

Schedule 10 of our Constitution through 52nd Constitution Amendment Act has introduced Anti-Defection Law. It aimed to curb in the "menace of political defections" i.e. "Aaya Ram Gaya Ram" politics.

It provides for the following conditions for disqualification of MP/MLA's :

- ① voluntarily giving up membership
- ② if voting against party whips instructions
- ③ independent member joins a political party
- ④ nominated member joins a party after 6 months of becoming elected

Benefits of the law :

- ① Brought in era of stable govt by curbing frequent defections
- ② Strengthened party - loyalty as members get elected based on party's policies
- ③ SC in Kihoto Holloher case held that it doesn't violate any rights or freedom

But there exist several loopholes in the law.

Shortcomings:

- ① It impacts the freedom of speech, expression of legislators as they have to toe the party-line while voting on imp: issues
- ② Breaks the link between the party elected member and his constituents' interests
- ③ No specific timeline is provided for the Speaker to decide on disqualification
- ④ Speaker isn't well-equipped to deal with ~~to~~ deciding on these cases. Also allegations of partisan politics as seen during Uttarakhand, Arunachal Pradesh crisis
- ⑤ Artificial distinction between elected & nominated members

Here, there is an urgent need to reform the law to give it more teeth to address the deflection syndrome.

- ① Power of disqualification be vested with President/ Governor on EC's advice to ensure expert advice with neutrality
→ Recommended by Jinesh Goswami committee
- ② Specific timelines need to be provided to end chaos, confusion as being seen in Karnataka currently
- ③ Members be free to vote on as per their conscience in matters not concerning stability of govt. [U.K. model]

Hence Anti-Defection Law has been cited as one of the "most important legislations" due to its success. It needs to be further strengthened to empower our "Parliamentary Democracy", by reforming the shortcomings.