



EVALUATING THE SUCCESS OF THE ANTI-DEFECTION LAW AND ANALYZE THE LAW'S IMPACT ON CURBING DEFECTIONS AND PROMOTING STABILITY IN GOVERNMENTS

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ABSTRACT

The Anti-Defection Law was enacted in 1985 as part of the 52nd Amendment to the Constitution of India. Its purpose was to counteract the growing danger of political defections, which posed a challenge to the legitimacy and long-term viability of democratic governance. In 2003, the 91st Amendment came into effect, considerably tightening this regulation. The unethical practice of legislators switching parties for the purpose of gaining financial or political advantage sometimes resulted in the overthrow of lawfully elected governments; the purpose of this regulation was to prevent that from happening. Since its inception, the Anti-Defection Law has played a significant role in ensuring that party discipline is strictly adhered to and that defectors are disqualified. As a result, the number of individual defections has decreased, and political stability has been restored. A number of people have expressed doubts about its effectiveness, citing a number of concerns as reasons. These issues include the discretionary powers of the Speaker, the amount of time it takes to make disqualifying decisions, and a loophole that allows organisations to defect while appearing to unite. An evaluation of the efficiency of the Anti-Defection Law is presented in this article, which takes into consideration historical events, legislative tendencies, and recent political developments. Additional consideration is given to the consequences that the legislation has had on the unity of the party, the autonomy of the representatives, and democratic representation. Even while the law has brought about some degree of stability, it is abundantly evident that more amendments are required to guarantee that it will be effectively implemented and that democratic standards will be preserved, given the limitations of the legislation.

Keywords: - Anti-Defection Law, 52nd Amendment, political stability, defections, democratic governance, party discipline.

INTRODUCTION

The primary objective of India's Anti-Defection Law was to discourage the unethical practice of political defections and to ensure that elected governments continue to uphold their integrity. In 1985, the Constitution was amended to include this clause, which was referred to as the 52nd Amendment. The Tenth Schedule, which defined the grounds why legislators can be disqualified for defection to another party, was included in this document. It was the practice of elected officials to swiftly and skilfully change their political affiliations that led to the enactment of the laws that were described above, which resulted in the collapse of a number of state and federal governments in the decades that followed the country's nation's independence. The phrase "Aaya Ram, Gaya Ram," which first appeared in the 1960s, eventually came to be seen as a symbol of this growing danger.

In accordance with the Anti-Defection Law, a politician may be dismissed from office if they voluntarily quit their political party or if they fail to obey party directives while voting in the House of Representatives. The 91st Constitutional Amendment Act of 2003 further tightened the legislation by deleting provisions that enabled mass defections by one-third of members and restricting the number of members that may serve on the Council of Ministers. This was done in order to prevent political manipulation.

Despite the fact that the Act was created with the best of intentions, it has been condemned for having deficiencies and loopholes. When it comes to judgements on disqualification petitions, the Speaker is often seen to have a significant amount of political prejudice. This is particularly true in reference to the position that they hold. Because of the long decision-making procedures and the purposeful resignations of MPs in order to escape disqualification, the efficiency of the legislation has been called into doubt by several individuals. In addition, there are allegations that it has reduced elected officials to the status of simple party operators and repressed genuine opposition, despite the fact that it has been effective in preventing individual candidates from defecting to the opposition to a certain extent.

This article will examine the benefits and drawbacks of the Anti-Defection Law in order to assess whether or not it was successful in preventing political defections and strengthening the stability of the government. In addition, the law examines the issues that are associated with the current framework and determines whether or not it is necessary to make any modifications to it. This is done in order to guarantee that the legislation promotes both democratic accountability and representative autonomy.

OBJECTIVE

1. To assess how well India's Anti-Defection Law works to prevent political defections and preserve the stability of its administrations.
2. To examine the restrictions and difficulties in putting the legislation into practice, particularly the Speaker's position and legal gaps.

ANTI-DEFECTION LAW IN INDIA

There have been instances of desertions in the past, when the British were still present in India. It was Shri Shyam Lai Nehru, a former member of the Congress party, who shifted his allegiance and joined forces with the British. As a member of the Central Legislature, he served. When Shri Hafiz Mohammed Ibrahim, who had previously been elected on the Muslim League ticket, changed parties and joined the Congress in 1937, a similar situation happened in Uttar Pradesh. Mohammed Ibrahim had been elected on the Muslim League ticket. According to the Chavan Committee Report (1969), parliamentarians in India often shifted political parties as a result of the significant developments that took place over the period of a year, beginning in March 1967 and ending in February 1968. As an additional point of interest, throughout the first and fourth general elections, there were an average of 438 defections that occurred each year. Because of this, there was a change in the political environment in India, which culminated in the passing of anti-defection law. This legislation was designed to prevent party insiders from coming out with critical information. This marked the beginning of the formulation of the Anti-Defection Law. There was a need for reform in the political atmosphere in India, which included the introduction of regulations for defections, in order to prevent party insiders from leaking information to their opponents. Due to the fact that this occurred, the Anti-Defection Law was enacted.

Evolution of Anti-Defection Law

The Anti-Defection Law was enacted as a result of the 52nd Amendment to the Constitution of India, which was put into effect in the year 1985. Its purpose was to avoid political instability and a lack of responsibility, with the intention of combating the growing habit of elected officials switching political parties in order to further their own personal aims. It was decided to implement the legislation in order to guarantee that the government would stay stable. The regulation made it illegal for elected officials to switch parties while they were serving in office. When legislators transfer political parties, they are in breach of the Anti-Defection Law, which prohibits them from doing so. When Gay Lal, a politician from Haryana, concurrently swore his devotion to three separate political groupings in 1967, this brought this information to the attention of the general public. Many people became familiar with the phrase "Aaya Ram Gaya Ram" as a result of the frequent concessions made by one political party to another. The concerns of lawmaker defections and

frequent floor crossings were brought up in a resolution that was voted on December 8, 1967. The resolution suggested that the administration should immediately address these issues. Consequently, in response to the situation, a high-level committee was established with the unanimous consent of members from political parties and constitutional experts.

Over the course of its existence, the Anti-Defection Law has undergone a number of revisions, each of which has been intended to strengthen and clarify its provisions. One of the provisions of the proposed 91st Amendment from 2003 is that members might be removed from their positions if they voluntarily resign from the party on which they were elected. Additionally, this amendment made it very apparent that a political party's internal strife would not be regarded a merger or split when it comes to the law. Following its six-figure makeover following Parliament's ratification of the 52nd Amendment to the Constitution in 2018, the Anti-Defection Law was upheld by the Indian Supreme Court in 2006 in the case of *Kihoto Hollohan vs. Zachillhu*, which determined that the law did not violate the right to free speech and expression of lawmakers. As a result of the amendment, the Speaker of the House now has a period of six months, as opposed to three months, to make a decision on a petition for disqualification. The document went on to state that the Speaker of the House should not be the only person to consider on disqualification petitions; rather, an impartial committee should be established to do so. Efforts were made throughout the process of developing the Anti-Defection Law in order to protect the rights of elected officials while also ensuring that the government continues to be stable and accountable.

CONSTITUTIONAL VALIDITY

A great number of challenges have been lodged against the Anti-Defection law on the grounds that it is said to be in violation of the constitution. However, the Supreme Court has, in a number of rulings that have been considered landmarks, maintained the legitimacy of the Act. The fact that the measure inhibits the freedom of elected officials to freely express themselves is the primary reason for the opposition to the bill. In spite of this, the Supreme Court came to the conclusion that the Act does not infringe upon this fundamental right since it only prevents parliamentarians from going against the party whip on matters of critical importance. It is not against the law for representatives to voice their opinions and critique the policies of those they represent. It has been contended by some that the clause violates the federal character of the Constitution since it grants the Centre the right to remove elected members of parliament from their positions. The Supreme Court, however, came to the conclusion that the Act does not contradict the federal structure of the Constitution since it primarily concerns the disqualification of elected officials for defecting and does not have any influence on the jurisdiction of state legislatures.

Amendments to the Anti-Defection Law:

Since the Anti-Defection Act was first introduced, it has undergone a number of revisions in order to solve a variety of issues and shortcomings that were included in the initial framework of the law. Every single modification to the statute includes the following particulars:

It was in 1985 that the 52nd Amendment Act was passed: This anti-defection statute in India was enacted by the 52nd Amendment Act, which was the mechanism through which it was passed. Within the legislation that altered the Constitution, the Tenth Schedule was inserted. This schedule outlines the procedures that must be followed in order to disqualify elected individuals for defection.

The 61st Amendment Act, 1988:

In accordance with the 61st Amendment Act, which altered the Tenth Schedule, political parties are now permitted to affiliate with one another without risking being disqualified. The purpose of this amendment was to prevent political parties from using the law to remove elected individuals from office on the grounds that they want to join another party.

The 65th Amendment Act, 1991:

In accordance with the adjustments made to the tenth schedule of the 65th Amendment Act, it is possible for political parties to disband without being disqualified from the election. The amendment in question was presented with the intention of preventing political parties from abusing their authority in order to remove elected officials who choose to leave their party from their positions.

The 91st Amendment Act, 2003:

Article 191 of the Constitution was changed by the 91st Amendment Act, which made it very apparent that elected officials might be removed from office for violating party rules or for quitting their party. Making it more difficult for elected officials to defect from their party and be disqualified under the Anti-Defection legislation is the purpose of this change, which aims to make it more difficult for them to do so.

EXCEPTIONS TO THE ANTI-DEFECTION LAW:**Independent Members:**

According to the Anti-Defection legislation, legislators are excluded from its provisions because of their independence from political parties. They are not compelled to adhere to the rules of their party, and they are free to cast votes in the chamber according to whatever they believe to be appropriate.

Pre-poll Alliances:

A politician who is currently serving in their position will not be protected by the Anti-Defection legislation if they transfer parties in order to join a pre-poll alliance. Over the course of the alliance's continued existence, these members will not be barred from participation.

Merger of Political Parties:

Because of the Anti-Defection Law, political parties may now come together without fear of being disqualified from their positions. Even if the majority of their constituency switch to the newly formed party, the elected representatives of the old parties will still be allowed to serve as party representatives in the event of a political party merger. This allows them to continue to represent their voters.

Split in Political Parties:

An interruption in one's membership in a political party does not constitute grounds for disqualification in accordance with the Anti-Defection Code. It is not possible for elected members of parliament to be disqualified from their positions if they join any of the groupings that constitute a political party split. On the other hand, this exemption will only be applicable in the event that at least one-third of the original party creates a new group.

Conscience Vote:

When it comes to topics of national importance, the Anti-Defection legislation allows for the possibility of a conscience vote being used to make decisions. There are situations in which elected members have the ability to vote against the party whip. These scenarios include situations in which the election of the president or vice president or a vote of no confidence in the government is at issue.

FACTORS INFLUENCING THE APPLICATION OF ANTI-DEFECTION LAW

According to the anti-defection rule that was enacted by the 52nd Amendment Act of 1985 to the constitution of India, elected officials in India are not permitted to consciously switch political parties or affiliations. This regulation was enacted in order to prevent political defection. Legal frameworks have two overriding goals: the first is to preserve faith in the democratic process, and the second is to maintain trust in the government.

It is an essential clause that governs the process by which members of parliament or state legislatures may resign from their political positions. The concerns that have an effect on the execution of India's anti-defection legislation are going to be discussed in the following paragraphs.

Political factors

Hung Assembly: In the event that the assembly is hung, which means that no party has a clear majority, it is possible that the anti-defection Act will be construed somewhat differently. Within the context of such a situation, political parties would pursue MPs from the other party in order to construct a government with a majority. As a result of the fact that political instability, horse-trading, and defection are all potential consequences, the anti-defection Act is designed to prevent these events from occurring.

Political ambitions: There is a possibility that the personal political goals of individual lawmakers will have an effect on the execution of anti-defection legislation. It is very rare for members of Congress to become members of a different political party in order to pursue personal aspirations or to rise within their present party. Such a high party turnover rate has the potential to pose a significant threat to the effectiveness of democracy as well as the stability of the government.

Legal factors

Supreme Court's interpretation: It is possible that the applicability of the Anti-Defection Act would be contingent on the interpretation of the statute by the Supreme Court of India. The Anti-Defection Act has been defined by a number of key court judgements that have established interpretations of the legislation. These rulings have contributed new meanings to the statute. According to the judgement that was handed down by the Supreme Court in the case of *Kihoto Hollohan v. Zachillhu*, the decision that the presiding officer of the legislature makes regarding defection may be contested in court.

Presiding officer's decision: It is possible that the decision about defection made by the presiding officer of the legislature will also have an effect on the application of the Anti-defection Law. The interpretation of the legislation by the court has a considerable influence on how it is applied, and it is very uncommon for the presiding officer's decision to be challenged.

Social factors

Public opinion: A possible influence on the application of anti-defection law is the mood of the public. Taking into consideration that the public perceives the departure of the members of parliament as being motivated

by self-interest rather than the benefit of the public, they face the danger of public outrage and harsh repercussions.

Party discipline: In addition, the manner in which the Anti-defection legislation is applied could be influenced by party discipline. There is a possibility that politicians will be able to prevent their colleagues from defecting if they enforce party discipline. There is a possibility that political instability may emerge as a result of more frequent party changes among members of parliament (MPs) if political parties fail to preserve party discipline. There are a variety of social, political, and legal elements that have a role in the execution of anti-defection regulations in India. There is a possibility that the administration of a law may be significantly influenced by a number of factors, including the interpretation of the legislation by the Supreme Court, the presiding officer of the legislature, public opinion, and party discipline. The Anti-defection Act is a significant boon to the integrity of the democratic process and the stability of the administration governing the country.

Impact of Anti-Defection Law on the Functioning of Parliamentary Democracy in India

On the basis of the Anti-Defection Law that was passed in 1985, Legislative Assemblies (MLAs) and Members of Parliament (MPs) are not permitted to defect from their respective parties. It is against the law for elected officials to demonstrate support for a vote of no confidence in the government or to switch parties without first receiving approval from their party. The regulation was enacted because legislators are increasingly breaking the trust of their voters by switching parties in order to further their personal agendas, which led to the rule being placed into effect. As a result of the Anti-Defection Law, the operation of India's legislative system has been drastically disrupted. As a consequence of the rule, the stability of the government has been preserved, and another advantage is that elected officials are less likely to switch parties, which in turn lessens the likelihood of governments falling through. Despite this, the law has resulted in a reduction in the importance of members of parliament and members of the legislature as independent voices because of their duty to tow the party line. The Anti-Defection Law is included in the Tenth Schedule of the Constitution of India [Indian Constitution]. In accordance with the legislation, a politician loses their eligibility to serve if they consciously and deliberately repudiate their loyalty to their party or if they fail to follow the party whip in a vote of confidence or no confidence. Whenever a person who is a member of one political party chooses to join another political party, they will be instantly disqualified from competing for office in the House of Representatives. In addition, the statute stipulates that the officer in charge of the house must provide a member the opportunity to present their case before making a decision about whether or not to remove them from their position.

There have been several challenges brought before the Supreme Court of India against the Anti-Defection Law. An incident that stands out among the others is the Kihoto Hollohan case that occurred in 1992. The Supreme Court of the United States ruled in this particular case that the Anti-Defection Law may be sustained by judicial review of the decision of the presiding officer to disqualify an individual. Furthermore, the court underlined the need of giving members with an opportunity to be heard prior to reaching a decision to remove them from participation in the event. In the case of G. Vishwanathan, which was heard in 1996, the Supreme Court decided that the Anti-Defection Law was only applicable to members of the political parties that were relevant to the issue at hand and were not applicable to independents. The court decided that abstentions did not fall within the purview of the Act since they did not constitute a vote against the party whip. It is possible that India's parliamentary democracy is not as successful as it might be because to the Anti-Defection Law. In spite of the fact that it has helped to maintain the administration's stability, it has diminished the relevance of members of parliament and state legislatures as independent voices. In response to a number of challenges, the Supreme Court decided that the Act was constitutional and offered directions for how it should be carried out. When everything is taken into consideration, the Anti-Defection Law continues to be an essential instrument for preventing politicians from betraying their constituents by switching parties against their will.

CONCLUSION

Due to the fact that political defections in India generated instability and a lack of responsibility on the part of the government, the anti-defection legislation of the nation was first put into effect in the year 1985. A significant number of amendments have been made to the Act during the course of its existence in order to improve it and make its contents more understandable. The validity of the Act has been upheld by the Supreme Court in a number of historic decisions, despite the fact that there have been allegations that it infringes a great number of fundamental rights. A restriction on elected officials distancing themselves from their party or failing to follow to party whip procedures was one of the numerous changes to the law that was brought about by the 91st Amendment in 2003. This amendment was one of the many changes that were brought about by the amendment. Independent members of the legislature who do not affiliate with a political party are free from the legislation. In addition to safeguarding the rights of elected politicians, the Anti-Defection Law seeks to ensure that the government remains stable and accountable to its constituents.

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