



ONE NATION, ONE ELECTION, MANY CONSTITUTIONAL QUESTIONS

Jai Agarwal*

ABSTRACT

The 129th Constitution Amendment Bill, 2024, proposes to synchronize elections to the Lok Sabha and State Legislative Assemblies under the "One Nation, One Election" framework. While the Bill's Statement of Objects and Reasons emphasizes administrative efficiency and economic considerations, this paper examines whether the proposed amendments violate fundamental constitutional principles, particularly the basic structure doctrine established in *Kesavananda Bharati v. State of Kerala*. This analysis applies both substantive and procedural limitations on the constitutional amending power. The substantive examination reveals that the amendments potentially infringe upon democracy and federalism as basic features of the Constitution. The proposed Article 82A fundamentally alters the temporal autonomy of state legislatures by subordinating their five-year terms to the Lok Sabha's tenure, thereby compromising the democratic principle of periodic accountability and state legislative independence. The federal structure faces significant disruption as the amendments transfer control over state legislative terms to the Election Commission and Union government, undermining the carefully crafted balance between Centre and States established in precedents like *S.R. Bommai v. Union of India*. Procedurally, the paper argues that the amendments affecting state legislature timelines and federal principles require state ratification under Article 368(2), not merely parliamentary approval. The centralization of electoral management and presidential discretionary powers in hung parliament scenarios further exacerbates concerns about democratic checks and balances. The paper concludes that while administrative convenience may justify electoral synchronization, constitutional propriety demands rigorous scrutiny. The amendments risk transforming India's federal democratic fabric by prioritizing managerial efficiency over constitutional principles, necessitating careful parliamentary deliberation and state consultation before implementation.

Keywords: *Constitutional Amendment, Basic Structure Doctrine, Federalism, Democracy, One Nation One Election, Electoral Synchronization*

I. Introduction

The 129th Constitution Amendment Bill, as introduced in the Lok Sabha on 17 December, 2024 proposes to insert Article 82A, empowering the President to issue a public notification on the date of the first sitting of the House of the People after a general election, which shall be called the "appointed date".¹ The tenure of the House of the People will be five years from this date, and the tenure of Legislative Assemblies elected before the expiry of the House of the People's full term will end with it. Subsequently, all general elections to the House of the People and

* Advocate, High Court of Rajasthan.

¹ The Constitution (One Hundred and Twenty-Ninth Amendment) Bill 2024, Bill No. 275 of 2024 (Lok Sabha).

Legislative Assemblies will be held simultaneously. The proposed amendments to Articles 83 and 172 provide that in the case of early dissolution of either the House of the People or a Legislative Assembly, the term of the new House or Assembly, as elected, will be for the remaining unexpired term. The 'Statement of Objects and Reasons' (SOR) justify simultaneous elections on the grounds of governance efficiency and economic utility. Key reasons include: (a) costliness, (b) time consumption, (c) disruption of development programs due to the Model Code of Conduct, (d) impact on normal public life, and (e) strain on personnel.² Notably, no constitutional considerations are mentioned. The Bill aims to implement recommendations from the Law Commission³, Department-related Standing Committee⁴, and 2024 High-Level Committee Report (HLC)⁵, which advocates for simultaneous elections, a practice discontinued post-1967.

Significant concerns have been raised regarding the impact of this amendment on the basic features such as democracy and federalism. This paper assesses whether the amendment respects a) substantive and b) procedural limitations on the amending power, as developed from the judgements cited specifically in the HLC Report. Substantive limitations involve the test of the basic structure, while procedural limitations concern the mode of exercising this constituent power.

II. Substantive Limitations

Establishing the Basic Structure Test

The Indian Constitution is built upon an unamendable core that cannot be destroyed or altered in a way that compromises its identity. This stems from the premise that the constituent power of amendment derives its authority from the Constitution and must operate within its confines. The concept often invokes the philosophical ship of Theseus dilemma - at what point does an amendment alter the essence of the Constitution beyond recognition? This principle was crystallized in *Kesavananda Bharati v. State of Kerala*⁶, where the Supreme Court ruled that

² *Ibid.*

³ Law Commission of India, *Draft Report on Simultaneous Elections* (30 August 2018) available at: https://legalaffairs.gov.in/sites/default/files/simultaneous_elections/LCI_2018_DRAFT_REPORT.pdf. (last accessed on 25 October, 2024).

⁴ Department Related Committee Parliamentary Standing Committee on Personnel, Public Grievances, Law & Justice, *79th Report: Feasibility of Holding Simultaneous Elections to the House of People (Lok Sabha) and State Legislative Assemblies* (17 December 2015) available at: https://legalaffairs.gov.in/sites/default/files/simultaneous_elections/79th_Report.pdf, (last accessed on 25 October, 2024).

⁵ High Level Committee, *Report on Simultaneous Elections in India* (14 March 2024) available at: <https://onoe.gov.in/HLC-Report-en>. (last accessed on 25 October, 2024).

⁶ *His Holiness Kesavananda Bharati Sripadagalavaru v. State of Kerala*, (1973) 4 SCC 225.

amendments must not ‘damage’ or ‘destroy’ the basic structure of the Constitution. Illustratively, Justice Sikri identified five key features: supremacy of the Constitution, republican and democratic form of government, secularism, separation of powers, and federalism, while emphasizing that these rest on the foundation of individual dignity and freedom.

The *Kesavananda* Judgment set the stage for subsequent elaborations on the basic structure doctrine. In *Indira Nehru Gandhi v. Raj Narain*⁷, the Supreme Court underscored the case-specific nature of identifying basic features. Justice Mathew noted that a basic structure principle must be a “terrestrial concept having its habitat within the four corners of the Constitution” and it should be assessed in light of its role in the constitutional scheme, its objectives, and the consequences of its denial. Justices Mathew and Chandrachud highlighted features such as free and fair elections, equality, the rule of law, and a democratic setup as integral to the Constitution’s basic structure.

The Supreme Court, in *M. Nagaraj v. Union of India*⁸, introduced the ‘width’ and ‘identity’ test to assess whether an amendment infringes on the basic structure. The width test examines the extent of the amendment’s impact, while the identity test assesses whether the essential elements of the Constitution remain intact. Thus, an amendment must preserve the Constitution’s identity even after alteration.

The *Supreme Court Advocates-on-Record Association v. Union of India*⁹ judgment further refined this doctrine, replacing the *Kesavananda Bharati*’s abrogation test with an alteration test. It held that even minimal damage to essential features like judicial independence, effectuated through judicial primacy in appointments, could render an amendment unconstitutional. However, this strict standard evolved further in *Jaishri Laxmanrao Patil v. Chief Minister and Ors.*¹⁰ Here, the Supreme Court clarified that not all alterations violate the basic structure - only those that take away the essence of a basic feature. In this case, a peripheral change to state legislative power was held to not suffice unless it effectively divested state of its legislative and executive authority, thereby eroding the federal character of the

⁷ *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

⁸ *M. Nagaraj v. Union of India*, (2006) 8 SCC 212.

⁹ *Supreme Court Advocates-on-Record Association v. Union of India*, (2016) 5 SCC 1.

¹⁰ *Jaishri Laxmanrao Patil v. The Chief Minister and Ors.*, (2021) 8 SCC 1.

Constitution. The basic structure framework, thus, operates at three levels of abstraction: the concept (basic constitutional principle), facet (particular aspect independent of the Constitution), and conception (Constitution-specific understanding of the facet). A conception becomes a basic feature only when integral to the facet's functioning.¹¹ An analytical framework for examining the 129th Constitution Amendment Bill's impact on democracy and federalism as basic features of the Constitution has been utilised in this paper

It is also to be noted that despite the proposed Article 82A(3)'s non-obstante clause ("notwithstanding anything in this Constitution or any law for the time being in force"), attempting to override constitutional provisions, precedents in *P. Sambamurthy v. State of AP*¹² and *R.C. Poudyal v. Union of India*¹³ establish that such clauses by themselves do not inhibit a basic structure review.

Applying the Test

Democracy as a basic feature

The first basic feature analysis examines *democracy* through this framework: democracy as the overarching concept, which manifests through periodic free and fair elections as its facet and finds specific constitutional conception in the five-year term of a confident assembly. The proposed amendments to Articles 83 and 172 present significant concerns when examined through the established basic structure tests. Firstly, the amendment's scope extends beyond mere procedural modification - it fundamentally alters the temporal autonomy of state legislatures by subordinating their terms to the Lok Sabha's tenure. The width of its impact suggests a structural change rather than an incremental reform. When examining the amendment's effect on the constitutional identity, the changes strike at core democratic feature. The five-year term guarantee, explicitly provided in the constitutional text, represents more than just a timeline - it embodies the principle of periodic democratic accountability and state legislative autonomy. The amendment's consolidation of electoral powers under parliamentary legislation and presidential executive authority effectively alters this basic feature. The amendment doesn't merely modify but transforms the relationship between the centre and the

¹¹ Nivedhitha K., 'The 103rd Amendment and a New Typology of the Basic Structure' (Constitutional Law and Philosophy Blog, 19 September 2019) available at: <https://indconlawphil.wordpress.com/2019/09/19/guest-post-the-103rd-amendment-and-a-new-typology-of-the-basic-structure/> (last accessed on 28 October, 2024).

¹² *P Sambamurthy v. State of Andhra Pradesh*, (1987) 1 SCC 362.

¹³ *R.C. Poudyal v. Union of India*, 1994 Supp (1) SCC 324.

states. This transformation goes beyond peripheral changes to state powers and enters the territory of altering fundamental democratic features.

The Supreme Court in *PUCL v Union of India*¹⁴, while relying on *Indira Gandhi v. Raj Narain* and *Kihoto Hollohan v. Zachillhu*¹⁵, has held that an effective democracy functioning through periodic fair and free elections is part of the basic structure of the Constitution. Union Parliament's unilateral ability to modify these temporal guarantees through constitutional amendments has an approach similar to emergency powers, raising serious concerns about democratic safeguards. While administrative efficiency and economic considerations form the amendment's foundation, as discussed in the SOR, they cannot override constitutional propriety. The analysis suggests the amendment, in its current form, may impermissibly alter essential democratic features.

Federalism as a basic feature

The second basic feature analysis examines *federalism* through this framework: federalism as a concept, co-equal powers of Centre-State and executive power being co-extensive with legislative powers as the facet, and confident legislative assemblies having autonomy over their timelines as the conception.

The proposed amendments raise significant federal concerns through established constitutional precedents. While *West Bengal v. Union of India*¹⁶ established India's quasi-federal nature signalling centralising tendency, as also affirmed in *Kuldip Nayar*¹⁷, but the Supreme Court in *S.R. Bommai v Union of India*¹⁸ held that states are not mere appendages of the Centre and within their allocated spheres maintain supremacy. This principle was reinforced in *Jindal Stainless Steel*¹⁹, where Justice Chandrachud emphasized preserving the carefully crafted balance between Union and States, albeit in financial relations. The amendments, particularly proposed Article 82A (5) and 82A (7), effectively transfer control over state legislative terms to the ECI and the Union, potentially disrupting this established balance. The evolution of Indian federalism through what *GNCT Delhi v Union of India*²⁰ termed as 'cooperative' and

¹⁴ *People's Union for Civil Liberties v. Union of India*, (2013) 10 SCC 1.

¹⁵ *Kihoto Hollohan v. Zachillhu*, 1992 (2) SCC 651.

¹⁶ *West Bengal v. Union of India*, 1962 SCC OnLine SC 27.

¹⁷ *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1.

¹⁸ *S.R. Bommai v. Union of India*, (1994) 3 SCC 1.

¹⁹ *Jindal Stainless Steel v. State of Haryana*, (2017) 12 SCC 1.

²⁰ *State (NCT of Delhi) v. Union of India*, (2018) 8 SCC 501.

‘pragmatic’ federalism emphasizes constitutional balance and regional aspirations as crucial to strengthening unity. Following *Jaishri Laxmanrao Patil*’s test, these changes potentially take away the very essence of federalism by fundamentally altering state legislative autonomy. The amendment’s width significantly impacts state legislative independence, placing state legislative assemblies under Union Parliament’s control regarding their terms.

The amendment appears to damage the federal fabric by removing state legislatures’ basic autonomy over their temporal existence, a concern that *S.R. Bommai* specifically cautioned against when discussing powers affecting federal balance.

III. Procedural Limitation

The procedural framework governing constitutional amendments under Article 368 presents some questions regarding special majority requirements and state ratification. A significant interpretative issue concerns whether the special majority requirement applies across all stages or exclusively at the final stage.²¹ Convention has traditionally favoured the former interpretation.²²

The proviso to Article 368(2), mandating state ratification, fundamentally embodies federal principles. This interpretation gained crucial attention in *Kihoto Hollohan v. Zachillhu*, where Section 7 of the Tenth Schedule was invalidated for circumventing court jurisdiction without obtaining requisite state ratification. The majority judgment introduced the principle of severability to composite amendments, suggesting that non-compliance with state ratification procedures might not invalidate an entire amendment. However, the dissenting opinion emphasized the mandatory nature of ratification procedures, arguing against severability when procedural compliance is fundamentally lacking.

This jurisprudential tension was further explored in *Rajendra N Shah v. Union of India*²³ which expanded Article 368(2)’s application to include changes to mean change ‘in-effect’ equivalent to direct amendments. These decisions reinforced federalism as a guiding principle, particularly concerning matters affecting state interests. Analysing the 129th Constitution Amendment Bill

²¹ Rules Committee, *Report on Voting Procedure for Constitution Amendment Bills* (Lok Sabha Secretariat, 1970) available at: https://eparlib.nic.in/bitstream/123456789/57433/1/rules_04_05_1970.pdf. (last accessed on 30 October, 2024).

²² MP Jain, *Indian Constitutional Law* 1836 (LexisNexis, 9th ed., 2025).

²³ *Rajendra N Shah v. Union of India*, (2022) 19 SCC 520.

through this procedural lens raises substantial concerns. The Bill's provisions affecting state legislature timelines and the ECI's role in deferring elections directly impact federal principles, arguably necessitating state ratification. While Parliament might contend that Entry 72-List I of Seventh Schedule and the powers under Article 327 override Entry 37-List II of Seventh Schedule, however, principally, the federal nature of these changes shall warrant state consultation. Recent jurisprudence on severability remains divided. While the courts in above-quoted judgements have preserved partially valid amendments, dissenting opinions from these cases consistently argue that procedural non-compliance fundamentally vitiates the entire amendment, potentially signalling a centralizing tendency in constitutional interpretation.

IV. Political Implications

The suggested amendment has far-reaching political implications by changing the established system of institutional checks and balances. The proposed Article 82A(1) centralizes presidential power in the event of hung parliaments by permitting discretionary action without ministerial advice, a clear departure from Article 74's constitutional premise. At the same time, Article 82A(5) confers the ECI with undefined discretionary authority to postpone state legislative assembly elections on the basis of sheer "opinion," inducing an asymmetrical federal relationship under which states do not have recourse against such a decision. This bestows disproportionate precedence upon Lok Sabha elections and subjects state assemblies to possible intrusion through a recommendation channel that lies ultimately in the hands of the Centre through presidential powers exercised at the behest of advice of the Council of Ministers.

The early termination of state legislative assemblies endangers the state-level democratic foundation by creating power voids and ignoring voters' regional preferences. Another major concern is the exclusion of Panchayats and Municipalities from the definition of "Simultaneous Elections"²⁴ which dilutes the very concept of *One Nation, One Election*, and raises questions about its alignment with the stated aim of unifying the electoral process across all three tiers. The centralized electoral management system undermines the federal nature of Indian democracy by prioritizing national narratives over local political concerns which could harm the electoral success of regional parties. The logistical difficulties and economic costs linked to holding simultaneous elections while facing heightened administrative burdens lead to valid

²⁴ *Supra* note 1, Section 2(4).

concerns about whether this system is feasible to implement. The amendment mistakenly puts managerial efficiency above democratic principles which endangers the core aspects of India's constitutional democracy including its federal system and responsive governance systems thus requiring thorough analysis of its potential long-term effects on the democratic structure of the country.

V. Conclusion

The 129th Constitution Amendment Bill's attempt to synchronize elections, while administratively appealing, demands rigorous constitutional scrutiny. The analysis reveals potential infractions of democracy and federalism as basic features, necessitating serious parliamentary deliberation beyond mere administrative convenience. The Bill's procedural validity requires state ratification, not just as a constitutional mandate but as an essential step toward building federal consensus.

Interestingly as the data shows, out of hundred and three amendments to the Constitution till date, twenty two have been challenged on basic structure grounds, seven have been partially held *ultra vires* to the Constitution and only one has been completely struck down on this basis.²⁵ It implies that the threshold for such a review is extremely high and generally, the Supreme Court has been cognizant of the confines of judicial review deferring to the doctrine of separation of powers.

There is also an argument advanced that this constitutional amendment can be conveniently implemented as a 'one-time measure', as suggested in Justice Dipak Misra's opinion to the HLC.²⁶ However, it faces a fundamental challenge from Justice Khanna's observation in *Indira Gandhi v. Raj Narain*, where he observed, "What has to be seen in such a matter is whether the amendment contravenes or runs counter to an imperative rule or postulate which is an integral part of the basic structure of the Constitution. If so, it would be an impermissible amendment and it would make no difference whether it relates to one case or a large number

²⁵ Shree Agnihotri, 'Interpreting without bannisters? The abstraction problem afflicting the basic structure doctrine' (2024) 8(3) *Indian Law Review* 231 available at: <https://doi.org/10.1080/24730580.2024.2376474>. (last accessed on 5 November, 2024).

²⁶ High-Level Committee on Simultaneous Elections, *Report on Simultaneous Elections in India 2024: Annexures Volume V* 3609 (2024) available at: https://onoe.gov.in/report-web/volume_V/volume_V.pdf. (last accessed on 5 November, 2024).

of cases. If an amendment striking at the basic structure of the Constitution is not permissible, it would not acquire validity by being related only to one case.”²⁷

Lastly, Dr Ambedkar’s words are a crucial reminder where he said, “However bad a Constitution may be, it may turn out to be good if those who are called to work it, happen to be a good lot. The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State such as the Legislature, the Executive and the Judiciary. The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics.”²⁸ This amendment’s implications for India’s constitutional democracy extend far beyond electoral synchronization, potentially reshaping the fundamental relationship between the Union and States, warranting careful consideration of its long-term impact on our federal democratic fabric.

²⁷ *Supra* note 7, para 210.

²⁸ B.R. Ambedkar, ‘Dr. Ambedkar’s Last Speech in the Constituent Assembly on Adoption of the Constitution’ (25 November 1949) available at: https://csja.gov.in/images/p1195/s_1_constitution_vision_of_Justice/Dr_Ambedkars%20speech.pdf. (last accessed on 5 November, 2024).