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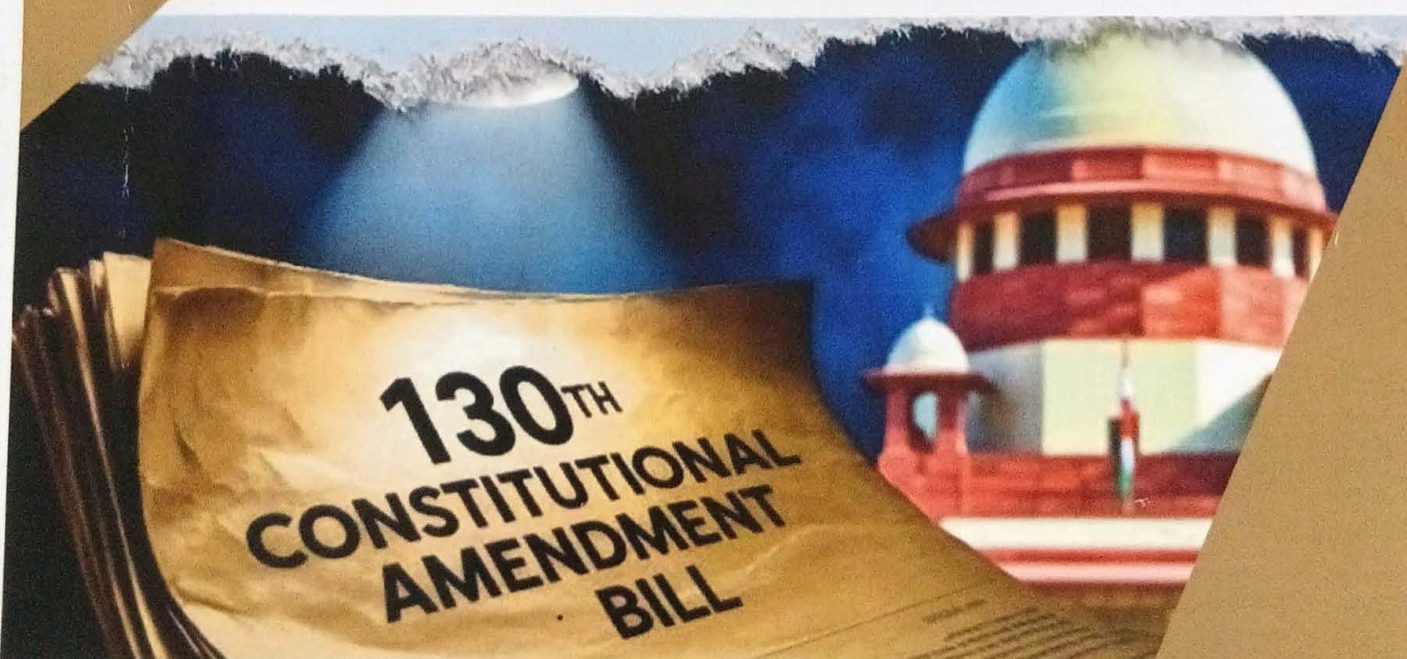
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**The Constitution 130th Amendment Bill 2025
and the Future of Indian Democracy:
Ethics, Law, and Politics**

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The Anti-Defection Law and Parliamentary Democracy in India: An Analysis in the Context of the 130th Constitutional Amendment

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Abstract

The Anti-Defection Law, incorporated through the Tenth Schedule of the Constitution of India by the Fifty-Second Constitutional Amendment Act, 1985, was enacted to curb political opportunism and ensure stability within India's parliamentary democracy. Subsequently strengthened by the Ninety-First Constitutional Amendment Act, 2003, the law sought to address the destabilising effects of frequent political defections that undermined electoral mandates and eroded public confidence in democratic institutions. Over time, however, the operation of the Anti-Defection Law has generated complex constitutional, political, and ethical concerns, particularly regarding legislative autonomy, democratic accountability, and party dominance.

This paper critically examines the Anti-Defection Law as a mechanism of democratic control in India's changing political landscape. Adopting a political science and institutional design perspective, the study analyses the historical evolution of the law, its theoretical foundations, and its judicial interpretation, with particular attention to key Supreme Court decisions. The paper argues that while the Anti-Defection Law has contributed to governmental stability, it has simultaneously weakened deliberative democracy by constraining legislative dissent, centralising authority within party leaderships, and reinforcing executive dominance.

The paper further situates the Anti-Defection Law within the contemporary constitutional debates, especially the proposed Constitution (130th Amendment) Bill, 2025. It contends that the interaction between party discipline and expanding executive authority risks further marginalising parliamentary oversight. The study concludes by emphasising the need for calibrated reforms that balance political stability with representative freedom, ethical governance, and constitutional morality, in order to preserve the democratic integrity of India's parliamentary system.

INTRODUCTION

The stability of a parliamentary democracy depends not merely on the continuity of governments but on the quality of democratic representation, deliberation, and accountability embedded within its institutions. In India, the Anti-Defection Law represents one of the most significant constitutional mechanisms designed to protect political stability in the face of legislative volatility. Enacted through the Fifty-Second Constitutional Amendment Act, 1985, the law was introduced at a time when political defections had become a defining feature of Indian politics, undermining electoral mandates and eroding public trust in democratic institutions. While the law sought to curb political opportunism, its long-term implications for democratic functioning have generated sustained constitutional and political debate.

Political defections emerged as a serious concern in India after the decline of one-party dominance in the late 1960s. The fragmentation of the party system and the rise of coalition governments created strong incentives for legislators to change party affiliations for personal gain, ministerial office, or political survival. These defections often resulted in the collapse of elected governments and distorted the representative character of legislatures. The phenomenon, popularly captured by the phrase "Aaya Ram, Gaya Ram," symbolised the perceived commodification of political loyalty and the erosion of electoral morality. Against this backdrop, the Anti-Defection Law was conceived as a corrective measure to restore discipline, stability, and credibility to parliamentary democracy.

From a constitutional perspective, the Anti-Defection Law reflects a normative choice in favour of party-based governance over individual legislative autonomy. By disqualifying legislators who voluntarily give up party membership or vote against party directives, the law treats the political party as the primary unit of representation. This approach assumes that voters elect

rather than individuals and that defections therefore constitute a betrayal of the popular mandate. While this assumption may enhance stability, it raises deeper questions about the role of legislators as representatives of the people rather than mere agents of party leadership.

From a political science standpoint, the Anti-Defection Law must be understood not simply as a legal prohibition but as an institutional design mechanism that reshapes political incentives and redistributes power within the democratic system. Institutions structure behaviour by defining the costs and benefits of political action. By attaching the penalty of disqualification to dissent, the law alters legislative decision-making, discourages independent judgment, and centralizes authority within party leaderships. These effects have significant implications for both vertical accountability, which links representatives to voters, and horizontal accountability, which governs the relationship between the legislature and the executive.

In recent years, the relevance of the Anti-Defection Law has been further amplified by frequent political realignments, judicial scrutiny of defection disputes, and proposals such as the Constitution (130th Amendment) Bill, 2025. These developments necessitate a renewed examination of whether the law continues to serve its original democratic purpose or whether it has evolved into a mechanism of democratic control that prioritizes stability over representation. This paper seeks to critically evaluate the Anti-Defection Law in India's changing political landscape by examining its constitutional design, judicial interpretation, and ethical consequences, while assessing its implications for the future of Indian parliamentary democracy.

THEORETICAL FRAMEWORK: INSTITUTIONAL DESIGN, ACCOUNTABILITY, AND DEMOCRATIC CONTROL

The Anti-Defection Law can be most effectively analysed through the lens of institutional design and democratic accountability. Political institutions are not neutral arrangements; they structure incentives, constrain behaviour, and redistribute power among actors. From this perspective, the Anti-Defection Law is not merely a procedural rule governing legislative conduct, but a deliberate constitutional mechanism intended to shape political behaviour in favour of stability and party cohesion. Understanding its democratic implications requires situating it within broader theoretical debates on representation, accountability, and party discipline in parliamentary systems.

Institutional design theory emphasises that rules governing political behaviour influence outcomes by altering the cost-benefit calculations of actors. Legislators respond rationally to institutional incentives. When dissent from party directives carries the penalty of disqualification, legislators are incentivised to prioritise party loyalty over independent judgment. The Anti-Defection Law thus recalibrates legislative behaviour by transforming party discipline from a political norm into a constitutional obligation. While this design may reduce instability, it also narrows the space for deliberation and dissent that is essential to representative democracy.

Democratic accountability provides a second critical analytical framework. Accountability in democratic systems operates along two primary dimensions: vertical and horizontal. Vertical accountability refers to the relationship between citizens and their elected representatives, typically exercised through elections. Horizontal accountability refers to checks and balances among institutions, particularly between the legislature, executive, and judiciary. The Anti-Defection Law strengthens horizontal accountability by ensuring stable legislative support for governments and preventing individual legislators from destabilising elected executives. However, this strengthening occurs at the expense of vertical accountability, as legislators' responsiveness to voter preferences is subordinated to party directives.

This tension reveals a deeper theoretical paradox. Representative democracy requires that elected officials exercise judgment, deliberate on policy alternatives, and respond to changing social conditions. Party discipline, while necessary for coherent governance, must coexist with legislative autonomy to preserve democratic responsiveness. The Anti-Defection Law disrupts this balance by prioritising organisational coherence over representative discretion. As a result, legislators are increasingly positioned as agents of party leadership rather than as trustees or delegates of the electorate.

The concept of democratic control is particularly relevant in this context. Democratic control refers to mechanisms through which political behaviour is regulated to produce predictable and stable outcomes. While such control may enhance governability, excessive reliance on coercive mechanisms risks undermining democratic legitimacy. The Anti-Defection Law functions as a form of democratic control by constraining individual legislative action through constitutional sanctions. This form of control differs from normative party discipline, as it relies on legal enforcement rather than political persuasion or ideological commitment.

Political theorists have long cautioned against the centralisation of authority within party leaderships. When internal party democracy is weak, and leadership decisions are insulated from contestation, democratic accountability is diluted. The Anti-Defection Law exacerbates this tendency by granting party leaderships effective veto power over legislative behaviour. The issuance of party whips becomes a mechanism of command rather than coordination, reinforcing hierarchical control within parties.

Moreover, the law has implications for executive–legislative relations. In parliamentary systems, the executive derives legitimacy from the legislature and remains accountable to it. However, when legislative majorities are constitutionally enforced through anti-defection provisions, the executive enjoys heightened security from internal dissent. This security can weaken parliamentary oversight and reduce incentives for transparent governance. The legislature risks becoming an instrument of executive consolidation rather than a forum for democratic scrutiny.

Viewed through these theoretical frameworks, the Anti-Defection Law emerges as a double-edged institutional device. It promotes stability and predictability but simultaneously constrains representation, deliberation, and accountability. This paper adopts this theoretical perspective to evaluate whether the law's contribution to stability justifies its democratic costs, particularly in the context of India's evolving political landscape and proposed constitutional reforms.

HISTORICAL EVOLUTION OF THE ANTI-DEFECTION LAW IN INDIA

The historical evolution of the Anti-Defection Law in India is closely linked to structural changes in the country's party system and the gradual decline of single-party dominance. During the first two decades after independence, Indian politics was characterised by the predominance of the Indian National Congress, which provided a measure of ideological coherence and political stability. Although defections did occur, they were relatively limited in scale and did not pose a systemic threat to parliamentary governance. This equilibrium began to erode in the late 1960s as electoral competition intensified and regional parties emerged as significant political actors.

The period between 1967 and 1977 marked a critical phase in the history of political defections. Fragmented electoral mandates and unstable coalition

governments created strong incentives for legislators to change party affiliations in pursuit of political survival, ministerial office, or strategic advantage. Defections were often motivated by personal gain rather than ideological disagreement, leading to frequent government collapses at the state level. The phenomenon was widely perceived as a betrayal of the electoral mandate and contributed to growing public cynicism about the integrity of democratic institutions. The expression "Aaya Ram, Gaya Ram," coined after a Haryana legislator switched parties multiple times within a short period, became emblematic of this instability.

The failure of existing political norms to restrain defections generated a consensus across party lines that constitutional intervention was necessary. Several committees and reports, including those of the Election Commission, highlighted the corrosive effects of defections on democratic governance. This culminated in the enactment of the Fifty-Second Constitutional Amendment Act, 1985, which inserted the Tenth Schedule into the Constitution. The Anti-Defection Law sought to disqualify legislators who voluntarily gave up membership of their political party or voted against party directives without authorisation. The underlying assumption was that electoral competition in India had become predominantly party-centred and that defections therefore amounted to a distortion of the popular mandate.

However, the original design of the Anti-Defection Law reflected political compromise and contained significant loopholes. Most notably, the law permitted defections by one-third of the members of a legislative party under the category of a "split." This provision was intended to accommodate genuine ideological divisions within parties but was quickly exploited for strategic purposes. Legislators engineered artificial splits to circumvent disqualification, resulting in large-scale defections that complied with the letter of the law while undermining its spirit. As a result, the law failed to eliminate political instability and instead reshaped it into more organised and legally defensible forms.

Recognising these shortcomings, Parliament enacted the Ninety-First Constitutional Amendment Act, 2003. This amendment removed the split provision and imposed limits on the size of ministerial councils, thereby reducing the material incentives associated with defection. The reform represented an effort to strengthen the normative foundation of the Anti-Defection Law and reinforce democratic accountability. While the amendment succeeded in curbing some blatant forms of opportunistic defection, it did not eliminate the phenomenon entirely.

In the post-2003 period, political defections adapted to the tightened constitutional framework. Legislators increasingly resorted to strategies such as mass resignations, delayed adjudication of disqualification petitions, and factional realignments within parties. These practices preserved the appearance of constitutional compliance while undermining the ethical foundations of representative democracy. The historical evolution of the Anti-Defection Law thus illustrates a recurring tension between constitutional regulation and political practice, highlighting the limits of legal solutions to fundamentally political problems.

JUDICIAL INTERPRETATION OF THE ANTI-DEFECTION LAW

Judicial interpretation has played a crucial role in shaping the scope, application, and constitutional legitimacy of the Anti-Defection Law in India. Since its incorporation into the Constitution through the Tenth Schedule, the law has been subject to sustained judicial scrutiny, reflecting concerns about its compatibility with democratic principles, legislative autonomy, and the doctrine of separation of powers. The judiciary has sought to strike a balance between preserving the law's stabilising objectives and preventing its misuse for partisan advantage.

The constitutionality of the Anti-Defection Law was first challenged in *Kihoto Hollohan v. Zachillhu* (1992), a landmark decision in which the Supreme Court upheld the validity of the Tenth Schedule. The petitioners argued that the law violated fundamental democratic principles by curtailing freedom of speech and undermining legislative independence. While acknowledging these concerns, the Court held that the law represented a reasonable constitutional response to the destabilising effects of political defections. The Court emphasised that the objective of maintaining the purity of the electoral process and ensuring stable governance justified the restrictions imposed by the law.

At the same time, the Supreme Court recognised the potential for abuse inherent in the law's design. A particularly contentious issue was the vesting of adjudicatory power in the Speaker of the legislature, who is often a member of the ruling party. The Court held that while the Speaker's decisions were subject to judicial review, such review would be available only after the Speaker had rendered a decision. This position reflected judicial deference to legislative autonomy but also created space for strategic delays in disqualification proceedings.

Subsequent judicial decisions have highlighted the practical consequences of this arrangement. In several cases, Speakers delayed adjudication of defection petitions, allowing defecting legislators to continue in office and influence legislative outcomes. This practice undermined both the effectiveness and the credibility of the Anti-Defection Law. The judiciary has increasingly expressed concern over such delays, recognising that justice delayed in defection cases often amounts to justice denied.

These concerns were explicitly addressed in *Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly* (2020). In this case, the Supreme Court observed that prolonged delays in deciding disqualification petitions defeated the purpose of the Anti-Defection Law. The Court recommended that Speakers should ordinarily decide such petitions within a reasonable time frame, preferably within three months. Although the Court stopped short of imposing a binding deadline, the judgment marked a significant shift towards greater judicial oversight of the law's implementation.

Judicial interpretation has also grappled with the meaning of key concepts within the Tenth Schedule, such as "voluntarily giving up membership." Courts have adopted a broad interpretation of this phrase, holding that formal resignation is not necessary to attract disqualification. Conduct indicating abandonment of party loyalty, including public opposition to party policies or alignment with rival parties, may suffice. This expansive interpretation reflects an attempt to prevent legislators from circumventing the law through technicalities.

Despite these interventions, judicial oversight remains constrained by structural limitations. Courts are often reluctant to intervene prematurely in legislative matters, citing concerns about separation of powers. As a result, judicial remedies tend to be reactive rather than preventive. This has allowed political actors to exploit procedural ambiguities and timing advantages to achieve desired outcomes before judicial scrutiny can take effect.

Overall, judicial interpretation of the Anti-Defection Law reveals an ongoing effort to balance constitutional values of stability, representation, and accountability. While the judiciary has upheld the law's legitimacy, it has also acknowledged its vulnerabilities and implementation challenges. The evolving jurisprudence underscores the need for institutional reforms that reduce reliance on judicial intervention and strengthen the democratic foundations of the anti-defection framework.

DEMOCRATIC AND ETHICAL IMPACT OF THE ANTI-DEFECTION LAW

The Anti-Defection Law has far-reaching democratic and ethical implications that extend beyond questions of political stability and institutional efficiency. At its core, the law reshapes the ethical foundations of representative democracy by redefining the relationship between legislators, political parties, and the electorate. While the law seeks to protect the sanctity of the electoral mandate, it simultaneously constrains the moral agency of elected representatives, raising important questions about democratic responsibility and political conscience.

One of the most significant democratic consequences of the Anti-Defection Law is its impact on legislative deliberation. Democratic legislatures are intended to function as arenas for debate, persuasion, and the exchange of ideas. However, when legislators are constitutionally bound to follow party directives on pain of disqualification, deliberation risks becoming symbolic rather than substantive. Members may participate in debate, but the outcome of legislative voting is often predetermined by party leadership decisions. This weakens the deliberative quality of parliamentary proceedings and diminishes the legislature's role as a forum for democratic contestation.

Ethically, the law places legislators in a difficult position by prioritising party loyalty over individual judgment. Representatives may face situations where party positions conflict with constituency interests, personal convictions, or broader considerations of public interest. The threat of disqualification discourages legislators from acting on conscience, effectively subordinating ethical reasoning to organisational discipline. This dynamic raises concerns about the erosion of representative ethics, as legislators are incentivised to conform rather than to exercise moral judgment.

The Anti-Defection Law also affects the ethical dimensions of political accountability. By centralising authority within party leaderships, the law weakens mechanisms of intra-party democracy and internal dissent. Party leaders are insulated from criticism by rank-and-file legislators, reducing transparency and accountability within political organisations. This concentration of power can foster a culture of command rather than consultation, undermining democratic norms both within and outside legislatures.

From the perspective of voters, the ethical justification of the Anti-

Defection Law remains contested. While voters may support measures that prevent opportunistic defections, they may also expect their representatives to act independently and responsively. When legislators are unable to articulate or act upon constituency concerns due to party constraints, the representative link between citizens and the state is weakened. This disconnect can contribute to political alienation and declining public trust in democratic institutions.

Ultimately, the democratic and ethical impact of the Anti-Defection Law highlights a fundamental dilemma: stability achieved through coercive discipline may preserve governments, but it risks hollowing out the normative foundations of representative democracy. Addressing this dilemma requires rethinking the balance between party cohesion and democratic freedom, a challenge that becomes increasingly urgent in the context of contemporary constitutional reforms.

THE ANTI-DEFECTION LAW AND THE PROPOSED 130TH CONSTITUTIONAL AMENDMENT

The proposed Constitution (130th Amendment) Bill, 2025, has renewed constitutional debate on the future trajectory of Indian parliamentary democracy, particularly in relation to executive accountability and institutional efficiency. Although the precise contours of the proposed amendment remain subject to legislative deliberation, its stated objectives of strengthening governance mechanisms and streamlining executive functioning have significant implications for the operation of the Anti-Defection Law. When viewed together, these constitutional developments raise critical questions about the balance between stability, accountability, and democratic oversight.

In a parliamentary system, the executive derives its authority from the legislature and remains accountable to it through mechanisms such as debates, questions, and confidence votes. The Anti-Defection Law already constrains legislative autonomy by enforcing party discipline through constitutional sanctions. If the 130th Amendment further consolidates executive authority without corresponding safeguards for legislative independence, the combined effect may significantly weaken parliamentary oversight. Legislatures risk becoming sites of executive endorsement rather than arenas of democratic scrutiny.

The interaction between strict anti-defection provisions and enhanced executive power is particularly concerning in the context of strong majority governments. When party leaderships exercise tight control over legislators,

and executives enjoy increased institutional authority, internal checks within the ruling party are diminished. Legislators may be unwilling or unable to question executive decisions even when such decisions have far-reaching social or economic consequences. These dynamic risks marginalising dissent and narrowing the spectrum of policy debate within Parliament and State Legislatures.

From a democratic theory perspective, constitutional reforms must be evaluated not only in terms of efficiency but also in terms of accountability and legitimacy. Stability achieved through institutional concentration of power may produce short-term governance benefits, but it can erode democratic norms in the long run. The Anti-Defection Law, when combined with broader constitutional reforms that favour executive consolidation, may inadvertently reinforce a model of governance that prioritises control over deliberation.

The proposed 130th Amendment thus underscores the urgency of reassessing the Anti-Defection Law. Any effort to strengthen executive authority must be accompanied by reforms that restore legislative autonomy and democratic balance. Possible measures include limiting the application of anti-defection provisions to votes that directly affect government survival, such as confidence motions, and strengthening institutional safeguards against partisan misuse.

In this context, the Anti-Defection Law should not be viewed in isolation but as part of a broader constitutional ecosystem. The future of Indian democracy will depend on whether constitutional reforms can reconcile the imperatives of stability and efficiency with the foundational principles of representation, accountability, and constitutional morality.

CONCLUSION

The Anti-Defection Law occupies a complex and contested position within India's constitutional and democratic framework. Conceived as a response to rampant political instability and opportunistic defections, the law sought to protect the integrity of the electoral mandate and ensure the continuity of elected governments. Over time, however, its operation has revealed significant tensions between the objectives of stability and the foundational principles of representative democracy. While the law has succeeded in curbing some forms of overt political opportunism, it has also produced unintended consequences that constrain legislative autonomy and weaken democratic deliberation.

This paper has argued that the Anti-Defection Law functions not merely as a procedural safeguard but as a mechanism of democratic control that reshapes political incentives and redistributes power within the parliamentary system. By constitutionally enforcing party discipline, the law prioritises organisational coherence over individual judgment, thereby altering the representative relationship between legislators and voters. Judicial interpretation has attempted to mitigate some of these effects through oversight and clarification, yet structural vulnerabilities—particularly the role of the Speaker and procedural delays—continue to undermine the law's democratic legitimacy.

The ethical and democratic implications of the Anti-Defection Law are particularly significant in the context of contemporary constitutional reforms. As proposals such as the Constitution (130th Amendment) Bill, 2025, seek to enhance executive efficiency and authority, the cumulative impact of rigid party discipline and executive consolidation risks marginalising legislative oversight. Stability achieved through coercive mechanisms may preserve governments, but it can erode the normative foundations of democracy if not balanced by accountability and representation.

Reform of the Anti-Defection Law, therefore, should focus on restoring this balance rather than pursuing stability at all costs. Limiting the law's application to votes that directly affect government survival, ensuring timely and impartial adjudication of defection disputes, and strengthening intra-party democracy are essential steps in this direction. Ultimately, the resilience of Indian parliamentary democracy depends not only on disciplined legislatures, but on institutions that enable meaningful deliberation, ethical representation, and constitutional morality.

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