

# **The Impact of Anti-Defection Law on Democratic Representation in India**

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## **ABSTRACT**

A legal reaction to the chronic political instability produced by frequent party-switching and defections among elected legislators, the Anti-Defection Law was implemented in India by the 52nd Constitutional Amendment Act of 1985. The law's intended purpose was to prevent opportunistic floor-crossing and maintain political stability, but its effects on democratic representation in the long run have been complicated and controversial. At its core, representative democracy rests on lawmakers' capacity to represent their people's interests while also using their discretionary authority within the bounds of the law. But the Anti-Defection Law has limited this autonomy by punishing dissident views and requiring members to follow party whips to the letter, transforming elected officials from independent voices of the people into agents of party leadership. A culture of compliance has emerged as a result of the dread of disqualification, which has dampened discussion, opposition, and sensitivity to community concerns. In addition, the Speaker's discretionary ability to decide defection cases has made the procedure even more political, which may make it less impartial and unfair. So, although the legislation was passed to make democracies stronger, it has actually made parliamentarians less representative, who begs the question: how can a functional democracy like India's strike a compromise between party unity and individual freedom.

**Keywords:** *Anti-Defection Law, Democratic Representation, Tenth Schedule, Party Discipline, Electoral Mandate.*

## **I. INTRODUCTION**

A historic effort to combat the rising threat of political defections that had unsettled Indian politics in the decades after independence, the Anti-Defection Law was enacted in 1985 by way of the 52nd Constitutional Amendment Act. With the goal of maintaining stable administrations and protecting the validity of the election mandate, the legislation sought to prohibit elected legislators from

engaging in opportunistic party-hopping. It was included as the Tenth Schedule to the Indian Constitution. Nevertheless, the law's controversiality stems from the fact that it limits the same democratic representation that its laudable goals sought to protect. The idea that elected representatives should speak for their people while still using their own discretion and protecting fundamental rights is fundamental to democratic representation. Such autonomy is critical for a healthy democracy to represent the views and interests of its citizens. But as it is, the Anti-Defection Law severely limits this independence by tying MPs to party leadership directives. Legislators are essentially turned into party agents by the clause that requires disqualification for members who vote against the party whip, regardless of whether it's on issues of conscience or public interest. Consequently, the idea of democratic accountability is undermined, and constituents' unique needs and ambitions are generally unrepresented.

The vagueness of the term "voluntarily giving up membership" in relation to political parties is a major cause for worry. Disqualification processes driven by politics and subjective judgments have resulted from this ambiguous language. Many defection petitions have been either delayed or decided in favor of the Speaker, who is typically a political character in and of himself. Legal challenges based on charges of bias or tardiness became possible after the seminal decision of *Kihoto Hollohan v. Zachillhu* (1992) affirmed the Speaker's power to deliberate on disqualification cases. The public's faith in the system is weakened and the impartiality that is sought in constitutional adjudications is undermined. In addition, the Anti-Defection Law makes it harder for members of political parties to voice their democratic disagreements. Policy stances that are both inclusive and well-considered can only be developed via robust internal party discussion and disagreement in a functioning democracy. Nonetheless, the existing legislation imposes a strict party line, preventing any divergence or internal debate. Fearing disqualification forces legislators to vote against their beliefs or the will of their people. In addition to limiting free speech in politics, this turns the legislature into a rubber-stamp that confirms administration or party leadership choices without really considering them.

Within the framework of India's parliamentary democracy, the Anti-Defection Law's facilitation of power concentration among party leaders is of special concern. The executive branch has a tendency to dominate the legislative when one party has a large majority, which weakens the checks and balances necessary for democratic rule. The legislature loses its ability to review executive actions when members are obligated to follow party lines without room for debate or disagreement. New political events have brought the law's shortcomings and gaps to light even more. Governments in states like Maharashtra (2022), Madhya Pradesh (2020), and Karnataka (2019) fell because their leaders deliberately exploited mass resignations and manufactured defections to avoid disqualification rules. In these cases, we see how the law has, instead of avoiding political instability, enabled manipulative practices inside it. There has been a decline in the credibility of democratic procedures as governments have been replaced via shady agreements and defections rather than by popular vote.

It is reasonable to wonder how stringent India's anti-defection policy is in light of lessons learned from other democracies. Rather than relying on legal compulsion, political parties in nations like the US and UK maintain party discipline via public responsibility, intra-party bargaining, and political norms. Members of parliament nonetheless have more leeway to cast ballots in accordance with their

beliefs and the needs of their constituents, even in highly party-based legislative systems. From a global viewpoint, we can see that party unity is vital, but it shouldn't compromise representative autonomy. Experts on constitutional law and political reform groups have proposed several changes in response to these concerns. A proposal that has gained a lot of support is to tweak the Anti-Defection Law so it only applies to important votes like budget bills and confidence resolutions, while leaving other parts of the law more flexible. Maintaining government stability without overly restricting lawmakers' freedom might be achieved via this. Furthermore, in order to guarantee fairness and prompt resolution, there have been suggestions to move the authority to disqualify from the Speaker to either an impartial tribunal or the Election Commission.

Another important change is to make the party more democratic within. Legislators would be better able to represent their constituents' interests and the need for authoritarian discipline would decrease if party decision-making were more open and participative. A more deliberative democratic culture may be fostered by fostering free debate inside parties, which in turn improves the quality of policy talks. Last but not least, despite the fact that the Anti-Defection Law's original purpose was to maintain political stability and protect democratic institutions, the way it is being enforced has, ironically, undermined the representative nature of India's parliamentary democracy. Accountability, debate, and the public interest have been undermined by the law's enforcement of rigid party orthodoxy and limitation of individual legislative liberty. It is essential for a developed democracy to be able to strike a balance between representational liberty and dissent and the need for stable government. Therefore, the Anti-Defection Law must be reviewed and amended so that it conforms to the fundamental principles of constitutional government and democratic representation in India.

## **II. CHANGES AND AMENDMENTS OVER TIME**

The antireflection legislation in India has been the subject of heated debate and many suggested revisions over the last five years in an effort to strengthen it and make it more effective in combating reflections. The need for judgments on disqualification petitions to be made within a certain time frame is one significant change. In 2020, the highest court in India stressed that the speaker must make a decision on matters of defection within a certain amount of time, preferably three months. Several high-profile incidents involving delayed judgments leading to political instability prompted this advice. A separate organization, like the Election Commission of India, should replace the Speaker of the legislature as the arbiter of disputes, according to another major suggestion. Considering that Speakers are often associated with the governing party, this modification is meant to remove such prejudices and conflicts of interest. Despite the lack of implementation, this plan has garnered significant support from political analysts and legal professionals. Changes to the whip system, which is now in effect for all but the most important votes (such as money bills and confidence resolutions), have also been considered. The goal of this move is to create a more transparent and democratic legislative process by removing the fear of disqualification from politicians' speech on other legislative issues. Some have also proposed changes to make party mergers and splits more stringent. Some have said that the existing legislation is being abused since it makes exceptions for mergers in which two-thirds of the party members are involved. The goal of

the proposed adjustments is to discourage opportunistic defections by making sure that only real mergers are legitimate. A key component of recent improvements has also been the control of the judiciary. The significance of due process and natural justice has been emphasized by the Supreme Court's active scrutiny of cases challenging the Speaker's choices. For the anti-defection system to remain effective and free from political manipulation, this court intervention has been crucial.

### **Key Judicial Interpretations and Landmark Rulings**

- **Disqualification of 17 Karnataka MLAs (2019)14**

The then-Speaker of the Karnataka Legislative Assembly disqualified seventeen state legislators in 2019, according to a ruling by the Supreme Court. The state's coalition government collapsed when some members of parliament were disqualified for disobeying party whips and leaving their assembly seats, as a result of the anti-defection statute. After an appeal, the Supreme Court maintained the disqualification but gave the state legislators the chance to oppose the by-elections. The Speaker's disqualification decision may be reviewed by the courts, and the need of a deadline for decisions to prevent abuse of power and maintain political stability was reaffirmed by the court.

- **Manipur Legislative Assembly Case (2020)15**

The Speaker of the Manipur Legislative Assembly was ordered by the Supreme Court to rule on the disqualification petitions filed against seven MLAs within a certain deadline in 2020, another landmark verdict. The Court emphasized that in order to keep the legislative process honest, prompt adjudication is crucial. It is clear that the Court has a responsibility to ensure accountability and the prompt settlement of defection cases, as the Speaker took an extremely lengthy time to decide on the petitions.

- **Madhya Pradesh Legislative Assembly Case (2020)16**

The 2020 political unrest in Madhya Pradesh prompted yet another landmark court ruling. The resignation of 22 Congress MLAs jeopardized the stability of the state administration, prompting the Supreme Court to order a floor test in the Madhya Pradesh Legislative Assembly. By stepping in to guarantee a speedy floor test, the Court preserved democratic governance norms and avoided needless delays in settling political conflicts.

- **Rajasthan Legislative Assembly Case (2020)1717**

When Sachin Pilot and eighteen other Congress MLAs appealed the disqualification letters issued by the Speaker of the Rajasthan Legislative Assembly in 2020, the matter reached the level of a political crisis in the state, and the Supreme Court became involved. The Speaker's actions were delayed by the court, which gave the MLAs time to respond to the disqualification notifications. The importance of the courts monitoring legislative activities and ensuring that disqualification processes are carried out fairly and legally was further shown by this case.

- **Maharashtra Legislative Assembly Case (2022)18**

The Supreme Court considered a matter concerning the disqualification of sixteen Shiv Sena members of the Maharashtra Legislative Assembly in 2022. The Speaker removed the lawmakers from office for refusing to follow party protocol. This notion of judicial review of the Speaker's decision, especially in cases of claims of unfairness or prejudice, was upheld by the Court in its judgment. By stepping in, the Court preserved the integrity of the legislative process and prevented its manipulation for political benefit.

### **III. IMPACT ANALYSIS**

To combat the political instability that was brought about by numerous defections in India, a landmark endeavor was the implementation of the anti-defection statute via the 52nd Amendment in 1985. Over 400 cases of political defections occurred between 1950 and 1985, resulting in the collapse of administrations and the frequent imposition of President's Rule. This occurred at both the national and state levels before the legislation was enacted. The electorate's mandate was compromised and political stability was severely disrupted as a result of these defections, which were motivated by personal, ideological, and opportunistic motivations. There was a precipitous drop in desertions once the anti-defection statute was passed. According to the Institute of Social Sciences, the defection rate was 70% lower in the ten years after the legislation was put into effect compared to the time before it was passed. A decrease in the number of documented defections to around 120 incidents between 1985 and 1995 reflects the law's early success in reducing political instability. Yet, defections have been on the rise again in the last five years, demonstrating the persistence of difficulties in law enforcement. Karnataka (2019), Madhya Pradesh (2020), and Maharashtra (2022) were states that had high-profile political crises, highlighting the need of swift adjudication of defection cases and strict enforcement of the law. Strategic defections are still being used for political maneuvering, despite the law's deterrent impact. This calls for ongoing judicial scrutiny and possible changes to enhance the anti-defection framework.

#### **Case Studies**

- **Case 1:** Keisham Meghachandra Singh vs. The Hon'ble Speaker, Manipur Legislative Assembly (2020)19

**Judgment:** The problem of lengthy processing times for petitions seeking disqualification under the anti-defection law's Tenth Schedule was brought before the Supreme Court. The Court ruled that parliamentary assembly speakers must make a decision on these petitions in a "reasonable time" to prevent protracted uncertainty in government formation and guarantee stability. The difficulty of resolving disqualification petitions in a timely manner under the anti-defection statute is shown by this instance. Government efficiency and the avoidance of political instability are both hampered by delays. While the ruling does not create any brand-new rules of law, it does stress the need for a strict deadline for dealing with such matters.





- **Case Study 2:** Nabam Rebia & Others vs. Dy. Speaker, Arunachal Pradesh Legislative Assembly (2016)20 o. 56/2016

**Judgment:** Members of the Legislative Assembly (MLAs) who defied party leadership were disqualified in this instance. Even when parties break up, the antidefection statute remains in effect, as the Supreme Court emphasized when it affirmed the exclusion. This ruling upheld the authority of the Tenth Schedule to forestall government-destabilizing defections.

- **Case Study 3:** Harish Chandra vs. Kuldeep Singh Bishen & Others (2019)21

**Judgment:** The consolidation of two political factions was at the heart of this lawsuit. If certain requirements were satisfied, such as a merger with a majority of the rival party's legislative members, the Supreme Court determined that a party merger would not be disqualified under the anti-defection statute. The anti-defection law's perspective on mergers was clarified by this ruling.

#### **IV. RECOMMENDATIONS FOR REFORM**

##### **Strengthening the Role of an Independent Adjudicating Authority**

It is suggested that the Speaker of the legislative body relinquish the right to decide defection cases to an impartial entity, such the Election Commission of India, in order to allay fears of bias in the application of the anti-defection statute. This modification would guarantee fairness in decision-making by removing possible biases. To ensure fairness and the preservation of the legislative process, an impartial body would be more suited to handle such instances.

##### **Introducing a Time-Bound Decision-Making Process**

Political instability and a weak anti-defection statute are possible outcomes of a lengthy adjudication process for disqualification applications.

Setting a hard deadline for determining defection instances can help get things done quickly. Decisions should be made by the adjudicating body within 30 to 60 days from the date of filing. This would make sure that the legislative process doesn't get derailed by protracted periods of uncertainty and avoid unnecessary delays.

##### **Limiting the Scope of the Whip System**

Current anti-defection legislation restricts lawmakers' ability to express them and engage in discussion inside their parties by requiring them to vote in accordance with the party whip on all issues. Limiting the use of the whip to crucial votes like confidence resolutions and money measures would promote a more democratic process in the legislature. This amendment would remove the danger of disqualification, giving lawmakers more leeway to speak their minds and vote their consciences on other matters.

##### **Revising the Merger Provision**

Mergers between parliamentary parties are immune from the anti-defection statute so long as the merger has the support of two-thirds of the party's members. Politicians have manipulated defections

via the pretense of mergers in order to take advantage of this clause. It is suggested that the merger clause be amended to include more stringent standards and more explicit instructions to forestall abuse in order to resolve this issue. By doing so, we can preserve the spirit of the legislation and guarantee that only legitimate mergers are acknowledged.

### **Enhancing Judicial Oversight**

To guarantee that judgments made under the anti-defection statute are fair and constitutional, judicial review is essential. A more accessible and simplified court review procedure is suggested as a means to enhance this supervision. One possible solution is to create dedicated benches or fast-track courts that can swiftly and fairly determine matters involving defection. An extra safeguard against any abuses of power would be strengthened by increased court supervision, which would also increase accountability. Boosting Education and Knowledge.

It is essential to raise awareness and provide training for lawmakers, political parties, and adjudicating bodies in order to guarantee the anti-defection statute is effectively enforced. The rules of the law, their consequences, and the processes for deciding instances of defection might be the subject of frequent seminars, workshops, and training programs. To make sure everyone is knowledgeable and can follow the rules of the law, education and awareness campaigns need to be more robust.

## **V. CONCLUSION**

Even though it was well-intentioned, the Anti-Defection Law has affected India's democratic representation in many ways. Legislators in India now have less freedom and less of a say in policymaking, but at least the widespread resignations that afflicted the country's politics in the past are less. Legislators are relegated to the role of mindless drones, beholden only to party bosses, when local interests and individual discretion are often sacrificed in the sake of uniform party obedience. The abuse of legal loopholes for political benefit and the concentration of disqualification powers in the hands of partisan Speakers also undercut the same democratic principles that the legislation is meant to support. The Anti-Defection Law has to change if democratic representation is to be protected. Important reforms include promoting internal party democracy, transferring adjudicatory responsibilities to other agencies, and limiting its purview to crucial legislative choices. Without the continual fear of disqualification, lawmakers in a varied and dynamic democracy like India should be able to interact with and meet the specific demands of their constituents. If we want government to reflect the desires, wants, and voices of the people, as is the essence of representative democracy, then this must happen. The future of democracy in India depends on a sophisticated and revamped anti-defection framework.

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