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When Defection Returns: The Tenth Schedule Under Stress

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THE LIFT LINE

A law meant to cure political defection has become an instrument that a Speaker can quietly park in a drawer. Every fresh wave of floor-crossing, the latest in Tamil Nadu, shows the same truth: the Tenth Schedule punishes the small defector and shelters the well-timed one.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

The anti-defection law (<https://ujjari.com/terms/anti-defection-law/>) sits at the heart of the Polity syllabus, touching the Constitution, the role of the Speaker, judicial review and the health of representative democracy.

Recurring defections and Supreme Court interventions on Speakers' delays keep it current.

GS Paper 2: Salient features of the Constitution; separation of powers; functions and responsibilities of institutions; the role of the Speaker; parliamentary and state legislatures.

Prelims angle: Tenth Schedule; 52nd Amendment (1985); 91st Amendment (2003); Kihoto Hollohan (1992); the “merger” exception (two-thirds); disqualification grounds; the role of the Speaker as tribunal.

Mains angle: Why the Tenth Schedule has failed to stop defections and how reform can restore intra-party democracy and legislative stability.

BACKGROUND AND CONTEXT

The anti-defection law, inserted as the Tenth Schedule by the 52nd Amendment in 1985, was meant to end the “Aya Ram Gaya Ram” culture of legislators switching sides for office or money. It provides for disqualification of a member who voluntarily gives up party membership or votes against the party whip. The 91st Amendment (2003) tightened it by deleting the original “split” exception (which had allowed one-third of a legislature

party to break away) and retaining only the “merger” exception, where two-thirds of a party’s members merge with another party. In *Kihoto Hollohan (1992)*, the Supreme Court upheld the law but made the Speaker’s decision subject to **judicial review** (<https://ujijari.com/terms/judicial-review/>).

The latest trigger is Tamil Nadu, where several AIADMK legislators crossed over to a rival outfit after resigning their seats, exposing how the law can be circumvented. Two structural flaws recur. First, the Speaker, a partisan office-holder, is the sole adjudicator and can delay decisions indefinitely, sometimes until the legislature’s term ends, rendering disqualification meaningless. The Supreme Court has repeatedly had to direct Speakers, including in recent Telangana proceedings in 2026, to decide pending petitions within fixed periods. Second, the two-thirds “merger” route allows engineered en-bloc defections to escape disqualification, converting a curb on defection into a template for organised one.

THE CORE ARGUMENT / ISSUE

The central argument is that the Tenth Schedule, as designed and administered, fails to deter defection, chiefly because adjudication rests with a partisan Speaker who faces no deadline, and because the merger exception legitimises mass floor-crossing.

The Speaker Problem

Vesting quasi-judicial power in a partisan presiding officer, with no **statutory** (<https://ujijari.com/vocab/statutory/>) deadline, invites strategic delay. Justice deferred until the House dissolves is justice denied.

The Merger Loophole

By protecting two-thirds “mergers”, the law inadvertently rewards well-organised defection while penalising the individual conscience vote. The exception has become the strategy.

Whip and Intra-Party Democracy

An expansive whip suppresses **genuine dissent** (<https://ujijari.com/vocab/dissent/>) and debate, turning legislators into voting machines. The law protects party discipline but at the cost of deliberation and representative independence.

WEAKNESS	CONSEQUENCE	REFORM PROPOSED
Speaker as sole adjudicator	Partisan, delayed decisions	Independent tribunal or the ECI
No time limit	Disqualification becomes meaningless	Statutory deadline (three months)
Two-thirds merger exception	Engineered mass defection	Narrow or remove the exception
Broad whip	Suppresses dissent, weakens debate	Restrict whip to confidence and money votes

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Distinguish the goal from the design failure. The goal, stable governments and party discipline, is legitimate; the design failures, partisan adjudication, no deadline, and a merger loophole, defeat it. Apply the incentive lens: ask what behaviour the current rules reward. They reward waiting (the Speaker delays), scale (two-thirds escapes) and timing (resign then cross over), precisely the behaviours the law meant to stop. Reform must flip these incentives. A second frame is the separation-of-powers tension: the anti-defection law asks a legislative office-holder to perform a judicial function, which is the root of the partisanship problem, and points toward an independent adjudicator.

THE DIAGRAM IN WORDS

Tenth Schedule aims to stop defection -> but the Speaker, a partisan office, is sole judge with no deadline -> petitions are delayed until the term ends -> the two-thirds merger route lets mass defection escape -> whip suppresses genuine dissent -> Tamil Nadu crossovers expose the gaps -> reform points to a time-bound, independent adjudicator and a narrower exception.

WAY FORWARD

- 1 **Set a statutory deadline.** Amend the law to require the adjudicating authority to decide disqualification petitions within a fixed period, say three months, as the Supreme Court has urged.
- 2 **Shift the adjudicator.** Move adjudication away from the Speaker to an independent body, such as the Election Commission or a tribunal headed by a retired judge, to remove partisanship.
- 3 **Reform the exceptions.** Revisit the two-thirds “merger” exception so that engineered bulk defections do not escape disqualification.
- 4 **Restrict the whip.** Limit the whip to votes of confidence and money bills, restoring space for intra-party debate and legislators’ independent judgment.

PYO LINKAGE AND PRACTICE

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UPSC has asked directly on this theme (2022: “Discuss the role of the Speaker of the Lok Sabha...”; 2013 on the anti-defection law and its efficacy (<https://ujijari.com/vocab/efficacy/>)). This editorial refreshes those with the 2026 defection episodes and the Court’s directions on Speakers’ delays.

Practice question: “The anti-defection law has curbed the individual defector but not organised defection.” Critically examine the weaknesses of the Tenth Schedule and suggest reforms to strengthen it. (15 marks, 250 words)

Sources: The Hindu (<https://www.thehindu.com/opinion>)

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