Legislative Assembly for a fixed term, simultaneously with the Lok Sabha.
5. Clear separation of executive from legislature in States, with ministers being appointed from outside the legislature, by the elected head of government.

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