

# ‘Right to Recall’ Reform Experience in Madhya Pradesh

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The “Right to Recall” has been often seen as a way to make elected representatives more accountable to voters. However, the experience of the reform in local bodies in Madhya Pradesh, where it has been in force since 2000, has revealed how, in its present form, it could be vulnerable to political opportunism and arbitrariness of process.

The “Right to Recall” (RTR) had been perceived as a suitable solution to enhance accountability among elected representatives, as it allows voters to seek re-election of the representative before the scheduled end of tenure of the incumbent. To give one example, voter surveys have found support for the reform to be applied nationally in legislative assemblies and Parliament, with a higher degree of support among the urban and literate youth than others (Sardesai 2014). To assess whether this

perception was justified, research was undertaken to record the experience of RTR where it was provided at the municipal levels in various states of the country (Table 1).

Among the given states, Madhya Pradesh (MP) was chosen for research on the RTR experience for three reasons. One, it had the longest experience of RTR in the country, one that has been implemented since 2000.<sup>6</sup> Two, it had the most recent recall elections at the time this research was conducted. And three, there were relatively recent cases in the state where incumbents survived the recall and where they did not. The RTR was introduced in MP to Sections 24 and 47 of the acts that applied to recall of the mayor of a corporation and president of a council, respectively, through a secret ballot and a majority of more than half of the total votes in the area.<sup>7</sup> This direct election was initiated through a proposal for recall supported by three-fourths of the elected council. The RTR under Section 47 came with various safeguards like, the recall proposal would be verified by the collector and that such a proposal would be initiated only after two years of the mayoral election. Following verification of the signatures on the recall proposal, the collector would send the proposal to the state government, which would then refer it to the State Election Commission (SEC) to begin the process of election on the

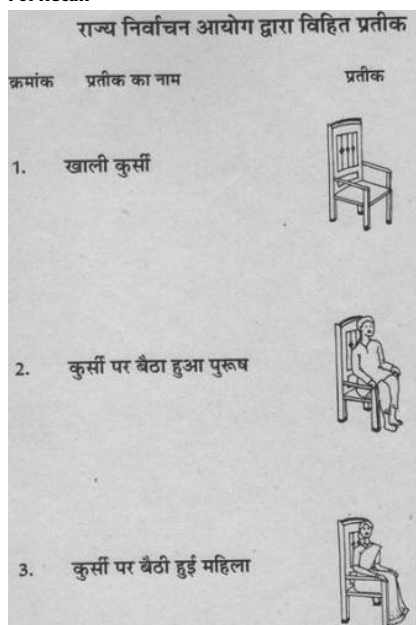
**Table 1: Provisions for RTR at Municipal Level in India**

Madhya Pradesh, 2000	Section 24 of the Madhya Pradesh Municipal Corporation Act, 1956 and Section 47 of the Madhya Pradesh Municipalities Act, 1961 <sup>1</sup>
Chhattisgarh, 2007	Section 47 (recall of President) of the Chhattisgarh Nagar Palika Act, 1961 <sup>2</sup>
Rajasthan, 2011	Section 53 of the Rajasthan Municipalities Act, 2009 <sup>3</sup> was amended in 2011 as the Rajasthan Municipalities (Amendment) Bill, 2011 <sup>4</sup>
Bihar, 2007	Section 17 of Bihar Municipal Act, 2007 <sup>5</sup>

Source: Author’s compilation based on data from state election commissions.

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**Figure 1: Sample of Gender-specific Ballot Paper For Recall**



Source: SEC, MP.

recall question.<sup>8</sup> The process was similar in Chhattisgarh.<sup>9</sup>

### Reform Experience

There have been mixed impressions about the impact of the reform in MP, (Ghatwai 2011) where the first recall election was held in 2001 in Anuppur in Shahadol district. The most recent recall elections were held in 2015 against the Congress-backed Nagar Palika Parishad president in Harda district, and the independent president of Nagar Parishad in Chhanera–New Harsud in Khandwa district. While Harda had seen 59.7% voting, Chhanera–New Harsud had witnessed 57.36%, according to media reports (*Times of India* 2015). The recall election for both candidates was held on 4 February 2015, and while the former was removed from the post, the latter had retained it. Since 2000, there had been 33 recall elections held at the municipal level in the state, of which the incumbent was recalled in 17 instances and not recalled in 16 instances. The present Election Commissioner of the SEC since 2013, R Parasuram<sup>10</sup> considered this a low number as there were a large number of municipalities in the state, and said that the RTR encouraged elected representatives from different parties to work together for development of their constituencies.

However, he did not support the view that the RTR should be extended to legislative assemblies and argued that RTR should be exercised only where “executive functions are discharged and not legislative functions.” To implement the RTR, the SEC had designed a unique ballot paper to make the recall concept more accessible to less-educated voters. The recall ballot paper had two images, one of an empty chair and another of a chair occupied by a gender-specific image. The voters were asked if they would like the president to continue in position or vacate the chair (Figure 1).

On the thinking behind the ballot paper, A V Singh,<sup>11</sup> the Election Commissioner from 2006 to 2010, said that it was designed to signify the recall with symbols and not words. “It could not be a ‘yes or no’ question. We had to consider the limitation of education and the limitation of understanding,” he said. The recall ballot paper, significantly, did not contain the names of the possible candidates who might replace the incumbent in case the recall succeeded. The choice of the next candidate was done in a separate election held after a successful recall election.

The Harda and Chhanera–New Harsud municipal recalls were chosen for study as the recall in Harda had succeeded and the recall in Chhanera–New Harsud had failed. The recall elections in both places were held on 31 January 2015 and counting was done on 4 February 2015. While the president of the Harda Municipal Council or Nagar Palika Parishad,<sup>12</sup> Sangeeta Bansal was recalled from her post, the president of the Municipal Council or Nagar Parishad<sup>13</sup> of Chhanera–New Harsud, Kamalkant Bhardwaj retained his post by defeating the recall move.

In Harda, while the municipal elections in 2012 had taken place through the electronic voting machines, the recall election was held through the paper ballot and ballot boxes. Of the total 22,346 valid votes, the recall of Bansal was supported by 13,044 and those against the recall were 9,302. The recall process was completed with the election of a new president to the municipal council on 16 July 2015. Of the total valid votes of 29,085, Sadhana Jain

gathered 18,815 and won the election, defeating Usha Goyal who had received 10,270 votes. There were also 466 NOTA (None of the Above) votes in this re-election for the president.

### Recall in Harda and Harsud

Speaking on the experience of reform, Bansal<sup>14</sup> listed several shortcomings of RTR. First, the grounds for recall were arbitrary as there had been no charges of corruption or irregularities against her. Second, the ballot paper of one vacant chair and one chair occupied by an image had confused the voters. Third, the question arose on whether the president of the council was to be considered a councillor or not. Fourth, there was political tension between the president and the councillors, who belonged to a different political party, which led to strife and facilitated the recall proposal. Fifth, Bansal argued that the president should have been given a chance to counter the reasons for the no-confidence motion before the recall was proposed. Sixth, new voters who had not participated in the municipal elections in 2011 when Bansal was elected, had now voted in the recall elections in 2015. “It must be ensured that only those who voted for a candidate earlier, participated in the recall election,” she said. Seventh, the recall campaign was targeted against her, and all the councillors were against her. “Twenty-three councillors, campaigning in their own wards, could not have been matched single-handedly by me,” she explained. She had taken the matter to the high court but lost the legal challenge.

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In Channera–New Harsud, the district collector, Khandwa, was the returning officer for the election and issued the final results, which showed that of the total valid votes (8,463) polled, 5,632 votes were polled against the recall and 2,831 were polled in favour. A majority of voters in all the 15 polling stations had voted in favour of Bhardwaj retaining the post. In the municipal election in 2012, he had polled 3,210 votes and his nearest opponent had polled 2,998 votes. The margin of victory for Bhardwaj in 2012 had been 212 votes, while in the recall election in 2015, the margin was 2,801. Clearly, Bhardwaj had succeeded in not only consolidating his supporters but also winning over supporters of other contenders who had been in the fray in 2012.

Speaking about the reform experience, Bhardwaj<sup>15</sup> listed the problems he had noticed in the recall elections. First, the recall was facilitated because of a sharply divided house where, of the 15 members in the council, eight were affiliated with the Bharatiya Janata Party (BJP), three with the Congress and others were non-affiliated independents. Bhardwaj won the post of the president as an independent, the reason both parties had been ranged against him. Second, the recall proposal against Bhardwaj was signed by 12 of the 15 councillors, and was submitted to the district collector on 23 July 2014. “They signed the affidavit that they did not trust me,” he said, and explained that there had been no investigation or evidence to support this view. Third, he felt that it was difficult for the collector to verify whether or not the councillors had signed on the recall proposal under pressure. “The collector should conduct secret voting to find out whether the councillors meant their support from their heart,” Bhardwaj suggested. Fourth, he objected to the fact that he was not asked for any explanation. “I should have been given a chance to defend myself against the complaints raised.” Fifth, Bhardwaj found the symbols of the vacant and the filled chair on the ballot paper “confusing” as people were used to voting for party symbols. “There was an the incident when a voter asked who she should vote for because

the chair was empty,” he stated. Sixth, the campaign before the recall election was dominated by the councillors united against him. He believed that he survived the recall mainly because of his own contribution to his constituency. Despite the complaints, Bhardwaj felt the RTR was an important reform and it should be extended to the members of the assembly and Parliament as well. Speaking on the defeat of his recall proposal, Mukesh Verma,<sup>16</sup> the councillor affiliated with the BJP, said the message was not conveyed well to the voters and that the negative campaign during the election had failed.

### Conclusions

It was found that both losing and winning candidates in recent recall elections in MP shared similar views on the reform. First, the grounds for recall were arbitrary. Second, the signature verification procedure by the district collector was unsatisfactory. Third, the ballot paper for recall elections was confusing to voters. Fourth, new voters who participated in recall elections had not voted in the general elections. Fifth, the recall election campaign was targeted by all councillors against one president. The losing candidate in Harda had moved the Jabalpur High Court to challenge the recall election, terming it “bad in law” and that the state government’s actions were “illegal” (*Sangeeta Bansal v State of Madhya Pradesh and Others* 2014: 14819). The court had dismissed her claim stating that there had been no error in law. The winning candidate in Harsud evaluated his experience to state that the recall election against him had been unnecessary.

To sum up, the experience with RTR in MP revealed functional problems with the reform, including at the point of inception of the recall proposal and at the point of culmination of the ballot. At the inception, the political motivation for recall could be neutralised if the proposal was moved by the voters themselves seeking recall elections and not through a no-confidence motion by councillors. At the culmination point, the ballot could be redesigned in a way in which voters are not confused. As discussed, the RTR is not a suitable reform

in its present form and could be forced upon an electorate.

### NOTES

- 1 The Madhya Pradesh Municipal Corporation Act, 1956 and the Madhya Pradesh Municipality Act, 1961 (Amendment of 1999), *Madhya Pradesh Nagar Palika Nirvachan Niyam*, 1994, Madhya Pradesh State Election Commission.
- 2 The Chhattisgarh Municipal Corporation Act, 1956 and the Chhattisgarh Nagar Palika Act, 1961 (Gazette notification of 2007), State Election Commission, Chhattisgarh, viewed on 30 January 2017, <https://www.legalcrystal.com/act/134620/the-chhattisgarh-municipalities-act-1961-complete-act>.
- 3 The Rajasthan Municipalities Act, 2009 (Rajasthan) s53, viewed on 29 January 2016, [http://www.lsg.urban.rajasthan.gov.in/content/dam/raj/udh/lsgs/lsg-jaipur/pdf/Other%20Pdf/37%20Rajasthan\\_Municipal\\_Act-2009.pdf](http://www.lsg.urban.rajasthan.gov.in/content/dam/raj/udh/lsgs/lsg-jaipur/pdf/Other%20Pdf/37%20Rajasthan_Municipal_Act-2009.pdf).
- 4 The Rajasthan Municipalities Act, 2011 (Rajasthan) s53, viewed on 29 January 2016, <http://rajassembly.nic.in/BillsPdf/Bill16-2011.pdf>.
- 5 The Bihar Municipal Bill, 2007 (Bihar) s17, viewed on 29 January 2016, <http://urban.bih.nic.in/Acts/AR-01-29-03-2007.pdf>.
- 6 The Madhya Pradesh Municipalities Act, 1961 (MP) s47.
- 7 The Madhya Pradesh Municipal Corporation Act, 1956 and the Madhya Pradesh Municipality Act, 1961.
- 8 The Madhya Pradesh Municipalities Act, 1961.
- 9 The Chhattisgarh Municipal Corporation Act, 1956 (Chhattisgarh) s24 and the Chhattisgarh Municipality Act, 1961 (Chhattisgarh) s47.
- 10 R Parasuram, personal interview, 2 November 2015, 9.16 am, State Election Office, Bhopal.
- 11 A V Singh, personal interview, 2 November 2015, 12.05 pm, Bhopal.
- 12 According to SEC, MP, nagar nigam parishad is a municipal council elected by a population of about 10 lakh population or more, nagar palika parishad by population of over one lakh, while a Nagar Parishad by 50,000 or less population.
- 13 Same as note 12.
- 14 Sangeeta Bansal, personal interview, 3 November 2015, 2.47 pm, Harda.
- 15 Kamalkant Bhardwaj, personal interview, 4 November 2015, 11.43 am, Nagar Parishad Chhannera–New Harsud.
- 16 Mukesh Verma, personal interview, 4 November 2015, 12.45 pm, Nagar Parishad Chhannera–New Harsud.

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- Sangeeta Bansal v State of Madhya Pradesh and Others*, W P No 14819/2014, accessed on 3 February 2016, [http://www.mphc.in/upload/jabalpur/MPHCJB/2014/WP/14819/WP\\_14819\\_2014\\_FinalOrder\\_20-Dec-2014.pdf](http://www.mphc.in/upload/jabalpur/MPHCJB/2014/WP/14819/WP_14819_2014_FinalOrder_20-Dec-2014.pdf).
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