



## **SOCIAL IMPACT OF DEFECTION ON VOTERS: A CRITICAL ANALYSIS**

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### **ABSTRACT:**

The issue of defection impacts the society both legally and morally. The contemporary scenario is very depressing regarding frequent switching of allegiance of candidates from one political party to another. It is equally worrying to state that this hardly concerns Indian voters due to the fact that a very large section of the electorate chooses the party and not the candidate during elections. The present law fails to address this issue and it is being used as a tool to protect defectors from disqualification in cases of large-scale defection. This paper is analyzing the implementation of Anti-Defection Laws in India and its possible misuse in the recent times. The Social Impact of Defection has also been addressed in this paper to analyze the issues from a voter's point of view. Moreover, this Paper will also analyze the recent judgment pronounced by the Supreme Court in the case of Shiv Sena's dispute and its associated implications on the fate of Indian political system with social lens of the Indian voters.

Keywords: Anti-Defection, Voters, Party, Constitution, Amendment etc.

### **INTRODUCTION :**

The Tenth Schedule, which is also referred to as the Anti-Defection law, was one of the provisions that was introduced to the Indian Constitution by the 52<sup>nd</sup> Constitutional Amendment Act of 1985. Individuals who defected from their party posed a threat to the basic foundation of the Indian government that was governed by the majority and the norms that were used to administer such government. On the basis of the criteria that are specified in the schedule, an individual who is leaving his distinct political party is excluded from the party. In addition, the legislation includes a few different exceptions to the rule of exclusion, such as when a party merges with another party. In the following article, an attempt is made to provide a concise analysis of the grounds that are mentioned in the Tenth Schedule. Moreover, it possesses a number of the positive and negative characteristics that are associated with the law. In the current study, an attempt is made to delve into the provisos that characterize the 52<sup>nd</sup> Amendment Act as being effective and failed to varying degrees. In addition, it examines a number of the necessary changes that need to be made to the law as well as the way forward.

The origin of the word "defection" may be traced back to the Latin word "defectio," which can be translated as "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."<sup>3</sup> As a result, the term "defection" refers to the act of abandoning one's obligation, principle, or allegiance to one's leader or cause. The phrase "leaving the party and joining another" describes it perfectly. The phenomenon of defecting from a political party is referred to by a variety of names in various regions of the world. Some of these names include "floor crossing," "carpet-crossing," "party hopping," "dispute," and "waka-jumping." It is therefore a term that is used to describe a change in the party affiliation or allegiance of a member of the legislature in the context of parliamentary political activity.

### **EVOLUTION:**

There has never been a time in modern Indian politics that has been free from the scourge of betrayal. During the time that the British were in power, Shyam Lal Nehru and Shri Hafeez Ibrahim both renounced their allegiance to the British as well as to the Congress. It has been stated that there have been around 542 instances of elected legislators switching their allegiance between the First and Fourth General Elections.<sup>4</sup> Following the passing of Jawahar Lal Nehru and the subsequent dismal performance of the Indian National Congress at the national level since 1967, it resulted in a significant number of people defecting from the party at both the national and state levels.

In March, 1968 under the initiative of Y.B. Chavan, the Home Minister, a High Committee of the political parties' delegates and the specialists was built up keeping in mind the end goal to settle the debate of regular political party member exchanging by making a few proposals. On 21st March,

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<sup>3</sup> G.C Malhotra, Anti-Defection law in India and the Commonwealth (Metropolitan Book Co. Pvt. Ltd, 1st edn., 2005).

<sup>4</sup> Sudarshan Aggarwal, "Anti-Defection law in India", LXVII No. 1 The Parliamentarian, 22 (January, 1986)

1968, while advising about the fuse of Chavan Committee to the Lok Sabha, Y.B. Chavan said defection as a national disease imperiling majority rule government of Indian Citizen. Despite the fact that the idea to build up such a council on defection involved gratefulness, however in domain a few philosophies embraced by this board of trustees for aversion of this bad habit of defection neglected to demonstrate its adequacy. In the wake of considering the greater part of the endeavors being vain, on sixteenth May, 1973, a Constitution Amendment Bill alluding a Joint Committee for both the Lower and Upper houses was presented by the Government of India in the Lok Sabha itself. However, the reality is that before beginning the arrangements of the Joint Committee, the Lok Sabha got disbanded and therefore the bill was elapsed. The dramatization headed towards a diverting state when another bill was presented on the ground of defection. In the wake of leading considerations, the movement for the Bill was saved by the decision and restriction parties and alternate individuals from the Lower House.

Nonetheless, the show achieved a peak after Rajiv Gandhi getting the situation of Prime Minister with a pounding dominant part vote in the general decision directed in the long stretch of December, 1984, where the Congress possessed 401 seats in the Lower House. Worried about this political issue, the Government imagined to present a Bill for changing over the nation into defection free and appropriately on seventeenth January, 1985 before both the Parliament Houses and President of India passed the 52nd Amendment to the Constitution including the said Anti-Defection Bill was passed. With the period of time, the defection became stronger due to which the demand of deleting the Schedule X was grown gradually and hence the 91st Amendment took place in 2003.

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## SOCIAL IMPACT:

The reason that a bad track record on honesty and frequent moving of candidates from one political party to another (defection) does not seem to bother Indian voters is simply due to the fact that a very substantial portion of the population chooses the party rather than the candidate when elections are being held. If the virtues and demerits of candidates had any influence on the voting considerations of Indian voters, then a significant number of candidates with questionable backgrounds and defectors would not have been able to make it to the Indian Parliament or the Assemblies of the various states.<sup>5</sup>

It is possible that there are valid reasons for an elected member of parliament or member of the Legislative Assembly to switch parties in certain circumstances. They are aware that people will not penalize them for their activities and will support them if they run for election on the ticket of any "popular" political party. This is the reason why many legislators and parliamentarians desert to other parties for the sole purpose of gaining personal benefits. The majority of them are also aware that the popularity of the party's leader and the party's ticket are the factors that contribute to the party's success in winning the election. The thing that they need to be concerned about is making sure that they are easily accessible to individuals and that they assist them in doing their work. In the event that some voters opt to vote for the candidate rather than the party during elections, the capacity to get things done continues to be the most valuable attribute for the candidate, regardless of the manner in which they do so.

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## LOOP HOLES:

As per Paragraph 4 of the Tenth Schedule, if the "original party" from which a member of House who is defecting can create a merger with another political party, the member won't be eligible for disqualification on the ground of defection. The merger of the original party will "be deemed to" have taken place if two-thirds of the legislature members of the original party have agreed to the merger, which means that if two-thirds of the representatives of a party defect, they won't be disqualified.

The problem here lies in the interpretation of the term "original party".

A similar situation arose earlier this year when the Goa bench of the Bombay High Court, in Girish Chodankar versus Speaker, Goa State Legislative Assembly & Ors., held that the merger of two-thirds of the members of the original party with another party will be deemed as a merger.

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## SUGGESTIONS:

There are potential amendments that can be considered by both houses of Parliament, with the intention of bringing about changes in the Anti-Defection Act's paragraphs ranging from two to six. These amendments are presented here.

First, members of the legislature and members of parliament who want to switch parties should be required to resign and should not be permitted to run for office in at least one election after the shift.

Secondly, the statute ought to outline a specific period of time during which the Speaker is required to render a decision regarding the defection. With the best of intentions, it should not be more than three to four months. (For your information, the Speaker of the House of Representatives in Goa did not reach a decision for more than two years. Now that new elections have been held, the defectors have been able to reap the benefits of cabinet seats and complete control in the interim.

The third recommendation is that there should be a temporary suspension of members or strict criminal prosecution for anyone who attempt to disrupt working governments with malicious intent.

Fourth, it is possible that the role of the Speaker might be subject to more examination, and the authority to decide the verdicts of defection should be completely transferred to the courts so that they can be decided within a predetermined amount of time. This will render the entire situation irrelevant to politics.<sup>6</sup>

<sup>5</sup> Sanjay Kumar, Why is defection a non-issue for voters? ; available at: <https://www.thehindu.com/opinion/op-ed/why-is-defection-a-non-issue-for-voters/article65595097.ece>

<sup>6</sup> Sivan Bhagar, Defections are a threat beyond election results today. Here are five ways we can fix it; available at <https://theprint.in/opinion/defections-are-a-threat-beyond-election-results-today-here-are-five-ways-we-can-fix-it/866546/>

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In the fifth place, the elimination of the Tenth Schedule entirely and the development of a new structure that discourages defection are both important. In spite of the fact that India is replete with brilliant legal geniuses who, when working together, could provide the government with a variety of recommendations, the act of defecting is ultimately more of a political concern than a legal one. Will the politicians who are collecting votes on an anti-corruption slogan join together and demonstrate the political will to put an end to the widespread misuse of this law, which fosters corrupt behaviour that is both unpleasant and dangerous in plain sight? Will our elected officials be able to offer our future generations a more favourable political system? I really hope that they do.