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## **THE CURIOUS CASE OF VOTE LESS VICTORIES**

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### **ABSTRACT**

The 2026 municipal elections in Maharashtra, particularly in Mumbai, produced an outcome that unsettled constitutional scholars, political observers, and citizens alike. Across 29 Municipal Corporations, 69 candidates were declared elected unopposed. In these wards, not a single vote was cast. There were no polling stations, no electronic voting machines, and no opportunity for citizens to participate in the electoral process. Although legally valid due to nomination withdrawals and technical circumstances, such uncontested victories raise a serious constitutional concern: can democratic legitimacy exist without electoral participation?

This paper argues that unopposed municipal victories create a structural accountability deficit that significantly strengthens the case for introducing a structured Right to Recall in India. While recall has long been debated as a democratic reform, its necessity becomes particularly compelling in situations where representatives assume office without contest. The study consolidates conceptual, legal, comparative, and policy perspectives to demonstrate that, especially in cases of uncontested wins, the Right to Recall is not democratic excess but democratic correction.

## 1. INTRODUCTION: DEMOCRACY, CHOICE, AND CONSTITUTIONAL PROMISE

*“Democracy does not begin at the ballot box, it begins with the freedom to choose.”*

Where choice is denied, voting becomes a ritual, not a right. What did the Constitution of India seek to give the people? It sought to give us democracy. And what is democracy, if not choice? Choice rooted in free will, conscience and consent. Yet one must ask do we really get to choose, or do they decide for us even before we are allowed to decide for ourselves? When a candidate is imposed upon the voter before the voter can exercise their constitutional right, the act of voting is reduced to mere formality. The right remains on paper, but it’s spirit is stripped away. A democracy that denies choice is democracy only in name for without choice. The ballot to be a voice and becomes a compulsion.

India’s constitutional democracy is founded upon periodic elections, representative accountability, and the principle that sovereignty ultimately resides in the people. Representatives to legislative and municipal bodies are elected for fixed five-year terms, and the doctrine of electoral accountability presumes that voters may reward or punish performance at the next election. This cyclical renewal of consent forms the backbone of democratic legitimacy.

However, the 2026 municipal elections in Maharashtra particularly in Mumbai exposed a structural vulnerability in this framework. Across 29 Municipal Corporations, 69 corporators were declared elected unopposed. In these wards, no ballots were cast, no polling stations were opened, and no voter exercised the franchise. <sup>1</sup>Democracy functioned procedurally but not substantively. The absence of contest meant the absence of choice, and the absence of choice meant the absence of explicit public endorsement.

This phenomenon is not entirely unprecedented in Indian electoral history. Since 1951, approximately 35 candidates have been elected to the Lok Sabha without contest. <sup>2</sup>Yet such instances have historically been rare and exceptional. The scale of the 2026 municipal outcome

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<sup>1</sup> PTI. (2026, January). *Unopposed wins in Maharashtra civic polls spark democracy debate. Published in The Week.*

<sup>2</sup> India. (2024, April 22). *35 Candidates Have Won Lok Sabha Polls Without A Contest So Far Since 1951.* [www.ndtv.com; NDTV. https://www.ndtv.com/india-news/35-candidates-have-won-lok-sabha-polls-without-a-contest-so-far-since-1951-5498258](https://www.ndtv.com/india-news/35-candidates-have-won-lok-sabha-polls-without-a-contest-so-far-since-1951-5498258)

- 69 unopposed corporators in a single electoral cycle<sup>3</sup> - marks a qualitatively different development. When unopposed victories occur sporadically, they may be treated as anomalies. When they occur systematically and in significant numbers, they invite structural scrutiny.

Particularly concerning is the fact that a substantial majority of these 69 unopposed corporators were affiliated with the ruling party of the state. While unopposed elections are legally permissible and may result from withdrawals or nomination-stage technicalities, the concentration of such victories within the ruling party raises questions regarding the broader political environment in which nominations occur. Even in the absence of proven coercion or illegality, the optics of large-scale uncontested wins by the party in power risk undermining public confidence in the competitive nature of local democracy.

Democracy is not merely the mechanical declaration of a winner; it is the institutionalized expression of choice. The framers of the Constitution envisioned India as a republic governed through active public participation. Elections were designed to ensure deliberation, competition of ideas, and periodic renewal of legitimacy. When candidates assume office without contest, they may satisfy the letter of electoral law, but they bypass the democratic ritual of authorization that gives moral weight to political authority.

The problem becomes even more acute when such representatives subsequently fail to perform, misuse authority, remain absent from municipal proceedings, or neglect constituency development. In a contested election, voters at least exercised choice and must await the next opportunity to reassess their decision. In an uncontested election, however, citizens never exercised that choice at all. Yet they remain bound by a five-year tenure that presumes electoral endorsement.

This creates a democratic asymmetry: authority without expressed consent, and tenure without interim accountability. If individuals enter public office due to technical withdrawals rather than electoral endorsement, and particularly where such outcomes disproportionately favor the ruling party, the normative foundations of representative government are strained.

The critical constitutional question, therefore, is not whether unopposed elections are legally

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<sup>3</sup> Shaikh, Z. (2026, January 5). *Maharashtra civic elections | From 10 to 69, unopposed wins spike this time but it was a rarity earlier*. The Indian Express. <https://indianexpress.com/article/cities/mumbai/maharashtra-civic-elections-unopposed-wins-spike-10457170/>

valid - they are - but whether prolonged insulation from accountability in such circumstances aligns with the democratic spirit of the Constitution. If an individual assumes public office without electoral scrutiny and later fails to discharge duties responsibly, should citizens be compelled to wait five years to respond?

It is within this context that the Right to Recall emerges not as a radical innovation, but as a potential corrective mechanism. In situations of large-scale uncontested victories, recall provides a pathway to restore democratic equilibrium. It reintroduces the element of voter choice that was absent at the time of election and ensures that public authority remains contingent upon public confidence.

Where elections occur without voters, accountability must compensate. In such circumstances, the Right to Recall offers a principled response to the democratic deficit created by unopposed wins.

## **2. THE 2026 MAHARASHTRA MUNICIPAL ELECTIONS: A DEMOCRATIC SHOCK**

In 2026, municipal elections conducted across Maharashtra, particularly in Mumbai, produced an outcome that has deeply unsettled constitutional scholars, political observers, and ordinary citizens alike. Across 29 Municipal Corporations, a staggering 69 candidates were declared elected unopposed. In these wards, not a single vote was cast. There were no polling stations, no electronic voting machines, and no opportunity for citizens to participate in the democratic process in any meaningful way.

This outcome was not the result of voter apathy or low turnout. Rather, it flowed directly from the legal framework governing elections. Under existing election laws, once all but one candidate withdraws or is disqualified after scrutiny, the Returning Officer is legally bound to declare the remaining candidate elected immediately. No poll is conducted, and voters are effectively removed from the electoral equation.

This development has sparked intense political and constitutional debate. Opposition parties have alleged that these uncontested victories were deliberately engineered through a combination of mass withdrawals, technical rejection of nomination papers, and political pressure. According to this view, electoral competition was strategically eliminated rather than

democratically defeated. State authorities and election officials, however, have defended the outcome by pointing to the clear language of the law. They argue that the statute explicitly permits unopposed elections and does not mandate polling when only one candidate remains.<sup>4</sup>

This conflict between legal permissibility and democratic legitimacy raises a profound constitutional question. Can an election in which citizens have no opportunity to vote, no choice between alternatives, and no possibility of rejection truly honour the democratic ideals enshrined in the Constitution of India?

### 3. NOTA AND THE CONSTITUTIONAL RIGHT TO REJECT

To fully understand the seriousness of this issue, it is essential to revisit the constitutional origins and purpose of the None of the Above option, commonly known as NOTA. NOTA was introduced following the Supreme Court's landmark judgment in *People's Union for Civil Liberties versus Union of India in 2013*<sup>5</sup>. The case exposed a significant flaw in the Indian electoral system. Voters who were dissatisfied with all contesting candidates had no confidential way to express that dissatisfaction.

The only available option was to approach the Presiding Officer and openly state that they did not wish to vote. This process violated ballot secrecy and placed dissenting voters in an uncomfortable and potentially intimidating position.

The Supreme Court recognised that this arrangement undermined the core values of democratic participation. The Court held that when a citizen exercises the right to vote, that act constitutes a form of political expression protected under *Article 19(1)(a)* of the Constitution.<sup>6</sup> Crucially, the Court emphasised that freedom of expression does not only include the right to support or endorse a candidate. It also includes the right to dissent, to disapprove, and to reject.

Secrecy of the ballot, the Court observed, is essential to preserving the dignity, autonomy, and freedom of the voter.

To remedy this constitutional deficiency, the Supreme Court directed the Election Commission of India to introduce a NOTA button on electronic voting machines and a corresponding option

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<sup>4</sup> UNI News. (2026, January). *Maharashtra SEC orders probe into 69 unopposed municipal victories*.

<sup>5</sup> *People's Union for Civil Liberties v. Union of India*, (2013) 10 SCC 1. Supreme Court of India.

<sup>6</sup> Constitution of India, Article 19(1)(a) Government of India.

on ballot papers. The objective was to ensure that voters could reject all candidates while maintaining the secrecy of their choice.

NOTA was never intended to be a symbolic or ornamental feature of elections. It was designed as a constitutional safeguard, a formal channel through which political dissatisfaction could be expressed without fear or coercion. Although NOTA does not currently invalidate an election even if it receives the highest number of votes, its constitutional significance lies in recognising rejection as a legitimate democratic choice.

#### 4. THE NOTA PARADOX IN UNCONTESTED ELECTIONS

However, a troubling paradox arises in the context of uncontested elections. The very elections in which voter dissatisfaction might be highest are those in which NOTA is entirely unavailable. When a candidate is declared elected unopposed, voters are given no opportunity to approve, disapprove, or protest. The right to reject, so carefully protected by the Supreme Court, is effectively erased. The electoral process is reduced to an administrative declaration rather than a democratic exercise.

This contradiction exposes a serious constitutional inconsistency. If NOTA is an extension of freedom of expression under *Article 19(1)(a)*, then excluding it through procedural default amounts to silencing voters altogether. In such cases, elections lose their substantive democratic character and become hollow formalities.

Although the Constitution does not explicitly declare the right to vote as a fundamental right, constitutional jurisprudence has consistently underscored its importance. In *Kuldeep Nair versus Union of India* in 2006<sup>7</sup>, a Constitution Bench observed that while the right to vote is statutory in origin, it is intimately connected with the freedoms guaranteed under Part III of the Constitution. Voting is a vital mode of political expression and participation in a democratic society.

Article 21, which guarantees the right to life and personal liberty, has been interpreted expansively to include dignity, autonomy, and meaningful participation in civic and political life. Article 14, which guarantees equality before the law, demands that every citizen have an equal and meaningful opportunity to influence the political process. When citizens are denied

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<sup>7</sup> *Kuldip Nayar v. Union of India*, (2006) 7 SCC 1. Supreme Court of India.

even the opportunity to cast a ballot, this equality is fundamentally compromised.

At the level of local governance, the 74th Constitutional Amendment further strengthens these democratic principles. Article 243ZA vests the superintendence, direction, and control of municipal elections in independent State Election Commissions. This constitutional design reflects the understanding that municipal elections are not minor administrative events but are foundational to grassroots democracy. Urban local bodies are the closest form of government to the citizen, and their legitimacy depends directly on popular participation.<sup>8</sup>

## **5. STATUTORY FRAMEWORK AND ITS DEMOCRATIC LIMITATIONS**

Despite this constitutional framework, statutory law remains deeply inadequate. Section 53(2) of the Representation of the People Act, 1951 provides that if the number of contesting candidates equals the number of seats to be filled, the Returning Officer shall declare such candidates elected immediately. The provision makes no allowance for polling in such situations and does not recognise NOTA as a contesting alternative.<sup>9</sup>

The Election Commission of India has repeatedly taken the position that treating NOTA as a mandatory option in uncontested elections would require legislative amendment. As the law currently stands, once the field narrows to a single candidate, voters are entirely excluded from the process.

Municipal election laws in Maharashtra mirror this framework. The Maharashtra Municipal Corporation Act, 1949 similarly provides that if only one validly nominated candidate remains, that candidate must be declared elected unopposed. Once nomination and withdrawal deadlines pass, the State Election Commission lacks the legal authority to reopen nominations or conduct a poll.<sup>10</sup>

## **6. POLITICAL CRITICISM AND INSTITUTIONAL REACTION**

While these outcomes may be technically lawful, they raise serious concerns about democratic legitimacy. Elections are meant to be the mechanism through which citizens confer authority on their representatives. A candidate elected without a single vote has no demonstrable

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<sup>8</sup> Constitution of India, Articles 14, 21, 243ZA. Government of India.

<sup>9</sup> Representation of the People Act, 1951, Section 53(2). Government of India.

<sup>10</sup> Maharashtra Municipal Corporations Act, 1949. Government of Maharashtra.

mandate from the people. citizens are denied the opportunity to end the candidate, reject the candidate, or even register dissatisfaction.

In Maharashtra's case, the unusually high number of unopposed victories has amplified public distrust. Opposition leaders have described the situation as a distortion of democracy, where power is acquired through procedural shortcuts rather than public consent.<sup>11</sup>

Recognising the seriousness of the issue, the Maharashtra State Election Commission has ordered inquiries into mass withdrawals and has withheld notification of certain results pending investigation. While this response is commendable, it remains reactive rather than systemic.<sup>12</sup>

A strong constitutional argument can be made that even a single candidate must face the electorate. At the very least, voters should be given a choice between the candidate and NOTA. Such a mechanism would preserve the voter's right to reject and restore democratic participation. If NOTA were to receive more votes than the sole candidate, the election should be declared void and a fresh poll conducted.

The Supreme Court has already shown openness to this idea. In 2024, it issued notice in a petition seeking to mandate re elections where NOTA secures the highest number of votes. Comparative democracies across the world recognise blank or protest ballots as meaningful indicators of public dissatisfaction. India's reluctance to give NOTA substantive effect increasingly appears inconsistent with its own constitutional values<sup>13</sup>.

Addressing this democratic deficit will require both legislative and institutional reform. Parliament and state legislatures must amend the Representation of the People Act and corresponding municipal laws to mandate polling even in single candidate situations. NOTA should be treated as an automatic alternative rather than a conditional option.

State Election Commissions must also be empowered to scrutinise mass withdrawals more closely, extend nomination periods where necessary, and impose penalties for coercive practices that undermine genuine electoral competition. Clear guidelines and deterrent

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<sup>11</sup> Badgeri, P. K. G. (2026, January 4). 'Why only Mahayuti candidates?': Opposition cries foul over "68" unopposed wins in Maharashtra civic polls; claims Rs 5cr bribes, threats. The Times of India.

<sup>12</sup> UNI News. (2026, January). *Maharashtra SEC orders probe into 69 unopposed municipal victories*.

<sup>13</sup> LiveLaw. (2024). *Supreme Court issues notice on plea seeking re-election if NOTA wins*.

sanctions would help preserve the integrity of the electoral process.

Ultimately, democratic reform requires political and public vigilance. Citizens must insist on meaningful participation, and political parties must be held accountable for denying choice. Democracy cannot survive on legal technicalities alone. It depends on the active engagement of the people.

The Maharashtra episode exposes a troubling gap between legal form and democratic substance. While the law may permit unopposed elections, Constitutional democracy demands more than automatic declarations. And election without voters, in spirit, no election at all.

The Constitution promises, free and fair election, not merely procedure, correct outcomes. Denying citizens, the opportunity to vote, or even to reject, strikes at the heart of popular sovereignty. If India is to remain faithful to which democratic ideals, every representative must earn Authority through public consent. The right to vote must include the right to dissent. Anything less reduces democracy to a hollow exercise where power is required by default rather than granted by choice. Maharashtra's experience should serve as both a warning and a catalyst, reminding us that in a true democracy, no one should go on without first facing the people.

## **7. DEMOCRATIC EROSION AND PUBLIC FAITH**

Beyond constitutional doctrine and statutory interpretation lies a deeper democratic concern that cannot be ignored: the erosion of public faith in the electoral process itself. Elections are not only mechanisms for selecting representatives; they are rituals of democratic affirmation. They signal to citizens that their presence, opinion, and participation matter.

When elections are reduced to paperwork exercises where winners are declared without public involvement, the symbolic bond between the citizen and the State begins to weaken.

In urban local bodies, this effect is particularly damaging. Municipal corporations directly affect everyday life through decisions on water supply, sanitation, housing, transport, and local taxation. When representatives in these bodies assume office without a single vote being cast, governance risks appearing imposed rather than chosen.

Over time, this perception can foster political disengagement, cynicism, and apathy, especially

among young voters who already struggle to see electoral participation as meaningful.

The danger is not merely theoretical. Democratic backsliding often begins not with dramatic constitutional amendments but with the gradual hollowing out of participatory processes. When citizens are repeatedly told that the law allows elections without voting, they internalise the idea that democracy is procedural rather than participatory. This is incompatible with the constitutional vision of India as a sovereign republic where power flows upward from the people rather than downward from authority.

There is also a structural inequality inherent in uncontested elections. Political parties with greater resources, organisational reach, and institutional influence are far better positioned to engineer uncontested outcomes. Smaller parties, independents, and first time candidates are effectively locked out. This undermines political pluralism and reduces electoral competition, both of which are essential to democratic health. Overtime, uncontested, election risk, entrenching, dominant political actors, and discouraging new entrants into public life.

From a constitutional perspective, this trend places an unfair burden on judicial review. Courts are increasingly asked to intervene to protect democratic values that ought to be safeguarded through legislation and institutional design. While the judiciary has played a vital role in expanding voter rights through judgments like *PUCL vs Union of India*, it cannot permanently compensate for legislative inaction. Democracy sustained only through court intervention is inherently fragile.

International democratic practice also offers useful guidance. In several jurisdictions, uncontested elections still require a formal vote, even if the outcome is predictable. The purpose is not to manufacture competition but to preserve legitimacy. A candidate who wins after facing the electorate, even symbolically, carries a stronger democratic mandate than one who assumes office by default. India's refusal to adopt even minimal safeguards appears increasingly difficult to justify in comparative terms.

Importantly, introducing mandatory polling against NOTA does not destabilise the electoral system. On the contrary, it strengthens it. It restores agency to voters without preventing capable candidates from winning. A genuinely popular sole candidate would have no difficulty securing more votes than NOTA. The only candidates threatened by such a system are those whose legitimacy depends on avoiding voter scrutiny altogether.

## 8. RIGHT TO RECALL AS DEMOCRATIC SYMMETRY

The Right to Recall is a democratic mechanism that allows voters to remove an elected representative from office before the end of their fixed term. It is a form of direct democracy that supplements periodic elections by empowering citizens to do more than just vote it lets them de-elect officials mid-term if those officials fail to act in the public interest. In essence, recall enhances accountability between elections and strengthens the connection between representatives and those they represent.<sup>14</sup>

### 8.1 HISTORICAL ORIGINS IN THE INTERNATIONAL CONTEXT

The idea of recall predates modern constitutions and has roots in early democratic practices. The earliest systematic development of recall mechanisms can be traced back to direct democracy systems in Europe, especially Switzerland, where citizens have long exercised rights to reject legislation and, in some cases, remove officials through public vote.

In the United States, recall evolved as an institutionalized mechanism in the early 20th century. Cities such as Los Angeles (1903) and states like Michigan and Oregon (1908) introduced recall for municipal and state officials to combat corruption and increase accountability. Over time, many U.S. states adopted statutory provisions allowing voters to initiate recall elections if a sufficient threshold of signatures supported the petition. This tradition made recall an established feature of American local and state governance.<sup>15</sup>

Recall has also been employed in other democratic systems across the world. In Peru, following constitutional reforms in the early 1990s, thousands of recall referendums were conducted against municipal officials, making Peru one of the most active users of this mechanism globally.<sup>16</sup> In the Philippines, the 1987 Constitution explicitly allows recall of local officials, subject to specified petition requirements. These examples illustrate that recall is used internationally as a tool for mid-term political correction and enhanced voter control.

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<sup>14</sup> Manupatra. (2026). *Articles – Manupatra*. Manupatra.com. <https://articles.manupatra.com/article-details/Right-to-Recall-A-true-reflection-of-Popular-Demand>

<sup>15</sup> Zick, T. (1999). *The Consent of the Governed: Recall of United States Senators the Consent of the Governed: Recall of United States Senators*.

<https://scholarship.law.wm.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1874&context=facpubs>

<sup>16</sup> *Recall referendums in Peruvian municipalities: a political weapon for bad losers or an instrument of accountability?* (2026). Scilit. <https://www.scilit.com/publications/4cfee8ed5df0e0900785ff3e430e28c8>

## 8.2 DEFINITION AND PURPOSE

At its core, the Right to Recall is grounded in the principle that sovereignty belongs to the people, and political authority must always be conditional on the consent of the governed. It reflects the idea that:

If citizens have the Right to Elect, they must logically have the Right to De-elect. Thus, recall functions as an accountability device. Its purpose includes, correcting non-performance i.e. voters can remove representatives who fail to fulfil promises or act against public interest , strengthening responsiveness i.e. politicians remain answerable beyond just regular elections, enhancing democratic participation i.e. it gives citizens an ongoing role in governance, not merely during election cycles and promoting better governance i.e. the risk of recall may deter corruption and encourage better performance.

## 9. EVOLUTION OF RECALL IN THE INDIAN CONTEXT

The idea of the Right to Recall is not new in India, and its intellectual origins can be traced back to discussions during and after the freedom struggle. Proponents argued that simply electing representatives every five years was insufficient if voters had no remedy when those representatives failed to perform. Although the Constituent Assembly debated the idea of recall, it was not included in the final Constitution. Leaders such as Dr. B.R. Ambedkar felt existing mechanisms and legislative processes were better suited, while others pointed to possible instability.

Despite its absence at the national level, recall has found practical expression in parts of India at the local governance level. Following the 73rd and 74th Constitutional Amendments, which granted constitutional status to Panchayati Raj Institutions and Municipalities, several states enacted recall provisions for local body representatives, including sarpanches, mukhiyas, and councillors.<sup>17</sup> States such as Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Bihar, Jharkhand, and Maharashtra have laws allowing voters to remove local representatives under defined conditions.<sup>18</sup>

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<sup>17</sup> *73rd Amendment of Panchayati Raj in India | Election Commission for UTs | India.* (2025). Mha.gov.in. <https://secforuts.mha.gov.in/73rd-amendment-of-panchayati-raj-in-india/>

<sup>18</sup> *Vajiram Content Team.* (2026, February 15). User's Blog. <https://vajiramandravi.com/current-affairs/right-to-recall/>

The Indian debate has seen contributions from political thinkers and activists. The early 20th century saw discussions on decentralised democratic control, and in the 1970s figures like Jayaprakash Narayan championed recall as part of broader democratic reform movements. Proposals for constitutional amendments to incorporate recall for MPs and MLAs have been introduced in Parliament at different times, though none have been adopted.

### **9.1 WHY RECALL COMPLIMENTS CONSTITUTIONAL DEMOCRACY?**

Under India's present framework, accountability is mostly retrospective: voters can evaluate performance only at the next scheduled election. This works adequately in regular contested elections, where voter choice is exercised. However, in uncontested situations - such as unopposed victories where no vote occurs - the foundational act of public validation never happens. In such cases, retrospective accountability alone is insufficient, because legitimacy was never conferred in the first place.

In these circumstances, the Right to Recall does not undermine democracy; rather, it restores a missing democratic moment by providing a structured mechanism for voters to hold unvalidated representatives accountable, ensuring that political authority remains rooted in the continuous consent of the people.

### **9.2 LEGAL STATUS OF RECALL IN INDIA**

The legal position of the Right to Recall in India reveals an important constitutional tension: while the Constitution does not expressly provide for recall at the parliamentary or state legislative level, its democratic ethos is rooted in popular sovereignty, electoral choice, and accountable governance. The absence of an explicit recall provision must therefore be examined not only textually, but also in light of constitutional spirit and the intentions of the framers.

The Constitution of India does not contain any provision enabling voters to recall Members of Parliament (MPs) or Members of State Legislative Assemblies (MLAs) before the expiry of their five-year term. Articles 83<sup>19</sup> and 172 prescribe the normal duration of the Houses (five years unless sooner dissolved), but they do not contemplate removal of individual legislators by direct voter action. Removal mechanisms exist only in specific contexts, such as

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<sup>19</sup> *Article 83 in Constitution of India*. (2026). Indiankanoon.org. <https://indiankanoon.org/doc/1463849/>

disqualification under the Tenth Schedule (Anti-Defection Law), or through judicial findings under election law.

Similarly, the Representation of the People Act, 1951 - the principal statute governing elections - provides procedures for contesting elections, challenging results, and disqualifying candidates under certain circumstances, but it contains no mechanism for voter-initiated recall.

At a purely textual level, therefore, recall is absent from the constitutional and statutory framework governing national and state legislatures.

However, constitutional interpretation does not rest solely on textual silence. The Preamble declares India to be a “democratic republic.” Article 326 establishes universal adult suffrage, reflecting the foundational principle that sovereignty ultimately resides in the people.<sup>20</sup> Dr. B.R. Ambedkar and other framers consistently emphasized that the Constitution establishes a government “*of the people, by the people, and for the people.*” Democracy, in its substantive sense, implies meaningful electoral choice and the periodic renewal of consent.

In this context, elections are not mere formalities; they are expressions of popular sovereignty. Democracy presupposes choice, participation, and accountability. When a candidate is declared elected unopposed due to technical withdrawals or nomination-stage irregularities, and no vote is cast, the procedural requirements of election law may be satisfied. Yet, the democratic spirit - understood as the active expression of public consent - may remain unfulfilled.

It would be inaccurate to claim that unopposed elections are unconstitutional; the Constitution does not prohibit them. However, where individuals assume office without electoral contest, questions arise regarding whether such outcomes align fully with the normative ideals envisioned by the framers. The founding vision emphasized representative legitimacy derived from conscious public participation. A victory secured purely by default, without voter engagement, risks diluting this participatory foundation.

Thus, while the Constitution does not mandate recall, the broader democratic philosophy underlying it invites reflection. If democracy implies both the right to choose and the right to hold accountable, then mechanisms that compensate for absent electoral choice particularly in

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<sup>20</sup> *Article 326 in Constitution of India.* (2026). Indiankanoon.org. <https://indiankanoon.org/doc/1620503/>

cases of uncontested wins may be consistent with constitutional spirit, even if not expressly mandated by constitutional text.

Although recall is absent at the parliamentary and state legislative levels, India's constitutional structure permits flexibility in local governance. The 73rd and 74th Constitutional Amendments (1992) granted constitutional status to Panchayati Raj Institutions and Municipalities. These amendments institutionalized decentralization and grassroots democracy but left detailed procedural matters to state legislatures.

This decentralization has enabled several states - including Madhya Pradesh, Chhattisgarh, Bihar, Jharkhand, Maharashtra, and Uttar Pradesh - to enact recall provisions for elected representatives at the panchayat and municipal levels. These state-level experiments demonstrate that recall is not alien to Indian constitutionalism. Rather, it is recognized as a permissible democratic mechanism within local governance frameworks.

The existence of recall in these states indicates two important points:

1. The Constitution does not prohibit recall; it leaves room for legislative innovation.
2. Indian constitutional practice already accommodates mid-term accountability mechanisms at the grassroots level.

In fact, the framers' emphasis on decentralized democracy and participatory governance is arguably reflected more strongly at the local level. Panchayati Raj institutions were conceptualized as instruments of direct public engagement. Recall provisions at this level align with the principle that power flows upward from the people.

Therefore, while recall does not exist nationally, its recognition in local bodies demonstrates that the Indian constitutional system is not inherently opposed to such mechanisms. Instead, the question is one of institutional design, scope, and balance between stability and accountability.

## **10. THE UNOPPOSED REPRESENTATIVE PROBLEM**

Legal validity achieved through compliance with nomination rules and the absence of rival candidates does not automatically translate into moral or democratic legitimacy. A candidate

declared elected without contest holds office by default rather than by endorsement. The absence of competition eliminates deliberation, debate, and public evaluation. Voters are deprived of the opportunity to compare alternatives, scrutinize qualifications, or signal approval and disapproval through the ballot.

Democratic legitimacy rests on three interconnected elements which are 'Choice' which showcases that citizens must be presented with alternatives, 'Participation' which endorses that citizens must actively exercise their franchise and 'Validation' which makes sure that authority must flow from expressed public will.

In an uncontested election, all three elements are compromised. Authority is assumed rather than conferred. While the law may recognize the result, the moral claim to represent "the will of the people" becomes attenuated.

Moreover, legitimacy in democratic theory is not static; it must be continually sustained. When the initial electoral mandate is absent, representatives begin their tenure with a deficit that cannot be presumed cured merely by the passage of time. In such cases, democratic theory demands supplementary mechanisms to compensate for the missing act of validation.

In contested elections, even if a candidate later underperforms, there exists at least a foundational accountability structure: voters consciously chose that individual and may later reject them at the next election. The electorate participates in both authorization and potential sanction. In uncontested wins, however, voters neither choose nor reject. There is no act of conscious authorization. If the corporator subsequently, remains absent from municipal proceedings, fails to address constituency concerns, misuses public office, or neglects developmental responsibilities, citizens lack any immediate corrective mechanism. They must wait for the completion of a five-year term, despite never having exercised electoral choice in the first instance. This creates a compounded democratic injury no initial mandate, and no interim accountability mechanism.

The waiting period becomes especially problematic because the electorate never exercised its franchise to begin with. In contested elections, the five-year term reflects a decision made by voters. In unopposed situations, the same five-year insulation from removal is granted without electoral endorsement.

Thus, the absence of competition amplifies the democratic cost of non-performance. What may be tolerable in a contested context becomes constitutionally troubling in an uncontested one.

### **10.1 STRENGTHENED CASE FOR RECALL**

For these reasons, the normative and institutional case for a Right to Recall becomes significantly stronger in unopposed situations than in regularly contested elections. Recall, in this context, serves three corrective functions which are ‘Mandate Restoration’ which provides citizens a delayed but real opportunity to approve or reject the representative, ‘Accountability Reinforcement’ which ensures that tenure is conditional upon performance, not merely procedural compliance and ‘Democratic Compensation’ which compensates for the absence of the original electoral choice. In essence, where electoral consent was never expressed, democratic theory demands a subsequent opportunity for consent to be tested. The Right to Recall thus transforms from a controversial reform into a necessary institutional safeguard - particularly when representatives assume office without contest.

## **11. COMPARATIVE AND DOMESTIC PRECEDENTS**

An evaluation of the Right to Recall in the context of unopposed municipal victories must be informed by existing domestic experiments and international practices. While India does not provide recall at the parliamentary or state legislative level, certain states have implemented recall mechanisms within local governance frameworks. Additionally, comparative global experiences illustrate both the promise and the caution associated with such democratic tools.

### **11.1 THE CHHATTISGARH MODEL**

Chhattisgarh offers one of the most structured examples of recall at the municipal level in India. Under its legal framework, recall is not an immediate or casual instrument. A minimum period of two years must pass before a recall process can be initiated, thereby ensuring that elected representatives are afforded sufficient time to demonstrate performance and implement policy initiatives. This probationary approach reflects an attempt to balance stability with accountability.<sup>21</sup>

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<sup>21</sup> English, B. (2025, March 8). *Chhattisgarh's voters oust Municipal Presidents: Recall elections shake local governance in state; represen...* Bhaskar English. <https://www.bhaskarenglish.in/local/chhattisgarh/news/recall-elections-shake-local-governance-in-chhattisgarh-134606221.html>

The initiation of recall proceedings requires a substantial institutional threshold. Three-fourths of the elected councillors must formally approach the District Collector to begin the process. This high benchmark serves as a safeguard against frivolous or politically motivated attempts at removal. Once the procedural threshold is satisfied, a confidence vote is conducted within the constituency. If a majority of participating voters support removal, the representative is formally removed from office.

The practical viability of this model was demonstrated in 2008, when three municipal council presidents in Chhattisgarh were removed through the recall mechanism. These instances illustrate that recall, when carefully designed with procedural safeguards, can function as a constitutional corrective rather than as a destabilizing force. The Chhattisgarh experience underscores that recall need not undermine governance; instead, it can operate within a structured legal framework to reinforce accountability at the grassroots level.

## 11.2 THE CALIFORNIA RECALL (2003)

The 2003 recall of California Governor Gray Davis represents one of the most prominent international examples of recall at a higher executive level. Public dissatisfaction stemming from issues such as energy crises, budgetary concerns, and governance challenges led to a large-scale recall campaign. Approximately 1.3 million voter signatures were collected to trigger a recall vote, reflecting a significant threshold requirement designed to ensure seriousness and broad public support.<sup>22</sup>

In the recall election that followed, approximately 55 percent of voters supported the removal of Governor Davis. Subsequently, Arnold Schwarzenegger was elected as his successor. The California example demonstrates that recall can serve as a powerful democratic correction mechanism, allowing citizens to intervene when they perceive substantial governance failures.

However, the case also highlights the importance of institutional design. Signature thresholds, timelines, replacement procedures, and safeguards against political misuse are critical to preventing instability. Without such structural protections, recall could devolve into a tool for partisan disruption rather than democratic accountability.

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<sup>22</sup> Hubler, S. (2021, September 3). The California Recall, Untangled. *The New York Times*. <https://www.nytimes.com/article/california-recall-election-gavin-newsom.html>

Together, the Chhattisgarh and California experiences reveal that recall is neither inherently destabilizing nor automatically beneficial. Its effectiveness depends on careful calibration. In the specific context of unopposed municipal victories - where the initial electoral mandate is absent - these precedents provide valuable insight into how recall mechanisms can be structured to restore democratic legitimacy while preserving institutional stability.

## **12. WHY RECALL?**

The arguments supporting the Right to Recall acquire greater normative force when applied to unopposed corporators. In such cases, recall is not merely a democratic reform but a compensatory mechanism for an initial absence of electoral validation.

In representative democracy, accountability is typically cyclical voters evaluate performance at the end of a fixed term. However, a five-year insulation from removal may prove excessive where a representative demonstrably fails to discharge duties. In most professional contexts, sustained non-performance results in disciplinary action or termination. Public office, despite its constitutional stature, should not be uniquely immune from comparable standards of responsibility.

This concern becomes sharper in the case of unopposed corporators. A candidate who enters office without contest has not undergone public scrutiny, debate, or comparative evaluation. If such an individual subsequently fails to attend municipal meetings, neglects ward-level grievances, or remains disengaged from developmental responsibilities, citizens are effectively bound to tolerate non-performance without having ever exercised initial consent.

For example, consider a ward in which a corporator was elected unopposed due to last-minute nomination withdrawals. Within a year, basic civic issues such as sanitation, water supply, or road maintenance remain unaddressed, and the corporator is frequently absent from municipal proceedings. In a contested system, voters might at least reflect that they consciously made a choice and must await the next election. In an uncontested scenario, however, citizens may reasonably question why they must endure five years of inaction when they were never given the opportunity to approve the representative in the first place. Recall, in such circumstances, strengthens continuous accountability and restores democratic responsiveness.

The phenomenon of celebrity or popularity-driven candidacies illustrates another structural

concern. Instances such as Govinda's tenure following the 2004 Lok Sabha election and Sunny Deol's election in 2019 drew public attention to issues of absenteeism and limited legislative engagement. These examples demonstrate how electoral success based on popularity rather than sustained commitment to governance can lead to diminished performance.<sup>23</sup>

While these were contested elections, the principle becomes even more concerning in unopposed contexts. If a well-known individual or politically connected candidate secures office without facing competition, the absence of electoral contest may reduce the incentive for active engagement. Political parties may also strategically field candidates in "safe" wards where opposition nominations are weak or withdrawn, confident that once elected, the representative will remain insulated for five years.

The existence of recall would alter this calculus. Parties would be compelled to nominate individuals capable of sustained performance, aware that non-serious candidates could face mid-term removal. The risk of recall introduces a reputational and political cost for poor candidate selection. In this way, recall operates not only as a removal mechanism but also as a pre-emptive quality control instrument within party systems.

The Indian constitutional framework already recognizes the principle that public authority must remain accountable during tenure. The President of India may be impeached before completing a five-year term. Judges of the higher judiciary may be removed through parliamentary procedure. Governments can be dismissed through a No-Confidence Motion. These mechanisms affirm that constitutional stability does not preclude mid-term accountability.

If the highest constitutional offices are subject to removal processes, it appears inconsistent to deny comparable accountability mechanisms at lower levels of governance - particularly municipal corporators elected without contest. The principle of constitutional symmetry suggests that no public office should enjoy absolute insulation from scrutiny. If removal safeguards are compatible with national stability, carefully designed recall at the municipal level should not be viewed as inherently destabilizing.

In the specific context of unopposed wins, constitutional symmetry becomes even more persuasive. Where the original democratic mandate is thin or absent, providing an opportunity

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<sup>23</sup> Opensiuc, O., & Pal, S. (2021). *CULTURAL POLITICS OF NEOLIBERALISM IN HINDUTVA INDIA* *CULTURAL POLITICS OF NEOLIBERALISM IN HINDUTVA INDIA*.

for mid-term validation through recall aligns with the broader constitutional philosophy of responsible government.

Historically, movements led by Jayaprakash Narayan and later by Anna Hazare emphasized decentralization, transparency, and popular sovereignty. These movements argued that democracy must extend beyond periodic elections and empower citizens with mechanisms of ongoing oversight. The Right to Recall was envisioned as part of a broader architecture of participatory governance.

In the context of unopposed municipal victories, recall directly operationalizes this vision. It ensures that sovereignty remains with the people rather than being transferred irrevocably for five years. Where citizens were denied participation at the outset, recall reasserts the foundational democratic principle that authority derives from the will of the electorate. Thus, recall in such circumstances is not an expansion of populism but a reaffirmation of popular sovereignty.

### **13. WHY NOT RECALL?**

While the case for recall strengthens in unopposed scenarios, substantial criticisms remain. These concerns highlight the need for careful institutional design rather than outright adoption or rejection.

One prominent concern is that recall may constitute an “excess of democracy.” Frequent recall petitions could destabilize governance and impose administrative burdens on election authorities. Municipal bodies might find themselves perpetually engaged in electoral processes rather than policy execution.

For instance, if every contentious municipal decision such as property tax revisions or infrastructure restructuring triggers recall campaigns, governance could devolve into continuous political contestation. In a large state like Maharashtra, repeated recall elections across wards would strain administrative resources and financial capacity.

Another concern is that representatives may focus disproportionately on political survival rather than long-term governance. If corporators fear recall at every moment, they may prioritize maintaining short-term popularity over implementing necessary but unpopular reforms.

For example, infrastructure projects often require temporary inconvenience, budget reallocation, or enforcement of regulatory compliance. A corporator contemplating strict enforcement of building regulations might hesitate if a recall petition could be launched by affected interest groups. Thus, recall, if misused, could inhibit decisive governance.

Closely linked to governance paralysis is the risk of populism. Representatives might adopt short-term, crowd-pleasing measures instead of pursuing sustainable development policies. Municipal planning such as waste management reform, water pricing rationalization, or zoning regulation often requires difficult decisions that yield long-term benefits but immediate dissatisfaction.

If recall becomes a constant threat, corporators may avoid structural reforms in favour of visible but superficial projects designed to secure short-term approval.

India's Anti-Defection Law strengthens party discipline by binding legislators to party whips. In municipal bodies, political party structures similarly influence decision-making. If a corporator votes in accordance with party directives on policy matters, should recall target the individual or the party?<sup>24</sup>

For example, if a municipal corporation adopts a controversial budget proposal directed by party leadership, an individual corporator may have limited autonomy. In such cases, recall mechanisms must clearly distinguish between personal dereliction of duty and collective party decisions to avoid unfair targeting.

The design of recall thresholds presents a significant challenge. Very high thresholds such as requiring signatures from three-fourths of voters may render recall practically impossible. Conversely, very low thresholds risk politicized misuse or harassment.

In constituencies where voter turnout rarely exceeds 60 percent, requiring 66 percent of registered voters to initiate recall may be unrealistic. Yet lowering thresholds substantially could invite frequent petitions driven by partisan rivalry rather than genuine non-performance.

These procedural complexities do not invalidate recall as a concept but underscore the necessity

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<sup>24</sup> *Anatomy of India's Anti-Defection Law*. (n.d.). Retrieved February 28, 2026, from [https://vidhilegalpolicy.in/wp-content/uploads/2023/11/Anatomy-of-Indias-Anti-Defection-Law\\_Sharma\\_Gupta\\_Vidhi-Centre.pdf](https://vidhilegalpolicy.in/wp-content/uploads/2023/11/Anatomy-of-Indias-Anti-Defection-Law_Sharma_Gupta_Vidhi-Centre.pdf)

of careful calibration. Particularly in cases of unopposed corporators where the initial democratic mandate is absent designing proportionate and balanced safeguards becomes essential to ensure that recall enhances democracy without destabilizing governance.

#### **14. DESIGNING RECALL: A WAY FORWARD**

The case of unopposed corporators presents a distinct constitutional challenge. Unlike contested elections, where democratic legitimacy is at least initially conferred through voter participation, uncontested wins lack explicit public endorsement. Therefore, any recall framework applicable to such representatives must be tailored to compensate for the initial legitimacy deficit while simultaneously safeguarding institutional stability. A carefully calibrated model can ensure that recall operates as a corrective democratic instrument rather than a destabilizing force.

##### **Mandatory Confirmation Election within 90–120 Days**

One of the most appropriate mechanisms for addressing uncontested victories is the introduction of a mandatory confirmation election within a fixed period such as 90 to 120 days after the declaration of results. This mechanism functions as a delayed validation process. The corporator assumes office provisionally but must subsequently obtain affirmative voter approval.

For instance, if a candidate is declared elected unopposed due to last-minute withdrawals, a confirmation vote could be held within three to four months. Voters would be asked a simple question: “Do you confirm the election of this corporator?” If a majority supports confirmation (subject to a minimum turnout requirement), the mandate is formally ratified. If rejected, a fresh election is conducted. This model restores the missing democratic moment without invalidating the procedural legality of the initial result. It ensures that representatives derive authority from active consent

##### **Probationary Period (12–18 Months) Before Recall Eligibility**

To prevent instability and protect governance continuity, recall eligibility should not be immediate. A probationary period of 12 to 18 months provides the corporator with a fair opportunity to demonstrate performance. Municipal development projects, budgeting cycles, and infrastructure initiatives often require time to produce visible outcomes. For example, if a

corporator initiates a drainage overhaul project or implements ward-level sanitation reforms, measurable results may not materialize instantly. An immediate recall mechanism could incentivize short-term populism rather than sustained development planning. The probationary period thus balances accountability with practical governance realities. In the context of unopposed wins, this period also allows the representative to build legitimacy through performance, partially compensating for the absence of electoral contest.

### **Moderate Petition Threshold (35–40%) to Trigger Recall**

The initiation threshold must be sufficiently rigorous to deter frivolous or politically motivated recall attempts, yet realistic enough to remain operationally viable. A petition signed by 35 to 40 percent of registered voters strikes a reasonable balance.

For illustration, in a ward with 20,000 registered voters, approximately 7,000 to 8,000 verified signatures would be required to trigger a recall vote. This ensures that recall proceedings reflect substantial and broad-based dissatisfaction rather than narrow partisan rivalry.

In the specific case of unopposed corporators who lacked initial voter validation a moderate threshold is particularly justified. Since voters were not given the opportunity to choose initially, a slightly more accessible recall trigger serves as a compensatory mechanism.

### **Minimum 50% Recall Vote Requirement for Removal**

Even after a recall petition is successfully initiated, removal should require a clear majority of votes cast in a formal recall election. A minimum of 50 percent support for removal ensures that recall reflects genuine democratic will rather than transient discontent. For example, if 10,000 voters participate in the recall vote, at least 5,001 must vote in favour of removal. This requirement reinforces legitimacy and prevents removal based on minority mobilization.

This two-stage process petition threshold followed by majority vote creates procedural safeguards that enhance stability while preserving accountability.

Without safeguards, recall mechanisms risk being weaponized as tools of political harassment. To prevent repeated or malicious petitions, cooling-off periods should be mandated. If a recall attempt fails, no subsequent petition should be permitted for a specified duration, such as 12 months. For instance, if a recall vote is conducted and the corporator survives removal, rival

factions should not be permitted to immediately relaunch fresh petitions. This prevents governance paralysis and protects representatives from perpetual campaigning. Cooling-off periods thus preserve institutional continuity and discourage frivolous mobilization.

### **Defined Grounds for Recall**

To further prevent misuse, recall petitions should be grounded in clearly defined criteria rather than vague dissatisfaction. Grounds may include:

- Proven corruption or financial irregularities.
- Sustained absenteeism from municipal meetings.
- Failure to conduct mandatory ward consultations.
- Documented dereliction of statutory duties.

For example, if municipal records show that a corporator attended fewer than 30 percent of council meetings over a year without valid justification, this could constitute objective grounds for recall consideration. Similarly, findings from an audit establishing misuse of ward development funds could trigger recall eligibility. Defining grounds shifts recall from being purely political to being performance-based and evidence-driven.

These mechanisms collectively demonstrate that recall need not destabilize municipal governance. Instead, when carefully designed, recall can:

- Restore legitimacy where no electoral contest occurred.
- Provide structured accountability mechanisms.
- Deter non-serious candidacies.
- Maintain procedural safeguards against misuse.

In the specific context of unopposed corporators, tailored recall design becomes particularly compelling. Since the original democratic mandate was never tested, institutional mechanisms must provide an alternative pathway for validation and correction. Properly structured, recall functions not as democratic excess but as constitutional balance ensuring that authority

ultimately remains conditional upon public confidence.

## **15. CONCLUSION**

The 2026 Maharashtra municipal elections exposed a profound democratic paradox: individuals assumed public office without a single vote being cast. While legally permissible, such uncontested victories weaken the moral foundation of representative democracy.

In ordinary electoral contexts, the Right to Recall may be debated as an instrument of democratic deepening. However, in the specific case of unopposed corporators elected due to technical or procedural circumstances, the argument fundamentally shifts. Where no electoral validation has occurred, recall ceases to be merely an optional reform it becomes a corrective mechanism, compensating for the absence of voter participation.

If carefully designed with clear thresholds, reasonable grace periods, and robust safeguards against misuse, the Right to Recall is not a weapon against governance. It is an insurance policy for democracy. It reaffirms that sovereignty resides with the people, especially when the electoral process has failed to provide them an opportunity to exercise their choice.

Ultimately, the question raised by the Maharashtra municipal elections is not confined to statutory interpretation; it concerns the character of Indian democracy itself. A democracy confident in its foundations does not fear voter judgment. It does not regard participation as an inconvenience, nor does it permit representatives to govern without ever facing the electorate.

Democracy is not merely adherence to procedure; it is the practice of meaningful participation. When participation is absent, accountability must compensate. If elections are the heartbeat of democracy, then uncontested victories without voting represent a troubling silence. Restoring the vote even in limited and exceptional circumstances is not an administrative burden. It is a constitutional imperative.

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