



Anti-Defection Law

For Prelims: [Tenth Schedule](#), [Judicial review](#), [Supreme Court](#), [Speaker](#), [Members of Legislative Assembly](#),

For Mains: Anti-Defection Law, Statutory, regulatory, and various quasi-judicial bodies, Separation of powers between various organs, Amendments.

[Source:IE](#)

Why in News?

The [Supreme Court \(SC\) of India](#), in the case of *Padi Kaushik Reddy v. The State of Telangana (2025)*, criticized the [Telangana Assembly Speaker](#) for the delayed decisions on disqualification petitions against [Members of Legislative Assembly \(MLAs\)](#) who defected in 2024.

- The SC set a **three-month deadline** for the **Speaker to conclude the proceedings**, reigniting a larger debate on the effectiveness of [India's anti-defection law](#).

Note: Defection means a conscious abandonment of party allegiance or duty.

What is the Anti-Defection Law?

- **About:** In post-Independence India, frequent defections led to political instability. The phrase **"Aaya Ram, Gaya Ram"** became popular in the 1960s after a Haryana MLA switched parties **multiple times in a single day**.
 - To address this issue, the **Anti-Defection Law** was introduced as the [Tenth Schedule to the Constitution](#) through the **52nd Constitutional Amendment, 1985**.
 - It aimed to stop political defections for personal gain. It applies to both Parliament and State Assemblies.
 - The **91st Amendment Act (2003)** amended the anti-defection law by **scrapping the one-third split provision, allowing mergers only if two-thirds of a party's members agreed**, and disqualifying defectors from holding ministerial or paid political posts until they are re-elected.
- **Grounds for Disqualification: Voluntarily give up party membership** (can be inferred from conduct, not just resignation).
 - Voting or abstaining from voting against the [party whip](#) can lead to disqualification.
 - A legislator can further be disqualified if he is an independently elected member and joins a political party.
 - A nominated member is disqualified if they join a political party after six months of becoming a legislator.
- **Exceptions to Disqualification:** A party can merge with another if two-thirds of its legislators

agree, with no disqualification for those who merge or stay.

- **No disqualification for Speaker/Chairman/Deputy Chairman** resigning from the party to remain neutral.

▪ **Role of the Presiding Officer:** Disqualification cases are decided by the Speaker/Chairman.

ANTI-DEFECTION LAW

ADL was enacted to prevent individual MPs/MLAs from leaving one party for another



CAUSE

- After the 1967 general elections, party-hopping MLAs led to the downfall of several state governments

CONSTITUTIONAL PROVISIONS

- Anti-Defection law under **10th Schedule**; inserted via **52nd Amendment** (1985)

GROUND FOR DEFLECTION

- Voluntary membership resignation
- Disobedience of directions of the political party
- Change of party after the election
- A nominated member joins the political party after the expiry of 6 months

EXCEPTIONS

- Presiding officer of LS/RS
- A member who leaves party due to a merger (agreed by 2/3rd members)

91st Amendment (2003) made it 2/3rd of the members to defect to declare a merger (earlier it was 1/3rd)

DECISION MAKING AUTHORITY

- Referred to the Speaker/Chairman of House
- **Kihoto Hollohan vs. Zachillu and Ors (1992)** - SC said that such decisions are left to the discretion of presiding officer of LS/RS but subjected to judicial review

ADVANTAGES

- Greater stability by restricting the shift of party relations
- Ensures loyalty of the candidates to the party
- Facilitates democratic realignment of parties by merger
- Helps reducing corruption at political level

ISSUES

- **Irrational distinction** between individual v/s group defection
- **No provision for expulsion** of MPs/MLAs for their activities outside legislature
- **Ambiguous timeframe** for decision-making by presiding officer of LS/RS
- 91st Amendment **doesn't recognise** a 'split' in the party but only a 'merger'

SUGGESTIONS

- SC suggested setting up an **independent tribunal** to decide defection cases
- **2nd ARC Report** recommended transferring decision making power to higher judiciary or EC
- Former VP Hamid Ansari suggested **scope of ADL to be restricted** to conditions that may lead to loss of confidence in govt



Drishti IAS

What are the Criticisms of the Anti-Defection Law?

- **Curb on Dissent:** It restricts legislators from voting based on their conscience or representing their constituents if it goes against the party line.
 - Party leaders can suppress internal debate by threatening disqualification, discouraging free expression within parties.
- **Speaker's Bias:** The Speaker, often from the ruling party, decides disqualification cases, raising concerns about **neutrality and delays**.
- **No Fixed Time Limit:** There's **no legally binding time frame** for the Speaker to decide on disqualification cases, allowing for strategic delays.
- **Horse Trading:** Defection is allowed if **two-thirds of a party's members agree to switch**

sides. This enables opportunistic and **unethical mergers or splits, encourages horse trading** and weakens political stability.

- **Lack of Transparency in Party Whips:** Party whips are issued to ensure party discipline, but their communication is **often opaque, leading to disputes over whether members were properly informed**, especially in crucial votes.

What has been the Supreme Court's Stance on Anti-Defection Case?

- **Timely Decision:** In *Keisham Meghachandra Singh vs The Hon'ble Speaker Manipur Legislative Assembly & Ors (2020)*, the SC directed Speakers to decide defection cases within 3 months and suggested an **independent tribunal** to ensure neutrality and speed.
 - The SC noted that delaying disqualification proceedings violates the intent of Tenth Schedule and undermines trust in the **Speaker's office by failing to uphold the standard of timely decision-making.**
- **Speaker's Neutral Role:** The SC in *Ravi S. Naik v. Union of India (1994)* held that the Speaker should act as a neutral adjudicator, not influenced by political affiliations.
 - This judgment also clarified that an MP/MLA **can be disqualified even without formally resigning from their party.**
- **Judicial Review:** In *Kihoto Hollohan vs Zachillhu (1992)*, the SC ruled that the Speaker's decisions are subject to **judicial review**.
 - This means Courts can intervene in the Speaker's decision if there's **mala fide intent, procedural lapse, or constitutional violation**, ensuring fairness and transparency.
- **Call for Reforms:** The SC in *Padi Kaushik Reddy v The State of Telangana (2025)* urged Parliament to review the Speaker's role in defection cases and called for reforms to ensure the **anti-defection law is timely and fair.**

How Can India Strengthen its Anti-Defection Law?

- **Limit the Law's Scope:** Apply disqualification only to votes that affect government stability, like **no-confidence motions or budget votes**, to protect independent thinking.
- **Shift Decision-Making Power:** Transfer the authority to decide disqualification cases from the Speaker to an **independent body** (like the **Election Commission**), to reduce political bias.
 - The **2nd Administrative Reforms Commission (ARC)** recommended that defection cases be decided by the President or Governor on Election Commission's advice.
- **Set a Clear Time Limit:** Introduce a strict deadline for deciding defection cases to prevent delays and misuse.
- **Promote Intra-Party Democracy:** Encourage internal party debates and reduce top-down decision-making, as recommended by the **170th Law Commission Report**.
- **Stronger Enforcement and Transparency:** As recommended by committees like the **Dinesh Goswami Committee (1990)**, **Hashim Abdul Halim Committee (1994)**, and the **Law Commission Reports (1999 & 2015)**, defection proceedings should be made **time-bound, transparent, and open to public scrutiny** to build trust, ensure accountability, and prevent misuse of the Anti-Defection Law.
- **Transparency in Issuing Whips:** Mandate public notice of party whips through newspapers or electronic communication.
 - This ensures all members are adequately informed and disputes over party directives can be more easily resolved.

Drishti Mains Question:

Critically evaluate the effectiveness of the Anti-Defection Law in curbing political opportunism.

Prelims:

Q. Which one of the following Schedules of the Constitution of India contains provisions regarding anti-defection? (2014)

- (a) Second Schedule
- (b) Fifth Schedule
- (c) Eighth Schedule
- (d) Tenth Schedule

Ans: (d)

Mains:

The role of individual MPs (Members of Parliament) has diminished over the years and as a result healthy constructive debates on policy issues are not usually witnessed. How far can this be attributed to the anti-defection law which was legislated but with a different intention? **(2013)**

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