

## CORPORATE OFFICE

Delhi Office

706 Ground Floor Dr. Mukherjee  
Nagar Near Batra Cinema Delhi -  
110009

Noida Office

Basement C-32 Noida Sector-2  
Uttar Pradesh 201301



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## ANTI DEFECTION LAW

This article covers "Daily Current Affairs" and the topic details "Anti Defection Law". The topic "Anti Defection Law" has relevance in the "Indian Polity" section of the UPSC CSE exam.

**For Prelims:**

What is Anti Defection Law

**For Mains:**

GS2: Indian Constitution and Issues related to it



**Why in the news?**

The Supreme Court recently issued a notice to a Legislative Assembly Speaker over inactions in a disqualification proceedings.

**Anti Defection Law:**

Defection is the act of voluntarily quitting one's allegiance to a person, cause, or party and giving one's support to another. It is often used to describe a politician who switched political parties.

- The original text of the Constitution of India did not include any provisions to prevent or protect against the act of defection.
- The **52nd Amendment Act of 1985** was introduced to establish rules regarding the **disqualification of members of Parliament and state legislatures** if they switch their political party affiliation. It brought about modifications in four Articles of the Constitution and introduced a new section called the Tenth Schedule. This legislation is commonly known as the 'anti-defection law'.

- Subsequently, the **91st Amendment Act of 2003 made a revision to the provisions outlined in the Tenth Schedule**. It eliminated an exception clause, specifically the exemption from disqualification in the event of a split within a political party.

### Provisions of the Act:

#### Disqualification of Political Party Members

- A member of a House belonging to a political party loses their membership if they:
  - **Voluntarily give up their party membership.**
  - **Vote or abstain from voting against their party's directive** in the House without prior permission, and the party does not condone the act within 15 days.

#### Disqualification of Independent Members

- An independent member of a House, elected without the support of any political party, loses their membership **if they join a political party after the election.**

#### Disqualification of Nominated Members

- A nominated member of a House loses their membership **if they join a political party after six months from the date they took their seat in the House.**
- However, within the first six months of taking their seat, a nominated member can join a political party without facing disqualification.

#### Exceptions to Disqualification on Grounds of Defection

The disqualification for defection does not apply in the following cases:

- If a member leaves their party due to a **merger** of the party with another party, provided that two-thirds of the members of the original party agree to the merger.
- If a member, after being **elected as the presiding officer** of the House, voluntarily gives up their party membership or rejoins it after ceasing to hold that office.

The provision in the Tenth Schedule that allowed exemption from disqualification in case of a split by one-third of the members of the legislature party has been removed by the 91st Amendment Act of 2003.

#### Decision of the Presiding Officer

- The **presiding officer of the House** is responsible for deciding any question related to disqualification arising from defection.
- Initially, the decision of the presiding officer was considered final and not subject to judicial review.
- **Kihoto Hollohan case (1993)**
  - The Supreme Court declared this provision unconstitutional.
  - The Supreme Court ruled that the presiding officer, while deciding a question under the Tenth Schedule, functions as a tribunal. Therefore, the decision of the presiding officer, like any other tribunal, can be subject to judicial review based on factors such as mala fides and perversity.

### **Cases where Anti Defection Law cannot be used:**

- **Rajya Sabha and Presidential Elections:** No political party can issue a whip to its MPs and MLAs for a particular candidate in these cases. However, they can take disciplinary action in case of cross- voting in Rajya Sabha Elections.

### **Evaluation of the Anti-Defection Law:**

The law was enacted to curb political defections and promote stability in the political system. This law aimed to deter elected representatives from switching parties after their election, thereby preventing the collapse of governments and ensuring the people's mandate is respected.

### **Advantages of Anti-Defection Law:**

- **Stabilised the political system:** The law has helped to prevent the frequent instances of legislators switching parties, which often led to the collapse of governments.
- **Strengthened party discipline:** The law has made it more difficult for legislators to vote against the wishes of their party, which has helped to strengthen party discipline.

### **Disadvantages of Anti-Defection Law:**

- **Curbing Individual Freedom and Expression**
  - Critics argue that the law curtails the freedom of elected representatives to vote according to their conscience or in the best interest of their constituents.
  - It limits dissent within political parties and stifles individual opinions, potentially leading to a lack of diverse perspectives and healthy debates.
- **Concentration of Power with Party Leadership**
  - This concentration of power in the hands of a few individuals may undermine intra-party democracy and discourage dissent, hindering the growth and evolution of political parties.
- **Controversial Role of Speaker**
  - One of the contentious aspects of the Anti-Defection Law is the lack of clarity regarding the timeframe within which the House Chairperson or Speaker must act in anti-defection cases.
  - Some cases have taken as long as six months or even three years to be resolved.
  - In some instances, cases are disposed of only after the term of the elected representative is over, raising concerns about delayed justice and potential manipulation of the law's provisions.
- **Issue of Wholesale Defection:**
  - The Anti-Defection Law allows for wholesale defection. This means that if a large group of legislators defect to another party, they will not be disqualified from membership of the House. However, if a single legislator defects to another party, they will be disqualified.
  - This distinction has been criticised by some, who argue that it allows for political parties to buy out legislators and that it stifles dissent within political parties.

### **International Experience**

- Most advanced democracies do not disqualify legislators for defecting against their parties.
- Such members may be subject to internal party discipline, including expulsion from the party. The seating arrangement of the person changing their party allegiance may be modified in the House

## Potential Reforms and Improvements

### • Targeting Key Votes

- The anti-defection law could be made more effective by limiting its applicability to crucial votes that directly impact the stability of the government.
- For example, the law could be invoked for votes on significant matters like the passage of the annual budget or no-confidence motions.

### • Involvement of Election Commission

- The decision to disqualify a member should not rest solely with the Presiding Officer but should involve the Election Commission.
- The President (in the case of MPs) or the Governor (in the case of MLAs) could make the disqualification decision based on the Election Commission's advice.

### • Establishment of an Independent Authority

- An independent authority should be established to handle cases of defection.
- This would ensure fair and impartial adjudication, enhancing the credibility of the process.

### • Promoting Intra-Party Democracy

- Political parties should foster a democratic environment internally, allowing for discussions and respecting the opinions of their members.
- Encouraging healthy debates and providing freedom of speech and expression within parties would promote a more inclusive decision-making process and strengthen inner-party democracy.

**Conclusion:** Striking a balance between party discipline and individual freedom, strengthening intra-party democracy, and conducting regular assessments can contribute to the law's improvement. By addressing the concerns associated with its implementation, the Anti-Defection Law can continue to play a vital role in preserving the integrity and stability of democratic systems.

## Q1. With reference to Defection Laws in India, consider the following statements:

1. The Original Constitution did not provide provisions for Anti- Defections.
2. An independent member can be disqualified if they join a political party before six months of taking oath in the house.
3. A nominated member can be disqualified if they join a political party after six months of taking oath in the house

Which of the statements given above is/are correct?

- (a) 1 and 2 only
- (b) 2 and 3 only
- (c) 1 and 3 only
- (d) 1, 2, and 3

**Answer: (c)**

## Q2. Consider the following cases:

1. A member leaves their party as it merges with another party, with the approval of two-thirds of the original party's members.
2. A member of the house stays absent for 6 months.
3. A member leaves due to a case of a split with one-third of the members of the legislature party.
4. A member resigns from their party voluntarily.

In how many of the cases above, the member of the house can be disqualified under the Tenth Schedule ?

- (a) Only one
- (b) Only two
- (c) Only three
- (d) All Four

**Answer: (b)**

**Q3. Analyse the Anti-Defection Law in India and discuss the reforms needed to ensure its effective implementation and safeguard democratic principles.**

**Gaurav Nikumbh**

## **SIACHEN GLACIER**

*This article covers "Daily Current Affairs" and the topic details "Siachen Glacier". The topic "Siachen Glacier" has relevance in the Geography section of the UPSC CSE exam.*

**For Prelims:**

*About Siachen Glacier?*

**For Mains:**

*GS 2: Geography*

*Survey of Siachen Glacier?*

*Significance for India?*

*Pakistan's Claims and Actions?*

**Why in the news?**

June-August 2023 marks the sapphire jubilee of a very important event in the history of the exploration of the Siachen glacier. V. K. Raina, a top Indian geologist, led the first Geological Survey of India expedition to the Siachen glacier. This event is of historical and geostrategic significance as it puts to rest all myths to the effect that Pakistan was in control of the glacier since the beginning

**Siachen Glacier:**

- The Siachen Glacier is located in the Eastern Karakoram range in the Himalayas, just northeast of Point NJ9842 where the Line of Control (LOC) between India and Pakistan ends.
- It stretches from northwest to southeast and originates at the base of the Indira Col West, descending to an altitude of 3,570 meters.
- The entire Siachen Glacier, including major passes, has been under the administration of India since 1984 (Operation Meghdoot).
- It is the second-longest glacier in the world's non-polar areas after the Fedchenko Glacier in Tajikistan.

- The Siachen Glacier lies immediately south of the great drainage divide that separates the Eurasian Plate from the Indian subcontinent.
- The Nubra River originates from the Siachen Glacier.
- It is known as the world's highest battlefield due to the military presence and conflicts between India and Pakistan in the region.



#### Survey of Siachen Glacier:

- The first GSI survey of the Siachen Glacier was conducted in June 1958 by Assistant Geologist V. K. Raina from the Geological Survey of India (GSI).
- The survey was part of the International Geophysical Year activities and aimed to study the Himalayan glacier systems.
- The GSI team spent nearly three months at the base of the glacier, conducting various studies and establishing survey points.

#### Significance for India:

- The survey holds significance for India as it marks the official Indian exploration of the Siachen Glacier, which later became a disputed area between India and Pakistan.
- The GSI survey provides historical evidence of India's early knowledge and scientific engagement with the glacier, countering any claims of Pakistani control since the beginning.
- It highlights India's presence and understanding of the area before the conflict arose.

#### Pakistan's Claims and Actions:

- During the GSI survey in 1958, Pakistan did not raise any objections to the presence of Indian forces on the Siachen Glacier.
- In 1983, Pakistan unilaterally extended the Line of Control (LOC) from NJ 9842 to the Karakoram Pass, challenging the existing status quo.
- This extension of the LOC by Pakistan raised concerns in India regarding the region's security. In response, Indian forces proactively occupied the strategically important Saltoro Heights in April 1984.

- The occupation of Salto Heights aimed to secure India's position and prevent potential threats to its territory.
- Pakistan's claims and actions related to the Siachen Glacier are based on differing interpretations of historical agreements, such as the Karachi ceasefire agreement of 1949 and the Simla Agreement of 1972.

**Source:**

<https://www.thehindu.com/news/national/the-first-gsi-survey-of-the-siachen/article67077315.ece>

**Q.1 Which of the following statements about the Siachen Glacier is correct?**

- (a) The Siachen Glacier is located in the Western Himalayas.
- (b) The Siachen Glacier is the longest glacier in the world.
- (c) The Siachen Glacier has been under the administration of Pakistan since 1984.
- (d) The Siachen Glacier is known as the "Third Pole" due to its extensive glaciation.

**ANSWER: D**

**Q.2 Which of the following statements about the Siachen Glacier is NOT correct?**

- (a) The Siachen Glacier is located in the Karakoram range of the Himalayas.
- (b) The Siachen Glacier is the highest battlefield in the world.
- (c) The Siachen Glacier has been under the administration of India since 1984.
- (d) The Siachen Glacier is primarily known for its wildlife diversity.

**ANSWER: D**

**Q.3 Discuss the geopolitical significance and challenges associated with the Siachen Glacier for India?**

**Rishabh**

