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Revisiting Anti-Defection Law: A Critical Analysis of Legal Development and Constitutional Dilemmas in India

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ABSTRACT

As a matter of fact, the anti-defection law regarded as one of the major attempts to control political behavior within India's parliamentary democracy. In other words, it seeks to prevent political defections, protect the electoral mandate and preserve the stability of elected governments. However, in contemporary times, the anti-defection law continues to create constitutional dilemmas related to freedom of political expression, the accountability of elected representative, neutrality of presiding officers and legislative independence. Now the question arises; what reforms are necessary to make the anti-defection framework more impartial, effective and consistent with democratic principles? How have constitutional amendments and judicial decisions shaped its operation in today's time? Does the law appropriately balance party discipline with the independence and accountability of elected representatives? Can a legal mechanism designed to protect democracy simultaneously undermine the democratic independence of elected representatives? In order to address these questions, the paper revisits anti-defection law, its constitutional foundations, statutory framework and judicial interpretation. It critically examines the legal development and constitutional dilemmas in India with the help of landmark judicial decisions in order to reconcile political stability with constitutional democracy.

Keywords: Anti-defection law, Parliamentary democracy, political defections, Constitutional Dilemma, Electoral Reforms

INTRODUCTION

As a matter of fact, free and fair election is essential for the success of democracy. That's why election is very important component in parliamentary democracy. In fact, parliamentary democracy in India is essentially political party-based government where various political parties with different ideologies contest in election to gain power. However, the political party may have won the majority through election and got the mandate from the people to form the government may yet fail to do so because a few of its members defect from the political party. The vice of defection has been rampant because of "floor crossing by a member of one political party to another party"[1]. In such case if he leaves the political party with whose support he has been elected to the House, he ought to resign his membership of and seeks fresh election to the House. But such principled defections are rare because most of the defections take place out of the selfish motives as the defectors hope to be appointed ministers. Hence, defection is undemocratic because it causes instability for government on the one hand and negates the electoral verdict on the other.

Carrying furthermore, the phenomenon of defection is not something that is peculiar to India. It is prevalent in democracies all over the world which have adopted the party system. Now the question arises; does the law appropriately balance party discipline with the independence and accountability of elected representatives? In order to address this question, it is important to understand the meaning of the term defection implies simply "leaving the party and joining another

1. M.P. Jain, *Indian Constitutional Law*n 47 (Lexis Nexis, New Delhi, 8th edn., 2014).

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party". The term defection has its genesis in the Latin word 'defectio' which means "an act of abandonment of a person or a cause to which such person is bound by reason of allegiance or duty, or to which he has willfully attached himself"[2]. Indian politics has been no exception from a change of party affiliation or allegiance by a member of the legislature. "Including legislators in opposition to join the ruling party by lure of seats in the cabinet is neither politically nor morally justified and is highly undesirable and unethical. It degrades the individual and creates distrust"[3]. The politics of defection has been the bane of the parliamentary system in India. In fact, defections in India were flawed by unprincipled, inconsistent and opportunistic movements across party lines that exhibited a democratic immaturity. This alarming trend forced the Indian legislature to come up with a regulatory system to curb this destabilizing movement across party lines.

However, the effectiveness of the Anti-Defection Law has been considered in light of a history of discontent with the law itself. Then the question arises; what reforms are necessary to make the Anti-Defection framework more impartial, effective and consistent with democratic principles? How have constitutional amendments and judicial decisions shaped its operation in today's time? Does the law appropriately balance party discipline with the independence and accountability of elected Member of Parliament and Member of Legislative Assemblies? How far the role of the Speaker plays an important Anti-Defection Law in Indian democracy? In order to address these questions, the paper will revisit Anti-Defection Law to address its shortcomings, its constitutional foundations, statutory framework and judicial interpretation. The second part, discusses the historical background of Anti-Defection Law and its origin in India because over the years, the law has been amended through various Constitutional Amendments. The third part, deals about the impact of Anti-Defection Law India to protect the representational integrity of elected bodies and uphold the principle of collective responsibility in India. The fourth part critically analyses the Anti-Defection Law and its growing issue of political defections that are destabilizing governments. Over time the law has stabilizing its role but the law has faces substantial legal criticism. The fifth part deals with the role of the Speaker while critically examines the legal development and constitutional dilemmas in India with the help of landmark judicial decisions in order to reconcile political stability with constitutional democracy. In the light of the recent instances of rampant misuse of powers by the Speaker, the paper analyses the paradoxical nature Speaker. Various cases of defections show that the speaker is the main causes for the ineffective realization of the Anti-Defection Law. However, the Anti-Defection laws are the need of an hour and it must be retained as an interim measure while striving towards more holistic changes in the political culture in India. Therefore, the paper finally examines the legal development and constitutional dilemmas in India with the help of landmark judicial decisions in order to reconcile political stability with constitutional democracy.

Historical Background of Defection in India

Indian politics had seen defections right from the pre-independence era and it can be traced back to the days of Rama. "Even in Ramayana we find the identical defection, Vibhishana, brother of Ravana, defected from him and joined Rama"[4]. The first case of defection during British colonial government of India when "Shri Shyam Lal Nehru who was a member of the Central Legislature changed his allegiance from congress party to British side"[5]. In this way, he defected from the Indian National Congress and aligned himself with the British authorities"[6]. At that time, Pandit Moti Lal Nehru was leader of the Assembly, condemned him and expelled him from the party"[7]. Similarly, in 1937, "Shri Hafiz

2. G.C. Malhotra, *Anti-Defection law in India and the Commonwealth* 68 (Lok Sabha Secretariat, Metropolitan Book Co. Pvt. Ltd. 1st edn., 2005).

3 Saurabh Sotwal and Tanmay, "Anti Defection Laws in India" 3 *International Journal of Research and Analysis* 332 (2014).

4. Shyam Moolchand, "Politics of Defection and Democracy" 13 *Journal of Constitutional and Parliamentary Studies* 328 (1979).

5. Sudarshan Aggarwal, "Anti-Defection law in India", LXVII No. 1 *The Parliamentarian,* 22 (January, 1986).

6. G.C Malhotra, *Anti-Defection law in India and the Commonwealth* 4 (Metropolitan Book Co. Pvt. Ltd, 1st edn., 2005).

7. K.P.S. Mahalwar, "Disqualification on the Basis of Defection-A Need for Strengthening Anti Defection Law"4 *Nalsar Law Review* 117 (208-2009).

Mohammed Ibrahim, who was elected to the Uttar Pradesh Legislative Assembly on the Muslim League ticket, defected to join the Congress"[8]. It shows that, he has elected on a Muslim League ticket in Uttar Pradesh and later joined the Congress party. However, in March, 1945 the first ever toppling game in Bengal was played when the Muslim League Ministry, led by Khwaja Nazimuldin was voted out of office when the Nawab Bahadur of Dacca along with 15 friends defected"[9]. In post-independent India, the politics of defection came to attain frightening dimensions because the problem of political defections became particularly visible after the fourth general elections in 1967. Prior to 1967, defections were infrequent and shifting of political affiliations was resorted to only for honest and genuine reasons.

For example, the cases of defections can be seen in some of the States between "March 1967 and March 1970 were in Haryana (85), Andhra Pradesh (73), Bihar (161), Karnataka (294), West Bengal (269), Madhya Pradesh (273)"[10]. In October 30, 1967, a "Haryana Legislator Gayalal defected thrice within a fortnight, who had earlier crossed the floor to join the Government led by United Front returned to the Opposition, but within 9 hours he again changed his party to rejoin United Front, so he set a new record in the political defections of Haryana and also received the title of 'Ayaram Gayaram"[11]. By 1984, the term "Aya Ram-Gaya Ram' had become frequent and was understood as synonymous to political defection. Growing impact of such defections made many minds move to find a way out of the problem"[12]. It shows that, the expression "Aaya Ram, Gaya Ram" came to symbolise the practice of switching political allegiance. Another political defection can be seen in Kalyan Singh Government in 1997 in Uttar Pradesh formed by the BJP with the support of defectors from the Congress and Bahujan Samajwadi Party with 22 and 12 members, respectively. Such unprincipled defections are morally wrong and indicative of lust for power. It was realised that, if the evil of political defection was not addressed, it would undermine the very foundation of democracy in India and the principles which sustain it. It was therefore thought that, it is necessary to enact a law to suppress the vice of defection.

In order to address the menace of political defection, "The Constitution (52nd Amendment) Act, 1985" inserted the Tenth Schedule which provide for disqualification of members of Parliament and state legislatures on the ground of defection. This Amendment known as Anti-Defection Law which address the political instability associated with defections with the help constitutionally recognised grounds of disqualification. Another Constitutional Amendment Act *i.e.* "91st Constitutional Amendment) Act, 2003" made significant changes to the Anti-Defection Law. Since this law has removed the split exception under paragraph 3 of the Tenth Schedule and retained the merger exception under paragraph 4, subject to the requirement that at least "Two Thirds" of the members of the legislature party concerned agree to the merger. In this way, Anti-Defection Law is one of the integral components of democratic governance which uphold the integrity of elected institutions and maintain political stability. Hence, it can be argue that the defections have historically been one of the primary causes of instability in India's political party system. That's why the Tenth Schedule had been incorporated by amending the Constitution as a "safety valve for India's multi-party democracy"[13]. However, its implementation has been surrounded with several challenges owing to the weaknesses in the legal regime.

Impact of Anti Defection Law on Parliamentary Democracy in India

The Anti-Defection Laws protect the representational integrity of elected bodies and uphold the principle of collective responsibility. This law discourages legislators from switching allegiance for

8. https://newspaperarchive.com/arcadia-tribune-apr-05-1973-p-4/ (Accessed on October 10, 2026).
9. Ibid.
10. Subhash C. Kashyap, *Anti Defection Law and Parliamentary Privileges* 1 (Universal Law Publishing Co. Pvt Ltd., 2nd edn., 2003).
11. Ibid.
12. Justice Gulab Gupta, "Anti Defection Law: An Introspection" IX Central India Law Quarterly 128 (1996).
13. S.S. Visweswaraiah, "Deplorable Defections: In Search of a Panacea" 39 Journal of the Indian Law Institute 47–66 (1997).

personal gain or political benefit, maintain the consistency of political parties and promote accountability to the electorate. Though, its implementation raises complex issues and challenges concerning individual freedom, party autonomy and the balance of power between the legislative and executive branches. It can be argued that, such laws may discourage dissent, demoralize legislative independence and restrict the ability of elected representatives to exercise their conscience. In fact, the effectiveness of laws in attaining their intended objectives varies across different political contexts related to legal uncertainties, ambiguities and enforcement mechanisms. However, its impact on "Parliamentary Democracy" is dependent on careful consideration of their consequences for political representation, responsibility and the functioning of democratic institutions. In this way, the Anti-Defection Laws preserve and protect democratic ethos of India in the following manner; firstly, it ensures political stability by discouraging legislators from switching party affiliations frequently in order to maintain the continuity of governance. Secondly, it upholds party discipline by holding legislators accountable to the party line in order to strengthen the effectiveness of political parties. Thirdly, it protects the integrity of electoral mandates by ensuring that legislators adhere to the political party's commitments and their ideologies etc. Fourthly, it contributes to accountability by legislators to remain loyal to their party affiliations for their actions and decisions. Fifthly, it fosters legislative cohesion by minimizing disruptions and ensuring a more orderly conduct of parliamentary affairs.

The primary aim of the Anti-Defection Law was to strengthen political stability and to inculcate a sense of political responsibility"[14]. It is used to disincentivize, deter and punish members who defect. "The decision to penalize defectors stemmed from a history of defections where the elected members moved between parties that were ideologically inconsistent. This unprincipled movement across party lines merely for wealth and power highlighted the need for a legal regime to restrict such movement"[15]. In this way, the Anti-Defection Laws contribute to the functioning and sustainability of democratic systems by promoting political stability, upholding party discipline, preserving electoral mandates, enhancing accountability and fostering legislative cohesion. But, its implementation and impact based on several factors such as constitutional provisions, legislative rules, judicial interpretations, and political culture. According to National Commission to Review the Working of the Constitution, "the evil of political defections was a matter of national concern and needs to be curbed. Since candidates get elected on the basis of the party that gave them the ticket, defecting flouts the very mandate on the basis of which a member was elected"[16]. It is to be noted that, the main problem with a law that penalises legislators for acting independently is that it goes against the idea of a parliamentary democracy. Moreover, the elected representatives are expected to take decisions for the interests of citizens but the disqualification law bind legislators to the official position taken by their party.

As BR Ambedkar has rightly pointed out in the Constituent Assembly about the main difference between the "presidential and parliamentary systems was the balance sought between the stability of government and its accountability to the people"[17]. However, it may point out that the "Anti-Defection Law" denies this purpose because of the freedom of legislators to question the government and vote on various motions is constrained by the party whip. In fact, member of parliament can neither exercise their decision nor support according to the wishes of their electorate but party's wishes override all other considerations. In other words, the requirement of abiding by the party direction also reduces the accountability of legislators to their voters. Such accountability is enforced through the election system because "Member of Parliament and State Legislative Assemblies" will have to justify their actions when they participate next election process. However, the "Anti-

14. Valerian Rodrigues, 'Parliamentary Opposition and Government Backbenchers in India' in N. Ahmed (ed), Inclusive Governance in South Asia (2018).

15. Paras Diwan, "Aya Ram Gaya Ram: The Politics of Defection" 21 *Journal of the Indian Law Institute* 291 (1979).

16. Electoral Processes and Political Parties, Report of the National Commission to Review the Working of the Constitution, Chapter 4, Volume 1, Available at: https://legalaffairs.gov.in.

17. Constituent Assembly of India Debates (Proceedings) - Volume VII, Accessed on: August 15, 2026. Available at: https://www.constitutionofindia.net.

Defection Law" provided "Member of Parliament and State Legislative Assemblies" an easy explanation for their voting behaviour as they had no choice but to vote according to the party's whip. It has to be noted that the Anti-Defection Law has had a substantial effect on how well India's parliamentary system functions. Yet it possesses various challenges to build a truly representative democracy as it impairs the deliberative nature of politics

Challenges of Anti- Defection Law in India

The Anti-Defection Law forbids "Members of Parliament and State Legislative Assemblies"[18] from defecting from their party. For instance, a political party member is legally disqualified from serving in the House if he or she goes against the party whip or joins another political party. In such situation, the law demands that, the "Presiding Officer" of the house must determine whether to remove a "Members of Parliament and State Legislative Assemblies" after giving them an opportunity to present their defense. However, it has to be noted that over the time the Anti-Defection Law has faced several criticisms and practical challenges and these are namely; firstly, freedom of Expression of the Representatives under Article 19 (1) (a) of the Constitution which guarantees the right to free speech and expression to the citizens. But by compelling "Members of Parliament and Members of Legislative Assemblies" to vote accordance with the political party's directions, then the very essence of the law is seen as restricting their conscience and personal judgment. Besides, it also hampers voter's confidence and their trust. Secondly, political misuse of the law has often exploited by political parties to use defections for their own profit and to maintain majority in the House for the sake of power, financial incentives, other benefits and defeat the original intent of the laws. Thirdly, role of "Presiding Officer" concerning accountability and transparency. Since the decision to disqualify a "Members of Parliament and Members of Legislative Assemblies" lies with him who is affiliated with the ruling party generally. Such decisions raise concerns about impartiality and undermine the credibility of the legal process regarding the implementation of the provisions of the Anti-Defection Law. Fourthly, legal ambiguity concerning the provisions of the Anti-Defection Law because of the lack of clarity in provisions regarding what constitutes a legitimate reason for changing party affiliation has led to vague interpretations, inconsistent enforcement and potential misuse.

In this way, the Anti-Defection Law has faced numerous challenges before the Indian Supreme Court. For example, the first major legal test of the Anti-Defection Law was the Kihoto Hollohan v. Zachillhu and Others, (1992)"[19]. In this case, the honorable Supreme Court held that "the Anti-Defection Law remained lawful while permitting judicial review of the presiding officer's disqualification decision. The court continued by saying that a member should be given the chance to be heard before a decision is made to prevent them from participating"[20]. It shows that, the disqualification of "Members of Parliament and State Legislative Assemblies" made by the presiding officer is subject to judicial review while maintaining the legality of the Anti-Defection Law. In "Ravi S. Naik and Sanjay Bandekar v. Union of India (1994)"[21], the Supreme Court held that, "voluntarily giving up his membership" does not imply resignation. Even in the absence of a formal resignation from membership, a member's actions can be interpreted as indicating that he has willingly resigned from the political party to which he belongs"[22]. However, in "G. Vishwanathan v. Speaker", Tamil Nadu Legislative Assembly (1996)", the honorable the Supreme Court held that the "Anti-Defection Law" did not apply to independent "Members of Parliament and State Legislative Assemblies" and applicable on party members only. In "Rajendra Singh Rana v. Swami Prasad Maurya (2007)"[23], the Court held that, the disqualification would be said to have taken place the moment the members

18. M P Jain, *Indian Constitutional Law*n 47 (Lexis Nexis, New Delhi, 8th edn., 2014).

19. Kihoto Hollohan v. Zachillhu And Others [1992] SCR (1) 686.

20. Ibid.

21. Ravi S. Naik v. Union of India [1994] AIR 1558.

22. Ibid.

23. Rajendra Singh Rana v. Swami Prasad Maurya [AIR 2007 Supreme Court 1305].

commit the act of defection. They further held that the Speaker could not initiate disqualification proceedings suo moto and would have to be approached with a petition first.

In "Balchandra L. Jarkiholi v. B.S. Yeddyurappa (2010)"[24], the court held that any independent member of Legislative Assembly who joins the Ministry in a coalition government without joining the main party will retain their independence. So, becoming a member of the Council of Ministers does not preclude one's candidature. Furthermore, in "Karnataka Political Crisis Case (2019)"[25] the Supreme Court upheld the disqualifications of the Member of Legislative Assemblies triggered a political crisis. The Speaker disqualified the members under the Anti-Defection Law and barred them from contesting elections during their term. In Shri Yengkhom Surchandra Singh v. The Hon'ble Speaker (2020)" [26] the Supreme Court upheld that the Speaker's decision to disqualify nine Member of Legislative Assemblies in Manipur and reiterated that while the Speaker has the authority to decide on disqualification petitions, such decisions remain open to judicial review. In "Meghalaya Speaker's Decision Case (2019)" where five "Member of Legislative Assemblies" were disqualified under the Anti-Defection Law. Despite their legal challenge, the High Court upheld the Speaker's decision, and the Supreme Court later refused to overturn it.

Although the Anti-Defection Law has faced numerous legal challenges, but the judiciary has played a crucial role in defining its application. Besides its stabilizing role by addressing the growing issue of political defections that are destabilizing governments and eroding accountability the law has faced substantial criticism. "This was further accentuated by the lack of concrete evidence to prove the efficacy of the law to realize the intended object of curbing political impropriety and the indiscriminate movement across party lines"[27]. The challenges to the law have been centered around the argument that the usage of legal means to remedy a political concern will always remain ineffective. Owing to the above reasons of "redundancy and ineffectiveness of the law there has been a rising demand to repeal the law in its entirety"[28]. However, the calls for repealing the law on these grounds are extreme and there is a need to acknowledge the immaturity of the Indian political culture. Furthermore, the effectiveness of the Anti-Defection Law is dependent on the functioning of the "Presiding Officer" because he plays an important role while deciding the case of defection. Therefore, it is essential to understand the role of the presiding officer to holistically comprehend the manner in which they deviate from the Anti-Defection laws and subvert the procedure.

Constitutional Dilemmas and Role of Speaker

The role of the Speaker is central to parliamentary democracy. Especially in Indian context, the Speaker facilitates the discussions and deliberations of the House. More importantly, the Speaker adopts the role of a disciplinarian[29] to maintain the decorum of the House[30] as well as perform quasi-judicial functions etc. For example, Paragraph 6 under the Tenth Schedule, the Presiding Officer alone is empowered to disqualify elected members on grounds of defection, based upon a petition by any other member of the House. Hence, as envisaged by the law, the Speaker must act like a neutral and unbiased party to determine the facts and establish if the members had in fact defected. It should be noted that the Speaker while undertaking these tasks represents the

24. Balchandra L. Jarkiholi Vs. B.S. Yeddyurappa SLPs (C) Nos. 33123-55 of 2010.

25. Shrimanth Balasaheb Patil v Hon'ble Speaker, Karnataka Legislative Assembly (2020) 2 SCC 595.

26. Shri Yengkhom Surchandra Singh v. The Hon'ble Speaker (2020) WP(C) No. 316 of 2020.

27. Shoaib Daniyal, 'The Political Fix: Has the Anti-Defection Law Hollowed out India's Representative Democracy?' *Scroll.in* (22 July 2019). Accessed on 15th July, 2026.

28. Chakshu Roy, 'What an Indian Law Can Do to MLAs Defecting in Karnataka & Goa - Nothing' *The Print*, July 12, 2019). Accessed on 12th September, 2026.

29. Harsimran Kalra, 'Decisional Analysis and the Role of the Speaker' 1 *The Hindu Centre for Politics and Public* Policy (2013). Accessed on 21st July 2026.

30. Rules of Procedure of the Lok Sabha, Rule 352 and 378.

House as a whole. Hence, maintaining a stance of impartiality is a key requisite for the role. This requirement of impartiality has not been codified in the text of the constitution but exists as a constitutional convention"[31]. The Speaker must adhere to this convention out of a sense of public duty or simply out of fear of judicial intervention. Hence, neutrality and non-partisanship are key tenets of the Speaker's role"[32]. However, it has to be noted that the "Speaker is elected from the ruling party and the Deputy Speaker from the opposition party[33]. Speaker's affiliations to the ruling party have resulted in several instances wherein the he/she had acted in a manner that was beneficial to the ruling party.

In fact, the Speakers have taken an excessive amount of time to decide on the disqualification of elected members for defecting as it benefited the ruling party"[34]. The Speakers often uncertain between their party loyalties and a sense of duty towards the Constitution have given paramountcy to their partisan ties. That's why one can argue that Speakers' role is very paradoxical in nature because the Speaker elected by a particular political party on the one hand and he is expected to adjudicate disputes in a neutral fashion on the other. As per the constitutional provisions, the Speaker should apolitical and untouched by the desire of political gain or fear of loss of office. But it is not surprising that the Speaker misuses his/her power especially in defection cases because the decision to disqualify a Member of Parliament and Member of Legislative Assemblies is taken by the Speaker or the Chairman. In such cases, "the presiding officer's decision is final and the Supreme Court held that the provision granting finality to the order of the speaker/chairman is valid"[35]. "While functioning under the Tenth Schedule, the presiding officer acts as a tribunal and exercises judicial power. Decisions taken in such capacity are subject to judicial review[36]. "However, while judicial review is permissible, it should not cover any stage prior to the presiding officer taking a decision on the question of disqualification"[37]. It is to be noted that the "decisions taken by the presiding officer under the Tenth Schedule are impartial and independent of political considerations[38].

The role of the presiding officers is such that they are assumed to be impartial. However, in several instances it has been seen that the presiding officers do not disqualify legislators or delay the decisions regarding disqualifications, therefore putting their allegiance into question. In *Kihoto Hollohan* v. *Zachillhu,* the Hon'ble Supreme Court held that, "the office of the Speaker is held in highest respect and esteem in parliamentary democracy and are guardians of the rights and privileges of the House"[39]. However, it has been found that, the political affiliations of the Speaker to a political party coupled with Speaker's powers under the Constitution could invariably lead to a reasonable likelihood of bias. Thus, he does not meet the requirement of an independent adjudicating authority under the Tenth Schedule. According to the Law Commission, "legal challenges against decisions taken by speakers on disqualification erode the confidence placed in the office of the Speaker[40]. The Commission recommended that the "power to decide on questions of disqualification on the ground of defection should be vested with the President or the Governor, who

31. Harsimran Kalra, 'Decisional Analysis and the Role of the Speaker' 1 *The Hindu Centre for Politics and Public* Policy (2013). Accessed on 21st July 2026.
32. Matthew Laban, "More Westminster than Westminster? The Office of Speaker across the Commonwealth" 20 *The Journal of Legislative Studies* 143 (2014).
33. Harsimran Kalra, 'Decisional Analysis and the Role of the Speaker' 1 *The Hindu Centre for Politics and Public* Policy (2013). Accessed on 21st July 2026.
34. Vijaya Bhaskar Reddy, "Sabotage of Anti-Defection Law in Telangana" *1 Economic and Political Weekly* 50. (2005).
35. Kihoto Hollohan v. Zachillhu and Others [1992] SCR (1) 686.
36. Ibid.
37. Ibid.
38. Report No. 255, Electoral Reforms, Law Commission of India, March 2015. Available at: https://cdnbbsr.s3waas.gov.in.
39. Kihoto Hollohan v. Zachillhu And Others [1992] SCR (1) 686.
40. Report No. 255, Electoral Reforms, Law Commission of India, March 2015. Available at: https://cdnbbsr.s3waas.gov.in.

should act on the advice of the Election Commission of India (ECI)"[41]. However, this solution is based on the hypothesis that the ECI acts in an impartial manner and one of the biggest problems is related with the decision-making power of the presiding officer is the absence of a timeline to take decisions. In fact, the "Anti-Defection Law is silent on the maximum time within which a decision must be taken on questions of disqualification. Despite of the fact that the Supreme Court in 2020 held that while acting as a tribunal under the Tenth Schedule, the speaker is bound to decide disqualification petitions within a reasonable period"[42]. For instance, the "Court held that disqualification petitions must be decided within three months from when they are filed"[43]. The Speakers have over time exploited the gaping holes in the Anti-Defection law which have created a pressing need to push for reforms to tackle the issues of partisanship and abuse of powers in the following ways:

Firstly, in Manipur, the elections for the 11th Manipur Legislative Assembly in 2017, none of the political parties could secure a clear majority. The Bharatiya Janata Party staked a claim to form a government in the state with a support of an MLA who had been elected on the ticket of the Indian National Congress[44]. The MLA was even made a minister in the BJP-led government in Manipur. The speaker of the legislative assembly took no decision on the multiple disqualification petitions filed against the minister for switching parties after being elected to the House. In March 2020, the Supreme Court removed the MLA from the state cabinet and restrained him from entering the legislative assembly[45]. About 10 days later, the MLA was disqualified by the speaker.

Secondly, in Telangana, after the Telangana Rashtra Samithi (TRS) formed the government in Telangana in 2014, 26 MLAs defected from opposition parties to join the TRS at different points in time[46]. However, the speaker of the legislative assembly in the state took no decision on the disqualification petitions until the dissolution of the legislature before elections.

Thirdly, in Andhra Pradesh, 23 MLAs from YSR Congress defected to the Telugu Desam Party which was in power in the state. The speaker did not act on the petitions seeking to disqualify these MLAs from their membership of the House. Four of these MLAs were even appointed as ministers in the state government[47].

Fourthly, in West Bengal after elections to the West Bengal legislative assembly in 2021, an MLA who was elected on the ticket of the Bharatiya Janata Party was seen to have joined the ruling All India Trinamool Congress. A petition was filed before the speaker to dismiss him from the House on the grounds of defection. However, the speaker rejected the petition to disqualify the MLA. The Calcutta High Court held that the speaker had ignored some of the evidence which was placed on record to support the disqualification petition against the MLA[48] On these grounds, the Court found the speaker's orders to be perverse and unsustainable. The Court directed the speaker to take a fresh decision on the petition after giving due regard to all relevant documents. According to news reports, in June 2022, the West Bengal speaker again rejected the petition to disqualify the MLA on grounds of defection[49].

Hence. the Speaker or the Chairperson, being belonging to the majority party are not interested in

41. Ibid

42. Keisham Meghachandra Singh v The Hon'ble Speaker Manipur Legislative Assembly & Ors., Civil Appeal No. 547 of 2020, Supreme Court of India, January 21, 2020, Available at: https://main.sci.gov.in.

43. Ibid.

44. Keisham Meghachandra Singh v The Hon'ble Speaker Manipur Legislative Assembly & Ors., Civil Appeal No. 547 of 2020, Supreme Court of India, January 21, 2020. Available at: https://main.sci.gov.in.

45. "Speaker Stays Silent: KCR Formula to Beat Anti–Defection Law Sets Dangerous Example", *News 18*. September 8, 2018.

46. Ibid.

47. "Andhra Pradesh: YSR Congress to boycott Assembly over defection row" *The Times of India*, September 5, 2018. as accessed on December 3, 2022. Available at: https://timesofindia.indiatimes.com.

48. Ambika Roy Vs the Hon'ble Speaker, West Bengal Legislative Assembly and Ors., WPA(P) 213 of 2021, Calcutta High Court, April 11, 2022.

49. "Bengal Assembly Speaker rejects plea to disqualify Mukul Roy as MLA", *Business Standard*, June 8, 2022.

deciding the matters relating to the defections, as the defectors have move to their parties, thereby providing majority in the House. These decisions are often contested in court, and their interpretation significantly influence how the law is enforced. In this way, the effectiveness of the Anti-Defection Law in India is shaped by a complex interplay of societal expectations, political dynamics, and judicial interpretations. Its role in safeguarding democratic integrity and promoting stable governance remains vital, but its application continues to evolve in response to these influencing factors.

Conclusion

To conclude this paper, I would say that the main purpose of the enactment of the 'Anti-Defection Law' under the Tenth Schedule of the Indian Constitution through the 'Fifty Second Constitutional Amendment Act, 1985' was to preserve the sanctity of the people's mandate, ensure political stability and strengthen democratic values and. This law sought to curb the growing menace of political defections motivated by personal interests, monetary inducements and the pursuit of power. In order to discourage elected representatives from abandoning the political parties on whose platforms they had secured electoral victories, this law tried to uphold the principles of political accountability and representative democracy. However, the experience of its implementation has revealed several loopholes that have, at times, undermined its very purpose. Furthermore, recognizing these deficiencies, Parliament enacted the 'Ninety First Constitutional Amendment Act, 2003' which removed the earlier provision permitting defections by a faction constituting 'One Third of the Members' of a legislature and retained the merger exception, subject to the support of at least two-thirds of the members of the legislature party concerned.

Despite these constitutional safeguards, the contemporary political landscape presents serious challenges to the effectiveness of the Anti-Defection Law. For example, political developments in Karnataka, Madhya Pradesh, Maharashtra, Goa and other states like recently in West Bengal have raised concerns about the misuse of constitutional provisions by the influence of money power, and the strategic mobilisation of political and institutional resources to alter electoral outcomes. It has to be noted that, such practices weaken the relationship between voters and their elected representatives and create a situation in which governments may be formed or destabilised through post-election manoeuvring rather than the democratic mandate expressed at the ballot box. Allegations of the misuse of central investigative agencies further intensify concerns about the fairness and integrity of the political process. A particularly significant weakness lies in the role assigned to the Speaker or Chairman as the adjudicating authority under the Tenth Schedule. The constitutional framework presumes that the Presiding Officer will discharge this responsibility impartially, independently and in accordance with constitutional morality. In practice, however, instances of partisan conduct, prolonged delays in deciding disqualification petitions and inconsistent interpretations have raised serious questions about the credibility of this arrangement. The involvement of Governors in government formation and their exercise of constitutional discretion have also on several occasions, generated controversy regarding institutional neutrality and the preservation of federal principles.

Therefore, the effectiveness of the Anti-Defection Law depends not merely on the existence of constitutional provisions but also on their impartial and timely enforcement. An independent adjudicatory mechanism clearly defined timelines for deciding disqualification petitions and greater accountability in the exercise of constitutional powers are essential reforms. Ultimately, the Anti-Defection Law must serve as an instrument for protecting democratic stability rather than a mechanism for facilitating partisan advantage. Its true success lies in ensuring that constitutional morality prevails over political opportunism, institutional integrity over partisan loyalty and the people's mandate over the pursuit of power. Only then can the spirit of representative democracy be meaningfully preserved.

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