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**THE ANTI-DEFECTION LAW IN INDIA: EVOLUTION, EFFICIENCY,  
AND REFORM IN A GLOBAL CONTEXT**

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**ABSTRACT**

The Anti-Defection Law, enacted through the 52<sup>nd</sup> Amendment Act of 1985, was brought in to curb political instability caused by opportunistic party hopping. Enshrined in the 10th Schedule of the Indian Constitution, the Act provides the grounds for disqualifying members for going against party orders, voting against party orders, or resorting to unethical political strategies. Despite this law being a major instrument of ensuring political stability, it has been criticized for muzzling the freedom of speech of members and entrusting too much discretion to the Speaker/Chairman, which tends to lead to one-sided decisions and inordinate delays on disqualification.

Judicial interventions have made some of the law clearer, but problems persist, including loopholes that allow mass defection in the form of mergers and the suppression of authentic political party dissent. An examination of international parliamentary practice identifies alternative methods of maintaining party discipline while not undermining legislative autonomy. Such research takes into account possible reforms, including the establishment of a time-bound decision-making process, the delegation of adjudicative functions to an independent panel, and the redefinition of defection to balance stability with democratic principles.

This study critically assesses the effectiveness, challenges, and future of the Anti-Defamation Law, pointing to the need for systemic changes to ensure governmental stability in conjunction with legislative autonomy within India's parliamentary democratic system.

**Keywords:** Anti-Defection Law, Judicial interventions, political stability, legislative autonomy.

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## INTRODUCTION

Elections to the parliament and state legislatures in India have traditionally been party-based, and the multi-party system influences the voters both conceptually and practically depending on their philosophy and policies stated in election manifestos. But since the mid-1960's India's experience with democracy, many of the representatives of the people in the parliament and in the State legislatures, especially, have defected to opposing parties, leading to quite unsavory political evolution. Such shameless defection is nothing but betrayal of the voters and destruction of the principles of democracy. This marvel, rather than any shared ideology or sincere political opposition, was apparently motivated by a thirst for power, status, and money.

The persistent problems of defection even after the implementation of detailed measures in the Tenth Schedule of the Constitution, as well as the numerous contradictory views from various High Courts and even the Supreme Court, now have new manifestations in terms of some of the elected representatives of the dominating political party resigning from the party and subsequently joining the Second largest political party and contesting the by election under its banner. This has led to the reduction of the required minimum number of members in the House which now enables the Second largest political party to establish a government in the same way as in Goa, Manipur, Karnataka and Madhya Pradesh. The recent matters in the State of Rajasthan have made more difficult the entire framework of law on defection with regard to the jurisdiction of the High Court to intervene, particularly, when the case is pending before the presiding officer of the House and more significantly, 'the voice of dissent' which is one of the most cardinal principles of democracy is silenced with a threat of a show cause notice seeking disqualification in 2(1) Part of Schedule 10 of the Constitution.

## ANTI DEFECTION LAWS IN INDIA

The British would at least hint there was already partial displacement happening in India. There was Mr. Shyam Lal Nehru who used to be a member for the Congress party in the Central Legislature but at one time sided with the British. In a similar fashion, Mr. Hafiz Mohd Ibrahim was a Member of the Legislative Assembly of the United Province with a stature in the Muslim League and later on shifted to the Congress party. The Chavan Committee Report claimed that between the duration of March 1967 and February 1968, Indian politics was so disturbed that with every other day there was a fresh allegiance of the

party by its members. Between the First and Fourth General elections, there were an estimated 438 members of the parliament shifting from one party to another in the course of one single year. All this was proof enough for the Indian economy to take drastic steps in the equilibrium structure of politics followed by introducing the anti-defection bill and therefore, politically speaking, action had to be taken so that it could prevent party members from disclosing sensitive information of one party to another. The law on anti-defection hence along started to evolve.

### **EVOLUTION OF ANTI DEFECTION LAWS**

The Anti-Defection Law's first draft was undertaken in India Back in 1985 as an amendment to the Constitution, 52<sup>nd</sup> in order. Its purpose was to counterbalance the gross practice of political hopping by elected representatives. It was meant to ensure as well as safeguard political responsibility as well as safeguard against the political instability which would likely take place due to leaders switching over to different political parties for their own agendas. The rule forbade elected representatives from changing their party affiliations to aid in maintaining order within the political system. Legislators breaching the Anti-Defection Law cannot simply change their party affiliation. This became more evident during 1967 when a politician in Haryana known as Gay Lal defected to three other opposing parties on a single day.

Because of the constant defection of party members, the term "Aaya Ram Gaya Ram"<sup>2</sup> came to life. To discuss this issue, a bipartisan committee along with experts in the constitution was authoritatively formulated following the phrase enacted on 8 December 1967 that the governing body was bound to deal with the freeing escaping from the loyalty of the members of the House together with the constant crossing of the floor without the delay of politics.

Over the years, the Anti-Defection Law has strived to make its provisions clearer by strengthening its provisions. In 2003, the 91st Amendment came with a provision that allowed members to become disqualified severing the connection with the party whose ticket they contested. It was made clear that splits within a political party will not be treated as mergers or divisions because of this particular amendment. In the case of Kihoto Hollohan vs.

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<sup>2</sup>A *Critical Analysis of Anti-Defection Laws in India*, (Feb. 19, 2024), <https://www.alliance.edu.in/ijls/ijls/2023/assets/documents/a-critical-analysis-of-anti-defection-laws-in-india.pdf>.

Zachillhu of 2006,<sup>3</sup>The Supreme Court of India confirmed the validity of the Anti-Defection Law stating that it does not violate the rights of the legislators regarding freedom of speech and expression. Once Parliament approved modification of the 52nd Amendment to the Constitution in 2018, there were also changes made to the Anti-Defection Law. These amendments lengthened the duration within which the Speaker of the House was expected to act on a disqualification plea from three to six months. Moreover, it recommended the formation of a disinterested committee to deal with such requests instead of putting such power solely to the Speaker of the House.

Measures have been put in place throughout the formulation of the Anti-Defection Law to guarantee the government's permanence and answerability all the while seeing to it that the law respects the prerogatives of members of parliament.

### **ARE THERE ANY EXCEPTIONS?**

In some cases, lawmakers may change their parties without the risk of being disqualified. A given law permits a party to merge with another party, provided that at least two thirds of its lawmakers approve of the merger. In this case, both the merging and unmerging members will not be subject to disqualification.

Different expert committees have suggested that rather than the Presiding Officer, in the case of MPs, a member should be disqualified only at the direction of the President, or in the case of MLAs, at the direction of the Governor. This is likewise the manner in which disqualification for an office of profit is undertaken.

### **DISQUALIFICATION<sup>4</sup>**

Disqualification on the ground of defection, however, shall not apply in the following circumstances. Split in Political Party: When a group is formed consisting of not less than one third of the total membership of a political party in the House, any justified Parliament or State Legislature against that party shall obviously be a result of splitting. The stated provision became a boon to a party in power for mass defections in the case of smaller political parties and was ultimately repealed by the Constitution (Ninety-first Amendment) Act, 2003. Rameshwar Prasad v. Union of India saw further elaboration by the Supreme

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<sup>3</sup>A *Critical Analysis of Anti-Defection Laws in India*, (Feb. 19, 2024), <https://www.alliance.edu.in/ijls/ijls/2023/assets/documents/a-critical-analysis-of-anti-defection-laws-in-india.pdf>.

<sup>4</sup><https://prsindia.org/theprsblog/the-anti-defection-law-explained>

Court: Such act allowed the exodus without being labeled as defection until one-third members had gone; hence, by 91, the act was coerced away from by mere putting a halt that directed this defection into prohibition.

Merger of Political Parties: If the original political party merges with another political party, provided that not less than  $\frac{2}{3}$  of the members of the legislative political party concerned have agreed to such mergers. The provisions concerning mergers hereby recognize the legitimate scope of change in political ideologies or alignments of the smaller political parties, which may act as bedrock for the stability of the government of the day. Accordingly, it is clear that joining Para 2(1) with Para 4, the Parliament expected that "the Legislative party must be dealt with independently from the political party to see whether there is a merger."

Para 4(2) goes on to declare that the merger of the original political party of a member from the House "shall be deemed to have occurred". The phraseology "shall be deemed to have occurred" casts a legal fiction upon the situation created by the above arrangement.

### **Validity**

There are many cases pending before the courts challenging the constitutionality of the Anti-Defection Act, although a few landmark judgments upholding its constitutionality have already been given. It is solicited by the Act mostly on the ground that it deprives the elected representative of his fundamental right regarding freedom of speech and expression. However, the Supreme Court held that this would not be infringing such a right, as it would prevent the representatives from rebelling against the party whip on crucial issues. It does not prevent members from articulating views and criticizing the policies of their party within the law's parameters. Another reason for which this statute has been criticized is that it possesses the federal character established by the Constitution regarding the authority of the Centre to annul elected representatives. However, the Supreme Court has held it does not violate the federal structure of the Constitution since it relates only to the disqualification of elected representatives for defecting and not encroaches upon the powers of state legislatures.

### **Anti-Defection Laws Amendments**

The anti-defection legislation has been modified numerous times. Instances since its first release with the purpose of combating various deficiencies and problems were discovered in the original legislation. The specific details of every law amendment are as follows:

- The 52<sup>nd</sup> Amendment Act, 1985:<sup>5</sup>

The 52nd Amendment Act of 1985 instituted India's anti-defection legislation. The Tenth Schedule, addressing the removal of elected officials due to defection, was incorporated into the Constitution through legislation.

- The 61<sup>st</sup> Amendment Act of 1988:

The 61st Amendment Act of 1988 modified the Tenth Schedule, permitting political parties to amalgamate without incurring disqualification. This amendment aimed to prohibit political parties from exploiting the legislation to oust elected officials who want to join another party.

- The 65<sup>th</sup> Amendment Act, 1991:

Amendments to the Tenth Schedule facilitated by the 65<sup>th</sup> The Amendment Act enabled the partition of political parties with no disqualifying result. This amendment was brought in to prevent political parties from using legal structures to replace democratically elected representatives who wanted to leave their party from office.

- The 91<sup>st</sup> Amendment Act, 2003:

Article 191 of the Constitution was amended by the 91<sup>st</sup> Amendment Act to make it a provision that elected members will be removed from office if they switch parties or disobey party rules. The goal of this amendment is to prevent elected representatives from departing from their political affiliation in order to avoid disqualification under the Anti-Defection law.

**How courts interpret law while taking discussion on this matter** We have examined instances in which the Supreme Court has construed certain statutes. The following are delineated below. The expression 'voluntarily relinquishes his membership' connotes significantly more than mere resignation. A member who voluntarily relinquishes their membership may be legally disqualified. The Supreme Court has determined that a member's behavior can indicate resignation, even in the absence of a formal resignation; similarly, members who publicly criticized their parties or sought affiliation with another party were considered to have resigned. In the instance of two JD(U) MPs excluded from the Rajya Sabha on Monday, it was concluded that they 'voluntarily resigned their membership'

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<sup>5</sup><https://www.alliance.edu.in/ijls/ijls-2023/assets/documents/a-critical-analysis-of-anti-defection-laws-in-india.pdf>

due to<sup>6</sup>anti-party conduct, including making public statements against the party on many occasions and participating in opposition party rallies in Bihar.

### **Ruling of the Presiding Officer amenable to the jurisdiction of the courts.**

Originally, the law had provided that the order of the Presiding Officer would not be judicially reviewable, which was overturned by the Supreme Court in 1992, and subsequently, appeals against the Presiding Officer's order could be made to the High Court and Supreme Court. It held, however, that there might not be any judicial review until the Presiding Officer had made a declaration of his order.

In 2015 also, Hyderabad High Court declined to intervene after it heard a plea claiming that Telangana Assembly Speaker was wrongly holding up proceedings against a member under the anti-defection law.

### **Factors that influence application of anti-defection laws**

Indian Constitution's 52nd Amendment Act of 1985 enacted the nation's anti-defection law, which barred elected members from changing political parties or associations on their behalf. The last purpose of the law is to protect the integrity of the democratic process and to provide the stability of the administration. It is an essential clause that governs defection of state legislatures or parliamentarians. The concerns with the enforcement of the Anti-defection law in India are discussed below.

Political motivations Hung Assembly: The chances of a hung assembly one in which neither party has a majority can have affected the manner in which the anti-defection Act is enforced. In this case, political parties would try to persuade opposition party legislators to join them in forming a majority government. The anti-defection law was striving to avoid cases of horse-trading, defection, and political instability since such actions can lead to. Political ambitions: Political ambitions of individual legislators can influence the application of antidetection law. To fulfill their political goals or to elevate their profile and status in their party, legislators can switch political parties. Such party turnover can gravely disable democracy's capacity to function and the stability of the government.

Social determinants public sentiment: The implementation of anti-defection the formation of public opinion with legislative implications. There can a public outcry and severe punishment

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<sup>6</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

for the MPs if the population is believed to think that their defection is - motivated by self-interest and not the general good of people. Party discipline: Party discipline may also have a control over the passage of the Anti-defection legislation. Politicians are less likely to switch parties if they maintain rigid party discipline, Political instability could be the result of MPs switching parties more usually if the parties are unable to uphold party discipline. In conclusion, a number of political, legal, and societal problems concern the implementation of anti-defection legislation in India. The enforcement of the law can be significantly spurred by the Supreme Court's interpretation of the legislation, the legislature's presiding officer's judgment, party discipline, public opinion, and administration stability and integrity of the democratic process are all facilitated to a great extent by the Anti-defection law.

### **Challenges and criticism<sup>7</sup>**

In 1985, India enacted the 52nd Constitution Amendment Act, which incorporated an anti-defection provision, facing challenges and criticism. The objective was to rectify the malpractices that had infiltrated the system due to desertion. The measure aimed to inhibit a public official from altering their allegiance, thus undermining a political party. The legislation has encountered multiple obstacles since its inception. Article 19(1)(a) of the Indian Constitution ensures the freedom of speech and expression. The Act effectively curtails an MP's and MLA's freedom of speech and conscience by mandating adherence to a party whip during voting. The anti-defection act is said to infringe upon the basic right to free speech and expression as enshrined in Article 19(1)(a). The anti-defection statute has faced criticism for its apparent neglect of transparency and accountability concerns. The sole method for a member of the ruling party, specifically the presiding officer of the house, to facilitate the removal of an MP or MLA from their seat is through this process. This is unequivocally biased and inequitable, which will undermine confidence in the justice system. Exploitation of legislation: Political parties have misappropriated the anti-defection clause to secure the allegiance of MPs and MLAs for their own benefit. The legislation authorizes these entities to instigate insurrection among Members of Parliament and Members of Legislative Assemblies from diverse political factions through ministerial incentives, monetary prizes, and additional benefits. The anti-defection statute exhibits ambiguity, permitting multiple interpretations due to its vague provisions. Customers are susceptible to exploitation and

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<sup>7</sup> <https://ili.ac.in/pdf/10.pdf>

mistreatment because of the ambiguity in regulation about the appropriate rationale for altering political allegiance.

### **Proposed alternatives**

**Secret Ballot System:** Some suggest that voting in State and Parliament legislatures must be with the secret ballot system. This, it is believed, will allay fears of retaliation or retribution by their political parties, enabling MPs and MLAs to elect freely according to their conscience.

**Code of Conduct:** An alternative to the anti-defection act will be the adoption of a code of conduct for MLAs and MPs. This will lay down a set of moral parameters that will guide the legislators in such a way that what they do is in the best interests of the people rather than the interests of their political party.

**Law Reforms:** Many experts believe reforms to the anti-defection law are necessary to address the many issues and grievances it has attracted. Possible amendments may make the process of decision-making more accountable and transparent, defining what is considered a legitimate basis for switching political allegiance.

### **Lessons from Abroad: United States and United Kingdom**

#### **A. THE UNITED STATES AND THE FIRST AMENDMENT<sup>8</sup>**

The United States' legislative framework in relation to party Discipline follows a more liberal approach. In the United States, a member of the House has the ability to vote for any bill and policy without the threat of disqualification. While the US has a presidential form of government, its parliament, as in India's, conforms to the doctrine of separation of powers and the operation of the Executive needs to be considered. With specific regard to floor voting of the therefore, the American model is one to look into. The argument of the anti-defection model must recognize that the United States has not only faced defection. However, it existed without an anti-defection act Despite the fact that there is no legal basis to apply the above Party discipline takes precedence. Party discipline in the strict sense refers to party cohesion is the ability of members of the legislature from a specific party to come together on a commonality of policy issues. Some control is to be exerted by the Party leaders should see to it that the legislators who belong to that particular party Vote as a bloc on bills

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<sup>8</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

that are instrumental to the attainment of party objectives. This control is not offered by the Constitution. Indeed, it is an issue of the internal US party system where sanctions may be imposed on legislators who ought not to vote along party lines. The issue of constitutionality of legal sanctions that are imposed on legislators who cast party-line votes has been debated in a number of Landmark cases. These sanctions include the withholding of a legislator from a key seat on a legislative committee, denial of future appointment to the same, or party caucus expulsion of the legislator. Interestingly, the objections to sanctions of such a type have not rested upon the principles of the democratic values that justified the lack of an anti-defection law in the first place. In America, opposition to sanctions is provided by the First Amendment to the Constitution of the United States prohibits interference with freedom of speech. Two considerations support the imposition of punishments by political parties for voting contrary to their directives. Initially, in alignment with the principles of free speech granted to the legislator, and subsequently, regarding the conflicting freedom of association of a political party.

1. Legislators necessitate freedom of expression.<sup>9</sup>

*Bond v. Floyd* was one of the initial cases to delineate

The privilege of legislators in the House necessitates thorough scrutiny. The designation "Censured Legislator" pertains to a politician reprimanded by the House for expressing anti-Vietnam sentiments, rather than a party whip. Julian Bond was disqualified from the House due to his inability to fulfil his constitutional oath as a legislator. The Supreme Court subsequently overturned this House ruling, claiming a breach of First Amendment rights. Parliamentarians appeared to have an obligation to address difficult issues. This right was considered essential for legislators to engage in open discussions over governance measures. The Court determined that politicians are obligated to address significant issues, thereby extending First Amendment rights to individuals who may encounter disciplinary measures from their political parties. *Bond v. Floyd* established a connection between First Party disciplinary measures and amendment authorities. In *Gewertz v. Jackman*<sup>10</sup>, a legislator was expelled from the Assembly Appropriations Committee. Legislator Kenneth Gewertz stated

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<sup>9</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

<sup>10</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

that the expulsion was punitive and necessitated by the answer he had solicited from the Speaker. Although he could not conclusively demonstrate any malicious intent about the removal, the case

The Court upheld the extensive safeguards granted to a legislator's actions within the House. The Court notably failed to differentiate between minor privilege limitations and substantial restrictions on a legislator's authority. Both were seen to infringe against free expression due to their existence. Violating an individual's constitutional right is not subject to the penalty associated with the exercise of that right.

Legislators are bestowed this privilege as courts frequently fail to differentiate between their First Amendment rights and those of ordinary citizens. Consequently, a legislator possesses the First Amendment rights.

The First Amendment encompasses rights such as freedom of expression and the right to be silent, which have been utilized to promote legislation and ensure the freedom to associate or refrain from association. United States courts have affirmed that the First Amendment offers the most robust protection for political expression, with unconstrained and unrestrained discourse being essential elements of the Free Speech Clause and democratic governance. The idea of rights expansion contrasts with India's model of privilege. The two systems possess essentially identical conditions, rendering them comparable. Concerning voter rights, particularly free speech safeguarded by the First Amendment, the judiciary has broadened this right to encompass legislators' discretion in voting.

The freedom of members is consequently restricted when they are compelled to vote in contravention of the constitution. The possible challenges to this strategy in India, as we have contended, arise from its potential to eradicate any means of sanctioning politicians for violating party cohesion. This void has also been addressed by US courts, who have expounded upon the freedom of association of political parties and their related rights.

## 2. Associational Rights of Political Parties<sup>11</sup>

US courts have conferred individual rights. Legislators affirmed a political party's right to associate.

The First Amendment ensures unequivocal freedom in the execution of its affairs. The courts

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<sup>11</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

evaluated if a party's right to associate can supersede an individual member's right to free expression. The courts concluded that, in the context of political parties, the freedom to form associations supersedes the right to vote, as the ability to organize is essential for creating an effective political framework. This right is firmly established when associations exclude members whose opinions conflict with an individual's right to hold an opinion. The Bond and Gewertz rulings juxtaposed the rights of legislators with those of the House or a governmental body. A conflict between a political party and its members, conversely, would be classified as a matter pertaining to a private organization. In such circumstances, political parties may apply their prerogative to exclude members involved in a disagreement. Some assert that political parties are unable to designate their legislators in the House. Consequently, a party cannot sanction a lawmaker by exerting its authority over his parliamentary membership. However, this does not prevent parties from expelling members, as it would be unjust to leverage the authority of an organization with which they disagree in its policies to further their individual perspectives. A legislator is granted exemption from disqualification if he elects to dissent from his political party on a certain topic. He may be excluded from a party, but not from the House itself. It appears questionable if India can implement a procedure akin to that of the United States for assessing the legality of a defection. The internal mechanism of desertion is regulated in the United States, whereas in India, it is addressed by Parliament, which must learn from the limited repercussions accessible to a political party against its members. Sanctions in India may be mitigated to permit the removal of a defecting party member without compromising their parliamentary membership.

#### B. UNITED KINGDOM: DISSENT IS PROHIBITED<sup>12</sup>

The British Parliament, foundational to India's Westminster system, is an institution from which substantial insights can be derived. Article 9 of the English Bill of Rights, 1689, enshrines the principle of free expression within the British Parliament, akin to Article 105 of the Indian Constitution. Nevertheless, the British Parliament, like the United States, lacks a provision for an independent anti-defection law. Internal restrictions encompass all facets of defection. The representative is obligated to exhibit both diligence and discernment; however,

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<sup>12</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

he undermines his duty by stating, "Instead of serving you, he submits it to your judgement." Birch's liberal representation theory elucidates that members must prioritize national interests over constitutional considerations. The autonomy to oppose the constituency's interests transcends the party's stance. A member may articulate dissent if their stance on a bill diverges from that of the party. The Burkean rationale for freedom is jeopardized by the tendency to vote for parties instead of individuals, as evidenced in India. The electorate's focus is on the party represented by the individual, rather than the individual themselves. A parliamentarian's loyalty should, thus, be to his party rather than the electorate. Burke's 'representative' judgement, which permitted him to voice dissent against his constituents, must also accommodate divisions inside his party. This enables a member to vote according to their conscience while dissenting from a policy of their own party that may or may not adversely affect the interests of their district.<sup>13</sup>The UK experience serves as an effective framework for alleviating apprehensions regarding the acceptance of dissent within Parliament. This is evidenced by empirical research, and this inquiry seeks to underscore the points of contention among MPs. It is generally presumed that a member of the official party will cast a vote.

The House is striving to further his career. This involves sustaining a favorable status within both the party and the constituency. An individual who constantly contradicts their party's positions is unlikely to gain the electorate's trust. The same conclusion holds if the member is objecting to a government-related matter. Conscientious objection is an uncommon practice wherein an

individual votes according to their moral convictions. An examination of instances of dissent in the voting process of the Nolan Committee Recommendations in the House of Commons suggest that dissent is increasingly confined to long-serving backbenchers, members

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<sup>13</sup><https://www.ijlsi.com/wp-content/uploads/Amending-Constitution-Comparative-Study-of-India-United-Kingdom-and-the-United-States-of-America.pdf>

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intending to depart at the end of the session, and those with conflicting interests. Consequently, India is unable to promptly address any instances of parliamentary dissent. A doctrine is referred to as the 'representative's judgement'. This methodology should be implemented in India's parliamentary practice to achieve equilibrium between the interests of the political party and the constituency.

### **Findings & recommendation<sup>14</sup>**

#### **Conclusion**

The Anti-Defection Law was enacted in India with a view to preventing political instability and maintaining democratic sanctity by preventing elected members from changing sides in pursuit of individual interests. With this objective, however, the law has also encountered various shortcomings in its implementation, such as delay in the adjudication, political maneuvering, and uncertainty regarding its effects on the freedom of speech of members. Throughout the years, various judicial constructions and legislative revisions have sought to delineate its provisions; however, substantial loopholes still prevail. The evolution of the law is traceable from the 52<sup>nd</sup> Amendment Act of 1985 to the latter-day amendments, including the 91<sup>st</sup> Amendment of 2003. Such evolution is an ongoing effort at aligning party rules with democratic precepts. The method adopted by the Presiding Officer in determining cases of defection has been criticized for bias and delay, and hence decisions have to be both unbiased and speedy. Further, the application of exceptions like party mergers has been used to avoid disqualification, thus leading to political issues instead of addressing the already pending ones.

Judicial rulings, such as *Kihoto Hollohan v. Zachillhu*, have reaffirmed the constitutional authority of the law while advocating for fairness of application. Still, the courts have recognized limitations placed by law, especially of a limiting nature on intra-party opposition. Comparing states such as the United States of America and the United Kingdom illustrate different approaches under which party cohesion is ensured via internal party mechanism as compared to legal disqualification, thereby promoting a greater sense of legislative autonomy.

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<sup>14</sup><http://docs.manupatra.in/newsline/articles/Upload/54DB1904-34F0-4A20-A40F-0D968ABD5446.pdf>