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# **STRENGTHENING ANTI-DEFECTION LAW** **IN INDIA: A FRAMEWORK FOR** **ELECTORAL INTEGRITY**

AUTHORED BY - SHUBHADA PATIL

## **Abstract**

This paper proposes a comprehensive framework to strengthen India's anti-defection law by integrating a set of strategic reforms aimed at curbing horse trading, enhancing transparency, and fostering political accountability. Despite the introduction of the Tenth Schedule through the 52nd Amendment and subsequent improvements in the 91st Amendment, political opportunism and instability continue to plague Indian politics. Defections, opportunistic alliances, and delayed adjudications erode public trust and disrupt the democratic process. The paper presents the **Panchsheel principles to address these challenges**—five essential reforms that impose stricter conditions for party membership, independent candidacy, party-switching, and political alliances. The framework emphasises the need for mandatory re-elections for defectors and promotes pre-election transparency regarding political coalitions.

The proposed reforms aim to align electoral practices with democratic values by ensuring ideological consistency, preventing corruption, and restoring voter confidence. This framework also underscores the importance of transferring adjudicatory powers from partisan speakers to independent institutions like the Election Commission. These recommendations will deter horse trading and ensure the long-term stability and integrity of India's political system, fostering accountability at every level of governance.

## **Keywords**

*Anti-Defection Law, Panchsheel Principles, Horse Trading, Transparency, Political Accountability, Tenth Schedule, Electoral Integrity, Re-election for Defectors, Election Commission, Opportunistic Alliances.*

## 1. Introduction

### *Background*

India's anti-defection law was introduced as a response to the rampant political instability that plagued Indian politics in the late 20th century. The **52nd Amendment Act, 1985**, marked a pivotal shift in India's parliamentary framework by adding the **Tenth Schedule** to the Constitution. This legislation was intended to curb the growing menace of defections, where elected representatives switched political parties either for personal gains or under inducements of power and money, often resulting in the fall of governments. Such political opportunism undermined not only governance but also voter trust and the fundamental principles of democracy. The anti-defection law aimed to ensure **political stability** by disqualifying members of Parliament or state legislatures if they switched parties or acted contrary to party directives.

However, while the **91st Amendment Act, 2003** further refined these provisions—such as removing the allowance for splits within political parties and limiting the size of ministries—the law has not been without criticism. Despite its intentions, **loopholes and flaws** in the anti-defection law have been exploited over the years. The actions of Speakers and presiding officers, empowered to adjudicate defection cases, have often been marked by **partisanship** and **delays**, adding to the political instability the law sought to mitigate. Additionally, **backdoor alliances, horse trading**, and opportunistic defections continue to threaten the integrity of India's political framework.

### *Problem Statement*

Although the anti-defection law was designed to promote stability and discipline in political parties, it has not been entirely successful in achieving these goals. **Political instability, opportunistic defections, and corruption** remain prevalent, leading to the erosion of **public trust** in democratic institutions. The fall of governments in states like Karnataka, Madhya Pradesh, and Goa highlights how politicians still switch loyalties, rendering the anti-defection law ineffective in many cases.

Moreover, the law's reliance on the **Speaker's discretion** to decide disqualification cases has resulted in **delays and partisan decisions**, further undermining democracy. Political actors have found ways to exploit loopholes in the law to **circumvent disqualification**, using tactics such as **resignations** and **strategic alliances**. These challenges reflect that the current anti-

defection framework is **insufficient to prevent horse trading** and maintain **electoral transparency**. In its current form, the anti-defection law may curtail individual dissent but **fails to prevent political manipulation** and unethical practices during elections and government formation.

### ***Research Objectives***

Given these challenges, this research aims to explore the limitations of the existing anti-defection framework and propose comprehensive reforms to address these issues. The **Panchsheel principles**—a five-point framework—will form the core of these recommendations, providing a roadmap for strengthening the law and fostering **political accountability**. The specific research objectives are:

1. **Analyze the limitations of the current anti-defection law.**
  - This objective seeks to identify the structural weaknesses in the law, including the misuse of Speaker's powers, delayed adjudications, and the lack of effective deterrents against opportunistic behavior.
2. **Propose reforms to strengthen political accountability.**
  - By addressing issues such as **independent candidacy, party-switching, and backdoor alliances**, this objective aims to introduce reforms that ensure alignment with democratic principles.
3. **Develop a robust framework through the Panchsheel principles.**
  - These five reforms will impose stricter eligibility criteria, require **re-elections for defectors**, regulate independent candidacies, and ensure **transparency in political alliances** to curb corruption and restore voter trust.

### ***Methodology***

This study employs a **doctrinal legal research approach**, which involves an in-depth analysis of relevant constitutional amendments, judicial precedents, and legislative reports. By examining the **Tenth Schedule** and analyzing key cases like **Kihoto Hollohan v. Zachilhu**, the research evaluates how the anti-defection law has been implemented and where it falls short. Additionally, the paper draws upon **case studies** from states like Karnataka, Goa, and Madhya Pradesh to highlight the real-world challenges of defections and political instability.

This research will also explore recommendations proposed by previous committees on electoral reforms and review the effectiveness of the **91st Amendment** in addressing political opportunism. Legislative materials, court judgments, and **academic literature** will provide a



comprehensive understanding of the anti-defection law's impact. The findings from these sources will form the basis for the **Panchsheel framework**, offering a structured set of reforms to strengthen the anti-defection law and enhance political accountability.

## 2. Literature Review

The anti-defection law, introduced through the **52nd Amendment Act, 1985**, was aimed at curbing political defections that were causing widespread instability in the political landscape of India. This review examines the evolution of the anti-defection law, its interpretation and application by political authorities, and the consequences for political stability and voter trust. The judicial response to the law, as seen in the landmark **Kihoto Hollohan v. Zachilhu** case, also provides valuable insights into its limitations and the scope for further reforms.

### Evolution of Anti-Defection Law

The **52nd Amendment Act, 1985**, introduced the **Tenth Schedule** into the Indian Constitution to provide a legal framework for addressing defections by members of Parliament and state legislatures. This amendment came as a response to the political instability witnessed during the 1960s and 70s, where numerous governments were brought down by defections, often influenced by **financial incentives or promises of power**.

The Tenth Schedule defines defection as:

1. **Voluntarily giving up membership of a political party** on whose ticket a member was elected.
2. **Voting or abstaining from voting against party directives (whips)**, unless prior permission was granted by the party or the action was condoned within a specified time.

Initially, the **anti-defection provisions allowed splits within political parties**, provided one-third of the members broke away together. However, over time, it became evident that this **split clause was being misused** to justify defections. Political actors used this provision as a loophole to **avoid disqualification** and shift allegiances without consequence. Recognizing these challenges, the **91st Amendment Act, 2003**, made significant changes, including:

- **Removal of the split clause** from the Tenth Schedule, making defections harder to justify.
- **Introduction of restrictions on the size of ministries**, limiting it to 15% of the total number of members in the legislature. This measure was intended to prevent excessive ministerial appointments as incentives for political support.

- **Ban on defectors becoming ministers** during the same term in which they were disqualified.

Despite these reforms, the law continues to face challenges, with **defectors exploiting legal gray areas** and political instability remaining a concern.

### Role of Speakers in Adjudication

One of the most contentious aspects of the anti-defection law is the **role of the Speaker or presiding officer** in adjudicating defection cases. According to the Tenth Schedule, the Speaker has the authority to decide whether a member has incurred disqualification under the anti-defection provisions. However, this has raised concerns about **partisanship** and the potential misuse of this power.

In many cases, **Speakers have delayed or withheld decisions** to favor the ruling party, creating further political instability. The **discretionary powers** vested in the Speaker have allowed political actors to manipulate outcomes by influencing the timing of disqualifications. For instance, in **Karnataka** and **Goa**, delays in disqualification decisions created opportunities for **backdoor realignments**, undermining the stability of the government and public trust in the democratic process.

The lack of **institutional independence** for Speakers has become a key criticism. Since Speakers often come from the ruling party or coalition, their neutrality is questioned, leading to **judicial interventions** in many cases. This highlights the need for **impartial adjudicatory mechanisms** that can ensure fair decisions without political interference.

### Impact on Voter Trust

The **repeated defections and political realignments** have caused significant damage to voter trust in the political system. In **Karnataka**, the fall of the government due to defections orchestrated by Operation Lotus exemplifies the failure of the anti-defection law to prevent **political opportunism**. Similarly, in **Goa**, defections led to **the collapse of elected governments**, raising questions about whether voters' mandates are respected.

When elected representatives switch sides after elections, **voters feel betrayed**, as the realignment often goes against the promises made during the campaign. This phenomenon undermines the **essence of democracy**, where the people's mandate should guide political

action. The absence of **transparency** in forming alliances and re-alignments has further aggravated public disillusionment. Instances of **horse trading**, where financial or political incentives are used to engineer defections, also contribute to the erosion of **political ethics** and democratic values.

There is a growing demand for reforms that would impose **stricter transparency** requirements on political parties and candidates, ensuring that voters are well-informed about alliances before elections. Such measures would help restore voter trust and ensure that political processes align with **democratic principles**.

### **Judicial Review and Key Case: Kihoto Hollohan v. Zachilhu**

The **Kihoto Hollohan v. Zachilhu** case (1992) is one of the most important judgments concerning the anti-defection law. In this case, the **Supreme Court of India** examined the constitutionality of the Tenth Schedule and the extent of judicial review over the decisions of the Speaker. The petitioners had challenged the validity of the Tenth Schedule on the grounds that it **infringed upon the independence and freedom of speech** guaranteed to members of Parliament under **Article 105** of the Constitution.

The Supreme Court, by a majority judgment, upheld the **validity of the Tenth Schedule** but imposed **certain limitations** on the powers of the Speaker. It held that:

1. **The Speaker's decision on disqualification is subject to judicial review.** While the Speaker's decision is final within the legislature, it can be challenged in a court of law if it violates constitutional principles.
2. **Defections for personal or financial gain** undermine the democratic process, justifying disqualification under the Tenth Schedule.
3. The Tenth Schedule does not **infringe upon the freedom of speech or parliamentary privileges**, as it only seeks to regulate behavior that disrupts the functioning of the legislature.

The **Kihoto Hollohan** case set an important precedent by clarifying that **the Speaker's decisions are not above judicial scrutiny**. However, this has also raised concerns about the frequent need for **court interventions**, indicating that the anti-defection framework requires further reforms to minimize such disputes.

This literature review highlights the **evolution, challenges, and limitations** of India's anti-

defection law. While the **52nd and 91st Amendments** have been instrumental in curbing political defections, **loopholes remain** that allow opportunistic behavior. The **role of the Speaker** in adjudicating defection cases has come under significant criticism for being biased and politically motivated. Moreover, **voter trust** has been eroded due to repeated defections and backdoor alliances, raising questions about the **effectiveness of the anti-defection law** in its current form.

The **Kihoto Hollohan case** provides judicial validation for the law but also underscores the need for **impartial adjudicatory mechanisms**. The findings from this review form the basis for proposing **Panchsheel reforms**, which aim to introduce stricter eligibility criteria, **mandatory re-elections**, and greater transparency in alliances. These reforms will address the gaps in the current framework, ensuring **political accountability** and enhancing **democratic governance**.

### 3. Research Methodology

#### Research Design

This research adopts a **doctrinal legal research approach**, which involves an in-depth examination of legal principles, statutes, case law, and relevant legislative materials. Doctrinal research focuses on identifying, analyzing, and interpreting legal norms and precedents to understand the effectiveness of the anti-defection law and propose meaningful reforms. The study is centered on the **Tenth Schedule of the Constitution**, introduced through the **52nd Amendment Act, 1985**, and subsequent amendments such as the **91st Amendment Act, 2003**. It will also critically engage with judgments, reports of electoral reform committees, and statutory regulations that influence the legal framework governing defections and political realignments.

The doctrinal method enables the research to assess **how the law is applied in practice** and identify areas where the legal framework has been ineffective. By relying on a structured legal analysis, the study aims to build a foundation for the **Panchsheel reforms**, ensuring they align with constitutional principles and address the deficiencies identified in the current legal setup.

#### Data Collection

The research draws on **case studies and real-life political events** where the anti-defection law was challenged or misused. Key states analyzed include:

- **Karnataka:** The use of defections in Operation Lotus to destabilize the government and the role of the Speaker in the delay of disqualification decisions.
- **Goa:** Political realignments and backdoor alliances that betrayed the electoral mandate and raised questions about voter trust.
- **Madhya Pradesh:** Collapse of the government due to mass defections, exposing the loopholes in the anti-defection law.

These case studies highlight the **limitations of the existing legal framework** and provide insights into the real-world consequences of defections on political stability and governance. The research will also examine judicial rulings that have shaped the interpretation and enforcement of the Tenth Schedule, such as the **Kihoto Hollohan v. Zachilhu** case.

## Sources

The study relies on a combination of **primary and secondary sources** to ensure comprehensive coverage of the subject matter:

- **Primary Sources:**
  1. **Court Judgments:** Key rulings, including the **Kihoto Hollohan** judgment, which provides insights into the legal standing and limitations of the anti-defection law.
  2. **Constitutional Amendments:** Examination of the **52nd Amendment (1985)** and **91st Amendment (2003)** to understand the evolution of the law.
  3. **Legislative Materials:** Reports of electoral reform committees and relevant statutes that influence anti-defection measures.
- **Secondary Sources:**
  1. **Journal Articles:** Analysis of academic literature on electoral reforms, political accountability, and anti-defection law to understand existing critiques and proposals.
  2. **Political Analyses:** News articles and research reports on **Karnataka, Goa, and Madhya Pradesh**, highlighting political instability due to defections.
  3. **Commentaries and Books:** Legal commentaries that provide historical and theoretical perspectives on the Tenth Schedule and its enforcement.

By integrating these sources, the research aims to develop a **comprehensive framework** for electoral reform, focusing on the **Panchsheel principles** to strengthen the anti-defection law. The analysis of judicial decisions, legislative materials, and real-life political events ensures that the proposed reforms are **practical, enforceable, and aligned with constitutional norms**.



#### 4. Analysis of the Anti-Defection Law

##### Analysis of the Anti-Defection Law: Constitutional Amendments, Challenges, and Implications

The anti-defection law was introduced through the **52nd Amendment Act, 1985**, and refined by the **91st Amendment Act, 2003**, in response to growing political instability caused by opportunistic defections. The analysis below delves into the key constitutional changes, their objectives, and the challenges that have arisen in the implementation of the law.

##### 52nd Amendment (1985): Introduction of the Tenth Schedule

The **52nd Amendment Act, 1985**, added the **Tenth Schedule** to the Indian Constitution, marking the formal introduction of anti-defection provisions to combat political instability. The **primary objective** of the Tenth Schedule was to discourage defections by disqualifying members of Parliament or state legislatures who switched political allegiances mid-term. This amendment aimed to **promote political discipline** and ensure that the stability of elected governments was not compromised by opportunistic behavior.

The Tenth Schedule covers two main scenarios:

1. **Voluntary resignation from the party:** If a member **voluntarily gives up** membership of the political party on whose ticket they were elected, they face disqualification.
2. **Voting against party directives:** If a member votes or abstains from voting contrary to the directions (whip) issued by their party without prior approval, and the action is not condoned within a stipulated time, they are disqualified.

This provision was seen as an attempt to curb the “**Aya Ram, Gaya Ram**” **phenomenon**—a reference to frequent party-switching that destabilized governments during the 1960s and 70s. However, the Tenth Schedule initially allowed **splits in political parties** as an exception, wherein a defection was valid if **at least one-third of the party members** defected together. This “split clause” was introduced to safeguard legitimate dissent within parties but was later exploited, as will be discussed in the 91st Amendment analysis.

##### 91st Amendment (2003): Strengthening the Anti-Defection Law

The **91st Amendment Act, 2003**, was introduced to address the **loopholes and deficiencies** in the original anti-defection law. The most significant change was the **removal of the split clause** from the Tenth Schedule. The experience with the **one-third split exception** showed that it was being misused to **engineer defections without consequence**, undermining the very

purpose of the anti-defection law.

Key changes made by the 91st Amendment include:

1. **Elimination of the Split Clause:** No member is protected from disqualification on the basis of a party split. Instead, only a **merger of two-thirds** or more of the members of a party with another political entity would now be recognized as legitimate. This change made it more difficult for smaller factions within a party to defect without facing disqualification.
2. **Restrictions on Ministerial Appointments:** The amendment introduced a **15% cap on the size of ministries**—the total number of ministers, including the Chief Minister or Prime Minister, cannot exceed 15% of the total members of the legislature. This provision was aimed at curbing the **practice of distributing ministerial positions as rewards** for political loyalty or support during government formation.
3. **Ban on Ministerial Posts for Defectors:** Any legislator disqualified under the anti-defection law is prohibited from holding a ministerial position until they are re-elected, further discouraging opportunistic defections.

The **91st Amendment** sought to strengthen the anti-defection law by closing the loopholes that were enabling **political manipulation**. However, the enforcement of the law has encountered challenges, particularly in **the role of Speakers, delayed adjudications, and political realignments**.

### Challenges in Implementing the Anti-Defection Law

Despite the legal framework established through the **52nd and 91st Amendments**, the anti-defection law continues to face **implementation challenges** that undermine its objectives. These challenges have manifested primarily in the form of **delays, partisanship, and backdoor political alignments**.

#### 1. Role of Speakers: Delays and Partisanship in Disqualification Decisions

The anti-defection law vests the **power to decide disqualification cases** in the hands of the Speaker or presiding officer of the legislative body. While the **intent** behind this provision was to ensure that defection cases are handled internally, the reality has been marked by **partisan behavior** and **delays**. Speakers, often being **affiliated with the ruling party**, have **delayed decisions** to serve political interests, either by protecting defectors who align with the ruling coalition or by stalling decisions to destabilize opposition governments.

The **Kihoto Hollohan v. Zachilhu (1992)** judgment by the Supreme Court addressed the Speaker's powers, holding that the Speaker's decision is **subject to judicial review**. While this judgment provides a check on **arbitrary decisions**, it also reflects the **inherent conflict of interest** when a Speaker, acting as a partisan political actor, is expected to adjudicate defection cases impartially.

Examples:

- In **Karnataka (2019)**, the Speaker delayed disqualification proceedings, leading to the fall of the government. When the disqualification was finally pronounced, the defectors were allowed to contest by-polls, further eroding public trust in the system.
- Similar **delays** and controversies occurred in **Goa**, where the Speaker's discretion was used to protect defectors aligned with the ruling coalition, creating political instability.

## 2. Backdoor Alignments: Political Realignments without Voter Transparency

Political parties have exploited **post-election realignments and backdoor alliances** to **circumvent the spirit of the anti-defection law**. The law is limited in its ability to prevent political parties from engaging in **undisclosed coalition agreements** after elections, which often contradict the mandate given by voters. For example:

- In **Goa (2017)**, despite winning a plurality, the Congress was unable to form a government as a **last-minute coalition** involving smaller parties and defectors allowed the BJP to take power.
- Such realignments are often made without the knowledge or approval of voters, leading to a **betrayal of the electoral mandate** and weakening the democratic process.

The absence of **strict regulations** requiring parties to **declare pre-election alliances** has allowed parties to manipulate coalition politics, contributing to **political instability** and **public disillusionment**.

## 3. Horse Trading and Opportunism: Election Cycles Exploited for Personal Gain

The anti-defection law, in its current form, **does not effectively deter horse trading**—the practice of offering monetary or ministerial incentives to legislators in exchange for political support. **Operation Lotus**, a well-known strategy used in Karnataka, involved **engineering defections from opposition parties** to gain political power. This practice highlights how **election cycles are exploited** by political actors, using **money, power, and political rewards** to shift allegiances.

While the **91st Amendment** sought to restrict ministerial appointments for defectors, **loopholes remain**. For instance, legislators who resign instead of defecting can **contest by-polls under a new party** and still be rewarded with political positions. This **circumvents the spirit** of the law, allowing political actors to **manipulate the system for personal or party gains**.

### The Need for Further Reforms

The **52nd and 91st Amendments** laid the foundation for **regulating defections** and curbing political instability, but the challenges highlighted above indicate that further reforms are necessary. The **role of Speakers** in adjudicating defection cases remains a **major area of concern**, as their partisan behavior often leads to **delays and manipulation**. Additionally, **backdoor alignments** and **horse trading** continue to undermine the democratic process, necessitating **stricter transparency requirements** and enforcement mechanisms.

The proposed **Panchsheel reforms**—which include **mandatory re-elections for defectors**, stricter **party-switching criteria**, and greater **transparency in alliances**—aim to address these gaps and restore **voter trust**. A more **independent adjudicatory mechanism**, possibly involving the **Election Commission**, could also ensure impartial handling of defection cases. These reforms will help align the **anti-defection framework with democratic values** and strengthen **political accountability** in India's governance system.

## 5. Proposed Panchsheel Reforms

### Proposed Panchsheel Reforms: A Framework for Strengthening the Anti-Defection Law

#### 5.1 Rule 1: Eligibility Criteria for Party Tickets

##### Provision:

To be eligible for a political party's ticket, the candidate must have uninterrupted membership in that political party for a continuous period of at least five years preceding the announcement of elections. This membership must be undisputed, without any shifts to another political entity, and without a break or suspension from the party. The rule aims to ensure that candidates contesting under a party's banner demonstrate genuine commitment to the party's ideology and principles over an extended period. It seeks to prevent last-minute defections motivated by the lure of securing a ticket from a more electorally favorable party.

**Objective:**

The primary objective of this provision is to prevent opportunistic defections motivated by last-minute negotiations with political parties, a common practice during election cycles. Often, candidates switch allegiance to secure better political opportunities or nominations. This destabilizes internal party coherence and compromises the fairness of the candidate selection process. By mandating a five-year period of membership, the rule promotes loyalty, fosters ideological consistency within parties, and ensures that candidates truly represent the values and policies of the party they contest for. This measure also aims to reduce factionalism within parties by discouraging internal splits driven by ambitions to secure nominations elsewhere.

**Impact:**

This provision will reduce the practice of political parties favoring candidates who join shortly before elections, often for electoral convenience rather than shared ideology. It strengthens party discipline by ensuring that candidates are invested in the long-term goals of their chosen political organization. Voters will have more clarity regarding the candidate's alignment with the party's ideology, thus enhancing electoral integrity. This rule also protects parties from external poaching of their candidates close to elections, a phenomenon that has destabilized internal functioning and trust within parties. Furthermore, it promotes stability by deterring bandwagon behavior, where individuals opportunistically switch parties in response to shifts in electoral prospects.

**5.2 Rule 2: Independent Candidacy Regulations****Provision:**

To contest as an independent candidate, the individual must not have been affiliated with any political party in any capacity for the five years preceding the announcement of elections. The candidate must have maintained complete political independence throughout the stipulated period, without any formal or informal association with a political party. This rule ensures that independent candidates represent an authentic non-partisan perspective and are not proxies for any political entity.

**Objective:**

The primary objective of this provision is to ensure that independent candidates are genuinely autonomous and free from the influence of political parties. It addresses concerns that independent candidates often function as informal extensions of larger political entities,



undermining the transparency of the electoral process. By mandating a five-year period of political neutrality, the rule prevents misuse of the independent candidacy status to bypass party regulations or whip-based discipline. This provision also ensures that voters are not misled by candidates who run as independents but align themselves with political parties post-election.

**Impact:**

This regulation will enhance the integrity of the electoral process by ensuring that independent candidates are genuinely non-partisan. It will reduce the prevalence of strategic candidacies where individuals contest as independents to avoid intra-party restrictions, only to switch allegiance after elections. Voters will benefit from clearer candidate profiles, allowing them to make more informed choices. This provision will also strengthen the democratic value of independent representation by reducing the possibility of covert alignments with political parties. It promotes trust in the electoral system by ensuring that candidates contesting independently do so with genuine intent to represent independent interests, not as tactical agents of party politics.

**5.3 Rule 3: Restrictions on Party Switching****Provision:**

If a candidate switches political parties, they must remain a member of the new party for a continuous period of at least five years before being eligible to contest elections under its banner. The five-year period begins from the date the individual officially joins the new party. This rule applies regardless of the circumstances under which the switch occurs, whether due to personal, ideological, or strategic reasons. The purpose is to ensure stability and prevent frequent switching of party affiliations.

**Objective:**

The objective of this provision is to discourage opportunistic party-switching, which often undermines the democratic process. It addresses the growing issue of horse trading, where politicians change allegiances in exchange for political rewards such as ministerial positions or electoral tickets. By imposing a five-year waiting period, the rule ensures that party-switching is not driven by short-term gains but reflects a genuine alignment with the new party's ideology. This measure promotes political stability by reducing frequent realignments and encourages thoughtful, long-term commitment from individuals who choose to switch parties.

**Impact:**

This provision will significantly reduce the occurrence of opportunistic defections during election cycles, a practice that destabilizes governments and erodes public trust in political institutions. It will encourage politicians to consider party-switching only when they genuinely align with the new party's values, thus fostering ideological consistency. By limiting eligibility for immediate electoral participation, the rule will deter individuals from switching parties solely for personal advantage. It will also enhance intra-party discipline by minimizing the leverage that individuals hold over their current party through threats of defection, thereby promoting a more cohesive political environment.

**5.4 Rule 4: Mandatory Re-election for Defectors****Provision:**

Any elected member of Parliament or a state legislature who defects from their original party or declares a split within the party must immediately vacate their seat and seek re-election from their constituency. The defector cannot retain their position or exercise any legislative powers until the re-election is completed, and they have secured a new mandate from the voters. This rule ensures that any change in political allegiance is validated through public approval.

**Objective:**

The objective of this provision is to hold elected representatives accountable to the electorate for any shift in their political alignment. It ensures that voters have the final say on whether a defector should continue to represent them, thereby reinforcing the principle that political legitimacy derives from the people. This rule addresses the issue of unprincipled defections, where legislators switch parties without consulting their constituents. It also discourages opportunistic splits within political parties by imposing electoral consequences for such actions. The measure aims to restore transparency and accountability in the legislative process, preventing individuals from exploiting political realignments for personal gain.

**Impact:**

Mandatory re-election will significantly deter unprincipled defections and promote greater transparency in political realignments. It will prevent legislators from changing allegiances without public scrutiny, ensuring that any shift in political stance is publicly validated through the electoral process. This provision will strengthen the bond between elected representatives and their constituents by holding representatives accountable for their political actions. It will

also reduce the incidence of opportunistic splintering within parties, fostering greater stability in the legislative framework. Moreover, by subjecting defections to electoral approval, the rule will promote integrity in governance and reduce the disruptive impact of political realignments on government functioning.

### **5.5 Rule 5: Transparency in Alliances**

#### **Provision:**

Political parties must declare all alliances, coalitions, or post-election agreements either before or immediately after the elections. Any alliance not disclosed to the public before or immediately following the election will be deemed invalid. Post-election realignments that diverge from declared alliances will not be recognized under the law. This provision ensures that voters are fully informed of the political alignments that shape government formation and prevents backdoor alliances that compromise electoral integrity.

#### **Objective:**

The objective of this provision is to enhance transparency in the formation of political alliances and prevent the misuse of undisclosed post-election coalitions. It addresses the growing trend of backdoor negotiations, where political parties realign themselves after elections in ways that contradict voter expectations. By mandating full disclosure of alliances, the rule ensures that voters are well-informed about the potential government structure they are voting for. It promotes accountability by making political parties responsible for their pre-election commitments and prevents betrayal of the electoral mandate through opportunistic coalition-building.

#### **Impact:**

This provision will restore voter trust by ensuring that political alliances are transparent and align with public expectations. It will discourage post-election betrayals of mandates, where parties form unexpected coalitions to secure power. By requiring parties to disclose their alliances before or immediately after elections, the rule enhances the legitimacy of the government formation process and reduces the scope for opportunistic negotiations. Voters will have greater clarity about the alliances they are supporting, leading to more informed electoral decisions. This measure will also deter political actors from engaging in deceptive practices and foster a culture of accountability in political alliances.

## 6. Justification of Panchsheel Reforms

### Justification of Panchsheel Reforms: Ensuring Stability, Accountability, and Integrity in Indian Politics

The Panchsheel reforms are designed to address critical challenges that undermine India's political landscape, such as opportunistic defections, electoral manipulation, and political instability. Each aspect of these reforms fosters a more accountable, transparent, and disciplined political environment. Below is a detailed examination of the five core principles underpinning the proposed reforms.

#### Enhanced Accountability: The Role of Mandatory Re-Election in Strengthening Public Trust

The mandatory re-election provision ensures that elected representatives remain accountable to the electorate when shifting political allegiances. Political defections, particularly mid-term realignments, disrupt the trust between representatives and voters. By requiring defectors to seek a fresh mandate from their constituency, this rule shifts decision-making power back to the public, reinforcing the democratic principle that **political legitimacy derives from voter approval**.

This reform ensures that voters are consulted on any major political realignment, particularly when elected representatives switch parties or form splinter factions. It discourages unprincipled defections by imposing **immediate electoral consequences**, thereby reducing the potential for arbitrary political realignments. Representatives will need to explain the reasons for their defection to voters, who can then decide whether to endorse the new alignment through their votes. This strengthens the relationship between elected officials and their constituents by **ensuring that political actions are aligned with the public's expectations**. It further promotes **political transparency**, as representatives are required to validate their political choices publicly.

In addition, mandatory re-election acts as a safeguard against **manipulative backroom negotiations**, where defectors often use their legislative positions to bargain for personal benefits. This rule ensures that elected officials act in accordance with their ideological convictions rather than short-term incentives, fostering greater public trust and **enhancing the accountability of the democratic process**.

### **Prevention of Opportunism: Five-Year Membership Requirements to Discourage Defections and Political Manipulation**

The five-year membership requirement serves as a deterrent to opportunistic behavior, which often destabilizes the political landscape during election cycles. Political actors frequently switch parties shortly before elections to align with the party most likely to win, a practice that undermines **the ideological foundation of political parties** and reduces elections to opportunistic power grabs. The five-year rule ensures that candidates remain committed to their chosen political platform, encouraging **long-term ideological consistency** and loyalty.

This measure addresses the prevalent issue of **last-minute defections**, where candidates leave their parties in pursuit of more favorable electoral opportunities. Such behavior not only weakens the internal structure of political parties but also misleads voters, who are often left unaware of candidates' shifting allegiances. By mandating a five-year membership period, the reform prevents party-hopping for personal gain and fosters **political stability within parties**. Furthermore, this requirement promotes **fair competition during candidate selection**, as political parties will no longer face pressure from external candidates seeking tickets at the last moment. It also curbs the **influence of money power and political negotiations** during the ticket distribution process, ensuring that only committed and ideologically aligned members receive nominations. This reform is essential in **building strong party identities** and maintaining the ideological integrity of the electoral process.

### **Increased Voter Trust: Transparent Alliances for Informed Electoral Choices**

Transparency in political alliances is essential to restore **voter trust** in the democratic process. Often, political parties form **post-election alliances that contradict the electoral mandate**, leaving voters feeling betrayed. These backdoor coalitions undermine the legitimacy of governments by altering the political landscape after elections, without consulting the electorate. The Panchsheel reforms require that **all alliances, coalitions, or partnerships be declared explicitly before or immediately after elections**.

By ensuring that voters are aware of the potential alignments before casting their votes, this reform empowers citizens to make **informed electoral decisions**. Voters will be able to evaluate not only individual candidates but also the broader alliances and coalitions that may shape governance. This provision strengthens the **legitimacy of election outcomes** by aligning political behavior with voter expectations, thereby reducing the scope for post-election



surprises.

Transparent alliances also deter **strategic maneuvering by political parties**, preventing scenarios where parties form unexpected coalitions to secure power after elections. Voters can hold parties accountable for their pre-election promises and alliances, promoting **greater honesty and clarity** in the electoral process. This measure enhances the **integrity of government formation**, as voters will have prior knowledge of the governing coalitions, reinforcing public trust in democratic institutions.

### **Curbing Corruption: Eliminating Backdoor Deals to Reduce Political Manipulation**

The elimination of post-election backdoor deals is a crucial aspect of the Panchsheel reforms. Political corruption often manifests in the form of **secret negotiations and opportunistic alliances** that emerge after election results are announced. These manipulations enable political actors to **bypass electoral mandates**, leading to unstable governments and fostering public cynicism toward political institutions.

By requiring **full disclosure of alliances before or immediately after elections**, the reforms ensure that **coalitions are transparent and publicly accountable**. Political parties will no longer be able to engage in hidden negotiations or manipulate electoral outcomes through last-minute alignments. This reduces the scope for **corruption in government formation**, as parties will be compelled to adhere to their declared positions and alliances.

In addition, the elimination of backdoor deals discourages the use of **financial incentives and ministerial posts** to attract defectors, a practice that has plagued Indian politics in recent years. The reforms ensure that **government formation is based on legitimate electoral outcomes**, not covert negotiations. This measure also promotes **political stability** by reducing the frequency of unexpected realignments, fostering trust among citizens and enhancing the overall credibility of the political process.

### **Strengthened Party Discipline: Long-Term Commitment to Foster Stability and Ideological Consistency**

The Panchsheel reforms place a strong emphasis on **party discipline and ideological consistency** by discouraging opportunistic behavior and promoting long-term commitment to political parties. In recent years, the absence of party discipline has led to **internal**

**factionalism, frequent defections, and unstable governments.** The five-year membership requirement ensures that party members are committed to their organization for the long haul, reducing the likelihood of internal splits and desertions.

Strengthened party discipline fosters **stability within the political system**, as parties can function without the constant threat of defections and intra-party turmoil. Political organizations will be better equipped to **develop coherent policies** and maintain consistency in their platforms, knowing that their members are committed to their goals. This also enhances **public confidence** in political parties, as voters will perceive them as reliable institutions that stand by their stated ideologies.

By fostering **ideological alignment and stability**, the reforms contribute to the creation of **mature political parties** that can effectively represent their constituents. This is particularly important in a multi-party democracy like India, where coalition politics often shapes governance. Strengthened party discipline ensures that **alliances are based on shared principles** rather than short-term convenience, enhancing the overall effectiveness of governance.

The long-term commitment fostered by these reforms also reduces **political opportunism**, as members will be discouraged from switching parties for personal gain. It promotes **internal cohesion**, allowing political organizations to focus on governance rather than managing internal crises. In turn, this creates a more **stable and predictable political environment**, contributing to the overall health and sustainability of democratic institutions.

### **Building a Transparent, Accountable, and Disciplined Political Framework**

The Panchsheel reforms provide a comprehensive framework to address the **systemic issues plaguing Indian politics**, such as opportunism, defections, corruption, and political instability. By enhancing **accountability through mandatory re-elections**, promoting **transparency in alliances**, and ensuring **long-term commitment to political parties**, these reforms align political behavior with democratic values. The focus on **curbing backdoor deals** and **strengthening party discipline** further contributes to the creation of a **stable, transparent, and accountable political system**. Together, these reforms will foster **public trust, ideological consistency, and integrity** in governance, creating a robust framework that serves the interests of democracy and the people.

## 7. Case Studies: Political Instability and Defections

### Case Studies: Defections and Their Impact on Political Stability

#### Karnataka: Analysis of Operation Lotus and Its Impact on Political Stability

Karnataka has witnessed some of the most striking instances of defections that have tested the limits of the anti-defection law. One of the most prominent cases is **Operation Lotus**, a strategy employed by the Bharatiya Janata Party (BJP) to engineer defections from rival parties to secure power. Following the **2018 Assembly elections**, Karnataka experienced a fractured mandate, with no single party achieving a majority. The Congress-Janata Dal (Secular) [JD(S)] alliance managed to form a government, but it remained precariously stable. In **2019**, several Congress and JD(S) legislators resigned, reducing the coalition's majority and leading to the collapse of the government. These defections were orchestrated through **political inducements and financial incentives**, allowing the BJP to form the government after the coalition lost its majority.

Operation Lotus not only exposed the weaknesses of the anti-defection law but also demonstrated how **strategic resignations** could bypass disqualification under the Tenth Schedule. Although the law prohibits members from switching parties without facing disqualification, these legislators strategically resigned, rendering the law ineffective in preventing defections. The resigning MLAs were later **re-elected under the BJP banner**, highlighting the limitations of the current framework in addressing opportunistic defections. The events in Karnataka illustrated how the law, even after the 91st Amendment, could be circumvented through **loopholes that allowed for indirect defections** without immediate legal repercussions.

The **impact on political stability** in Karnataka was significant, as the coalition government collapsed mid-term, and the process undermined voter trust. The realignment of legislators raised serious questions about the **effectiveness of the anti-defection law** and the need for reforms to prevent **manipulative strategies like Operation Lotus**. The events emphasized the importance of **mandatory re-election** for defectors to restore accountability and **strengthen voter confidence in the democratic process**.

#### Goa: Frequent Defections and Government Collapses Despite Anti-Defection Laws

Goa has long been a battleground for political instability, with **frequent defections** and government collapses characterizing the state's politics. Despite the introduction of the Tenth

Schedule, Goa has experienced numerous instances where elected representatives switched sides, often mid-term, resulting in **unstable governments and frequent changes in leadership**. The 2017 Goa Assembly elections provide a telling example. Although the **Congress emerged as the single largest party**, it failed to form the government as the BJP, with fewer seats, managed to cobble together a coalition through **post-election negotiations and defections**.

In 2019, 10 Congress MLAs defected to the BJP, reducing the opposition to a minority and ensuring the ruling party's dominance. These defections exposed the **inadequacies of the anti-defection law**, as the legislators switched parties without facing any significant consequences. Such realignments often **betray voter mandates**, as representatives elected on a specific party's platform change allegiances post-election, rendering **electoral outcomes meaningless**. The events in Goa highlight the persistent **weaknesses in the anti-defection framework**, particularly the **role of post-election coalitions** and strategic defections. The situation also underscores the importance of **transparency in alliances** to prevent **backdoor alignments** that undermine electoral integrity. Goa's experience demonstrates that merely prohibiting defections is insufficient; instead, **mechanisms for accountability and transparency in party alliances must be enforced** to ensure that government formation reflects the true intent of voters.

### **Madhya Pradesh: Defections Causing Government Collapse and Exposing the Limitations of the Current Framework**

The political events in Madhya Pradesh provide yet another example of how **defections can destabilize governments and expose the limitations of the anti-defection law**. In 2018, the Indian National Congress formed a government with the support of independent candidates and smaller parties, ousting the BJP from power after 15 years. However, the coalition government was short-lived. In **2020**, several Congress legislators, led by senior leader Jyotiraditya Scindia, defected to the BJP, leading to the collapse of the Kamal Nath-led government. The defectors later contested by-elections under the BJP's banner, further consolidating the ruling party's strength.

The events in Madhya Pradesh underscore the **inadequacy of the current anti-defection law** in addressing **strategic resignations and premeditated defections**. Although the defecting legislators were technically disqualified, they faced no long-term consequences, as they were

re-elected within months, ensuring their political survival. The **collapse of the government** exposed how **loopholes in the anti-defection framework** allow legislators to exploit resignations and by-elections to switch allegiances without incurring meaningful penalties.

The Madhya Pradesh case highlights the need for **mandatory re-election provisions** and stricter enforcement of party-switching regulations. It also illustrates the importance of **strengthening internal party discipline** to prevent splits and realignments. The political instability caused by defections in Madhya Pradesh reflects the broader challenge of maintaining **accountable governance** in the absence of effective deterrents against opportunistic behavior. It emphasizes the **urgency of reforms** that address both the **structural limitations of the anti-defection law and the role of political inducements** in driving defections.

These case studies from Karnataka, Goa, and Madhya Pradesh demonstrate the **persistent challenges posed by defections** and their impact on political stability. In each instance, strategic defections and backdoor alliances undermined electoral mandates, exposed loopholes in the anti-defection law, and eroded public trust in the democratic process. The cases highlight the **ineffectiveness of the current framework** in curbing opportunism and the need for comprehensive reforms that include **mandatory re-elections, stricter regulations on party-switching, and transparency in political alliances**. The events underscore the urgency of implementing **the Panchsheel reforms**, which aim to strengthen accountability, enhance transparency, and restore voter trust in the political system.

## 8. Conclusion and Policy Recommendations

### Conclusion and Policy Recommendations: Addressing Gaps and Strengthening the Anti-Defection Law

#### Summary of Key Findings

The analysis of India's anti-defection law, particularly through case studies in Karnataka, Goa, and Madhya Pradesh, reveals several persistent challenges that have undermined political stability and voter trust. The current framework, introduced through the 52nd and 91st Amendments, was intended to curb opportunistic defections and prevent destabilization of governments. However, the law has **failed to fully achieve these objectives** due to inherent loopholes and limitations. One of the critical gaps lies in the **strategic misuse of resignations**, which enables legislators to switch parties without facing immediate disqualification. In cases

such as Karnataka, legislators exploited the framework by resigning mid-term, securing re-election, and subsequently aligning with rival political parties, rendering the anti-defection law ineffective.

The **role of the Speaker** in adjudicating disqualification cases has also been a subject of controversy. The Speaker's discretionary power has often led to **delays and partisan decisions**, creating instability and undermining public confidence in the impartiality of the legislative process. Moreover, the absence of strict timelines for disqualification proceedings allows political parties to **manipulate the timing** of decisions to serve their interests, further exacerbating the problem. The **lack of transparency in political alliances** has also contributed to **backdoor realignments** that betray voter mandates and distort the democratic process.

These findings indicate that the **current anti-defection framework requires comprehensive reforms** to address political opportunism, improve accountability, and enhance public trust. The introduction of **Panchsheel reforms** will help plug these gaps by ensuring stricter eligibility criteria, mandatory re-elections for defectors, transparency in alliances, and long-term party loyalty.

## Recommendations

### 1. Implement Panchsheel Reforms to Create a Stronger Legal Framework Against Defections:

The Panchsheel reforms, as discussed in detail, offer a **comprehensive solution** to the challenges posed by defections and opportunistic behavior. These reforms mandate a **five-year membership requirement** for party candidates, ensuring ideological consistency and preventing last-minute defections for electoral benefits. They also regulate **independent candidacies** by requiring a five-year period of non-affiliation with political parties, ensuring that independent candidates are genuinely non-partisan.

One of the most critical elements of the Panchsheel framework is the requirement for **mandatory re-elections** for defectors. This ensures that voters have the final say on any political realignment, reinforcing public accountability. The reforms also mandate **transparent alliances**, requiring political parties to disclose pre-election or post-election coalitions, which will prevent **backdoor negotiations** and strengthen voter trust. These reforms are designed to promote **political discipline, prevent horse trading, and restore stability** within the political



system.

## **2. Transfer Adjudicatory Power from the Speaker to the Election Commission to Ensure Impartial Decisions:**

One of the most significant flaws in the current anti-defection framework is the **discretionary power vested in the Speaker** to decide disqualification cases. Speakers are often aligned with the ruling party, which creates a **conflict of interest** and leads to **biased or delayed adjudications**. To address this issue, the adjudicatory power over disqualification matters should be transferred to the **Election Commission of India**. The Election Commission, as an independent constitutional authority, is better positioned to **deliver impartial and timely decisions** without political interference.

By centralizing the adjudicatory process within the Election Commission, this reform will **ensure consistency** in disqualification rulings and reduce the scope for political manipulation. It will also enhance the credibility of the anti-defection framework by removing partisan bias from the adjudication process. This transfer of power will align the **enforcement of anti-defection laws with the principles of fairness and neutrality**, thereby fostering greater public trust in democratic institutions.

## **3. Mandate Timelines for Disqualification Proceedings to Prevent Delays:**

Delays in disqualification proceedings have been a recurring issue, as seen in Karnataka and Goa, where prolonged adjudications created **political uncertainty** and allowed defectors to manipulate the system. To address this problem, the anti-defection framework must incorporate **strict timelines for adjudicating disqualification cases**. Setting a fixed period within which disqualification proceedings must be completed will prevent **strategic delays** that favor political actors and disrupt governance.

This recommendation ensures that disqualification cases are resolved in a **timely manner**, providing clarity to both political parties and the electorate. **Expeditious adjudication** will reduce the potential for political instability and deter legislators from engaging in opportunistic behavior, knowing that any defection or violation of party directives will be promptly addressed. Mandated timelines will also enhance **governance stability**, as governments will no longer be held hostage by uncertain disqualification outcomes.

### **Future Directions: Exploring the Role of Technology in Improving Transparency and Monitoring Political Behavior**

As part of future reforms, **technology can play a crucial role** in enhancing the transparency and accountability of political behavior. Digital platforms and data-driven monitoring tools can be leveraged to **track party affiliations, voting patterns, and compliance with anti-defection laws**. For instance, **blockchain-based systems** can be used to maintain tamper-proof records of political alignments, ensuring that any changes in party membership or political behavior are documented transparently.

Moreover, **AI-powered tools** can monitor the voting behavior of legislators in real time, ensuring compliance with party directives and detecting potential defections. These technologies can also provide **early warnings of political realignments** by analyzing voting trends and party-switching behavior, enabling political parties and the Election Commission to take proactive action. **Machine learning algorithms** could help predict patterns of defections based on historical data, improving the enforcement of anti-defection laws.

In addition, **online platforms** could be developed to **publicly track party alliances and coalitions**, ensuring that voters have access to transparent information about pre-election and post-election alignments. Such platforms can foster **greater civic engagement**, allowing citizens to monitor political developments and hold representatives accountable. Integrating technology into the anti-defection framework will promote **real-time transparency and enhance the overall integrity of the political process**.

### **Conclusion**

The proposed **Panchsheel reforms**, combined with the transfer of adjudicatory power to the Election Commission and the introduction of strict timelines for disqualification proceedings, offer a **comprehensive framework** to address the persistent challenges in India's anti-defection law. These measures will **curb opportunistic behavior, enhance public accountability, and restore voter trust** in the political system. Future reforms must also explore the potential of **technology** in monitoring political behavior and ensuring transparency, paving the way for a **more stable, transparent, and accountable democracy**. Through these changes, the anti-defection framework can evolve into a robust mechanism that upholds the **spirit of democracy and safeguards electoral integrity**.

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