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## Mains Practice Questions

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**Q.** The noble purpose of the anti-defection law is to bring stability to governments. However, it is sometimes said to be against the true spirit of democracy. Discuss. (150 Words)

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### **Approach**

- Start with writing the main purpose of anti-defection.
- Discuss the issues emerging out of implementation of anti-defection law.
- Suggest a way forward to enhance the efficacy and credibility of the law.

### **Introduction**

The Tenth Schedule — popularly known as the Anti-Defection Act — was included in the Constitution via the 52<sup>nd</sup> Amendment Act, 1985 and sets the provisions for disqualification of elected members on the grounds of defection to another political party.

However, in some cases the political defections in Karnataka, Madhya Pradesh, Goa and Manipur which amounted to undermining of democratic values

### **Body**

#### **Issues With Anti-Defection Law**

- **Undermining Representative Democracy:** After enactment of the Anti-defection law, the MP or MLA has to follow the party's direction blindly.  
This leaves them with no freedom to vote their judgment on any issue and undermines representative democracy.
- **Undermining Legislatures:** The core role of an elected MLA or MP is to examine and decide on a policy, bills, and budgets.  
Instead, the MP becomes just another number to be tallied by the party on any vote that it supports or opposes.
- **Undermining Parliamentary Democracy:** In the parliamentary form, the government is accountable daily through questions and motions and can be removed any time it loses the support of the majority of members of the Lok Sabha.  
Due to Anti-Defection law, this chain of accountability has been broken by making legislators accountable primarily to the political party.
- **No Recognition of Split:** Due to the 91st constitutional amendment 2004, the anti-defection law created an exception for anti-defection ruling.
  - According to this, if two-thirds of the strength of a party should agree for a 'merger' then it will not be counted as a defection.
  - However, the amendment does not recognise a 'split' in a legislature party and instead recognises a 'merger'.

### **Way forward**

- **Strengthening Intra-Party Democracy:** If government stability is an issue due to people defecting from their parties, the answer is for parties to strengthen their internal part of democracy.
- **Regulating Political Parties:** There is an ardent need for legislation that governs political parties in India. Such a law should bring political parties under RTI, strengthen intra-party democracy, etc.
- **Relieving Chairman/Speaker From Adjudicating Powers:** Chairman/Speaker of the house, being the final authority in terms of defection, affects the doctrine of separation of powers.  
     In this context, transferring this power to higher judiciary or to Election Commission (recommended by 2nd ARC report) may curb the menace of defection.
- **Restricting the Scope of Anti-defection Law:** In order to shield the detrimental effect of the anti-defection law on representative democracy, the scope of the law can be restricted to only those laws, where the defeat of government can lead to loss of confidence.

## **Conclusion**

Menace of Defection in India is among many issues that affect the process of a free and fair election in India, such as the legally-sanctioned influence of big money in politics, Criminalisation of politics.

Thus, there is a need to carry out holistic electoral reforms to strengthen Indian democracy.