

Right to Recall Legislators: The Chhattisgarh Experiment

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The recall election in June in three municipal bodies in Chhattisgarh marked a national first in the call to accountability of non-performing representatives of the people. However, it is possible to use this provision to settle political scores as has been alleged in the Chhattisgarh case. Loopholes for such abuse need to be removed to make the right to recall a democratic tool that will ensure accountability.

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The electorate's right to recall legislators is one means of ensuring the latter's accountability towards the people. It is the citizens' prerogative to determine whether an errant or non-performing representative should continue in office for a full term or not, since their poor performance is at the cost of the public exchequer.

The damage to democratic institutions by elected representatives should be checked through democratic means. Indeed, the right to recall legislators can be a wake-up call to our representatives in the legislative bodies. Though there were some earlier attempts at recall in local urban bodies in Madhya Pradesh and Maharashtra, the recall election held on June 15 in Chhattisgarh marked a national first with the successful recall of three presidents of local urban bodies. The posts of these three presidents therefore fell vacant, and fresh polls are to be held within six months. The verdicts of this election should redeem the trust of the electorate, and restore faith in a legislative system which is continually perceived to be declining in status and efficiency.

In India, provision for recall of legislators does not exist anywhere other than in Chhattisgarh and Madhya Pradesh. Section 47 (recall of president) of the Chhattisgarh Nagar Palika Act, 1961, provides for the holding of elections to recall elected presidents for non-performance. The process of recall starts when three-quarters of the total number of elected representatives within the urban bodies (corporators/councillors) write to the district collector and demand recall. After verifying the circumstances, the district collector can report to the state government. Once the report has been considered, the state government can recommend that the state election commission conduct an election to recall the presidents.

The right to recall legislators is a direct democratic method for removing an elected representative from office for his/her non-performance or misuse of the position. It must be noted that the panchayat raj acts aimed to establish a system of direct democracy by increasing decentralisation and empowering village legislative bodies for development of villages. Initiative, referendum, and recall are the most common tools of direct democracy; however, these instruments are noticeable by their absence in the panchayat raj systems. It is only when we start putting into practice these mechanisms, as demonstrated by the recall polls in Chhattisgarh, that we can institutionalise direct democracy and

ensure accountability of the elected representatives to the people.

The Chhattisgarh recall polls have generated varied responses and debate, especially as to whether this form of recall process should extend to members of Parliament (MPs) and members of legislative assemblies (MLAs). Some suggest it is a "romantic idea" that is not feasible for MPs or MLAs as they represent larger numbers of the electorate, that it is not a well institutionalised process, and so on. These responses converge in declaiming accountability on the part of elected representatives, and deny effective procedural and institutional mechanisms for the realisation of good and transparent governance.

In India there are hardly any effective assessments or monitoring mechanisms in place to measure accountability of the legislators. Recall polls need to be tested on the ground and will give a functional message to those MPs and MLAs who do not perform or misuse their position or office. People will not have to wait for an electoral sanction, which is often long dated and uncertain. The work of MPs and MLAs – whether it is in the legislative houses or in the constituency – should be consistently "straightforward" as far as the people are concerned. Many of the responses that disapprove of the extension of the recall process at the national and state level seem to have hardly any corroborating points.

Perhaps not the most interesting but certainly the first necessary question to ask of legislators is – who controls them? How to make elected representatives more accountable to the electorate is one of the most basic and long-standing questions in democratic systems. Accountability can be effected by regulatory or supervisory methods or through regular elections, complaint procedures, recall processes, etc. In a democracy, if one can be directly elected by the people then there should also be mechanisms to de-elect the unworthy or non-performers before the end of the term of office. Restoring public trust in governance institutions is a critical necessity. The legislators' role in the decision-making process is becoming more marginal than it was in the country's early years, which is frequently reinforced by their lack of knowledge,

interest, competence, training, discipline and decorum. There have been several long-standing reform agendas to re-vitalise the parliamentary institutions, but unfortunately, these attract hardly any attention.

We have adopted the Westminster model of parliamentary system. It was claimed that this was no pale imitation of the British model, but that the success of India's experiments in parliamentary democracy would have immeasurable influence throughout Asia and other countries. In the UK, parliamentary reform debates are finding more or less their true place and attention. There are special parliamentary modernisation committees which debate and recommend reform agendas in a regular stream. In the UK, whether it is in the house or in the constituencies, the work of parliamentarians is relatively transparent and formally monitored, including by respective civil society groups.

In Chhattisgarh, there was a two-year moratorium on the use of the recall provision under the act. The urban municipal body should have completed at least two years of existence before initiating such a recall process against the presidents. Soon after this period of moratorium, the process of recall began in January 2007 as a response to reported underperformance. Two of the three presidents recalled are from the Congress, the third was an independent candidate. Chhattisgarh is currently ruled by the Bharatiya Janata Party (BJP). As per Section 47, three quarters of the councillors initiated the process by writing to the district collector stating that they had lost confidence in the presidents and requesting their removal from office. After considering the report of the district collector, the state government recommended that the

election commission conduct an election for presidential recall.

The report shows that the recent Chhattisgarh recall polls have sent overt messages to the elected representatives about the risks of ignoring the development concerns of their electorates. However, reading between the lines of the Chhattisgarh process of recall polls suggests that there is currently scope for mishandling the provisions and thus the entire process of recall. The ousted independent president is reported to have stated that both the BJP and Congress councillors formed an alliance to initiate the process of recall, and there have been allegations from the ousted presidents of the local bodies about misuse of legitimate provisions of the recall. The ground responses also seemed to feature reports of allegations of political bias, supposedly influencing the decisions of the state administration which recommended that the election commission perform recall polls.

As it seems that more local elected representatives in Chhattisgarh are being placed under scrutiny and therefore likely to face recall polls, the entire process of this new experiment needs to be subject to further analysis. Ultimately, the recall process is more prone to misuse. Overuse and mishandling the provisions of the recall mechanisms should not be permitted, because of the extensive costs to a functioning democracy. A democratic tool, which can discipline errant legislators and make them answerable to the electorate, could be a democratic disincentive for ill performance and misuse of office. These allegations may not be superficial or negligible and the Chhattisgarh recall provisions need to be strengthened without any loopholes, with non-complicated rather than stringent measures, for the hope of achieving a vibrant democracy.

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