



UPSC & STATE PCS CURRENT AFFAIRS · UJIYARI.COM

EDITORIAL ANALYSIS

Reforming the Anti-Defection Law to Protect the Voter Mandate

 **INDIAN EXPRESS**

20 July 2026 ·

POLITY**GS2**

CURATED & WRITTEN BY

**Bharat Choudhary**

UPSC Educator & Content Creator

 [linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)**ALSO FROM THE CREATOR****BharatNotes**Free UPSC notes, MCQs, PYQ analysis. **100% Free.**bharatnotes.com → **ADVERTISE****Advertise with Ujiyari**

Reach thousands of UPSC aspirants daily.

 epicbharat@gmail.com

Reforming the Anti-Defection Law to Protect the Voter Mandate

 The Indian Express

20 July 2026

GS2

 Every fact web-verified against primary sources

THE LIFT LINE

A law written to stop legislators from selling their loyalty has become a tool that too often protects the very defections it was meant to punish, and the fix lies less in new grounds for disqualification than in who decides, and how quickly.

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

The [anti-defection law](#) is one of the most examined pieces of the Constitution because it sits where representative democracy meets party discipline. For an aspirant, it offers a clean structure: a constitutional provision, a landmark judgment, a recurring political malpractice, and concrete reform proposals. Few polity topics let you demonstrate both textual precision and analytical judgement so directly.

GS Paper 2: the Constitution and its schedules, separation of powers, the role of the Speaker, and issues in the working of the legislature. For **Prelims**, hold the specifics: the anti-defection law lives in the **Tenth Schedule**, inserted by the **52nd Amendment, 1985**; it disqualifies members for defection but exempts a **merger** where **two-thirds** of a legislature party agree; the **91st Amendment, 2003** deleted the earlier **one-third split** exemption; the **Speaker or Chairman** is the adjudicating authority; and in **Kihoto Hollohan v. Zachillhu (1992)** the Supreme Court upheld the Schedule while ruling that the Speaker's decision is subject to **judicial review**. For **Mains**, argue for time-bound, independent adjudication and firmer consequences to protect the voter [mandate](#).

BACKGROUND AND CONTEXT

The **Tenth Schedule** was born of the era of “Aaya Ram, Gaya Ram” politics, when legislators switched sides for office and money and governments rose and fell overnight. The **52nd Amendment, 1985** made defection a ground for disqualification. It carved out two escape routes at first: a **split** involving one-third of a party, and a **merger** involving two-thirds. Experience showed the split clause was gamed to legitimise bulk desertions, and the **91st Amendment, 2003** removed it, leaving only the two-thirds merger exemption.

The design flaw that remained is procedural. The **Speaker or Chairman**, who is usually drawn from the ruling party, decides defection cases with no fixed deadline. In practice, cases are allowed to drift until they lose meaning, or are decided in ways that suit the presiding officer's political side. Courts stepped in through **Kihoto Hollohan**, allowing judicial review, but review after the fact cannot undo a government formed on a tainted floor.

THE CORE ARGUMENT / ISSUE

The adjudicator is compromised

The core problem is not the grounds for disqualification but the forum. A **Speaker** who owes political survival to a party cannot be a neutral judge of that party's rivals or defectors. Delay becomes a strategy: a petition kept pending lets a defector enjoy office, vote in confidence motions, and even become a minister before any ruling arrives.

Engineered defections defeat the mandate

Modern defection is organised, not individual. Blocs of legislators resign together to force by-elections, or defect in numbers that flirt with the two-thirds merger **threshold**. The **resign-and-recontest** tactic converts a betrayal of the voter into a fresh electoral cover. The result is that governments change through inducement rather than through the ballot.

Reform must target time and independence

WEAKNESS	CONSEQUENCE	REFORM PROPOSAL
No decision deadline	Cases drift, defectors hold office	Fixed time-bound ruling, for example within three months
Partisan adjudicator	Speaker favours own side	Independent tribunal or judicial body
Merger loophole	Bulk defection legitimised	Tighten and clarify the two-thirds test
Weak consequences	Defection carries low cost	Bar from office for the term, curb resign-and-recontest

HOW TO THINK ABOUT THIS (ANALYTICAL FRAME)

Think of the law as a contract with the voter. When a citizen votes for a candidate under a party symbol, the mandate is given on that basis. Defection breaks the contract; the Tenth Schedule is meant to enforce it. The enforcement fails not because the promise is unclear but because the referee is partisan and the whistle is blown too late. Reform, therefore, must move the whistle to a neutral hand and set a clock. Judicial review after the event, as in **Kihoto Hollohan**, is a backstop, not a substitute for timely first-instance justice.

THE DIAGRAM IN WORDS

Voter mandate under party symbol -> defection breaks the contract -> Speaker adjudicates without a deadline -> delay lets defectors govern -> judicial review comes too late -> fix: independent, time-bound tribunal restores accountability

WAY FORWARD

- ❶ **Set a hard deadline.** Require the adjudicating authority to decide defection petitions within a fixed period, such as three months, with the case deemed decided or referred upward if the clock runs out.
- ❷ **Move adjudication to a neutral forum.** Shift the power from the **Speaker** to an independent tribunal headed by a retired judge, insulating the decision from the ruling party.
- ❸ **Close the engineered-defection route.** Tighten the two-thirds **merger** test and disqualify resign-and-recontest tactics from holding office for the remainder of the term.
- ❹ **Raise the cost of defection.** Bar disqualified members from ministerial office until fresh election, so that switching sides no longer buys instant reward.

PYQ LINKAGE AND PRACTICE

This links to repeated UPSC questions on the role of the Speaker, the separation of powers, and the working of the Tenth Schedule. It rewards precise citation of the **52nd** and **91st Amendments** and **Kihoto Hollohan**, paired with a reasoned reform argument.

Practice question: “The anti-defection law has failed less in its substance than in its procedure.” Critically examine, and suggest reforms to make it an effective safeguard of the voter mandate. (15 marks, 250 words)

Sources: Indian Express Editorial, PRS Legislative Research

Source: Reforming the Anti-Defection Law to Protect the Voter Mandate — Ujiyari.com | Free UPSC & State PCS Editorial Analysis

RELATED DAILY ARTICLES

25 Jul **Dharmendra Pradhan Resigns Over Exam Leaks: Ministerial...**

24 Jul **Tougher Penalties for Exam Paper Leaks: The 2026...**

23 Jul **The Supreme Court Number of Judges Amendment Bill 2026**

21 Jul **A Bill to Protect Vande Mataram Under the National...**



CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

[in linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)[Read Full Article on Ujiyari →](#)<https://ujiyari.com/editorials/2026/07/ie-anti-defection-reform-2026/>

ALSO FROM THE CREATOR

BharatNotes

Free UPSC study platform — subject-wise notes across all 4 GS papers, Prelims MCQs, Mains answer frameworks, PYQ analysis & progress tracking. **100% Free • No Login Required.**

[Start Preparing → bharatnotes.com](#)

📢 OPPORTUNITY

Advertise with Ujiyari

Reach **thousands of serious UPSC & State PCS aspirants** daily through our PDFs, website, and social channels.

Ideal for: Coaching institutes • EdTech platforms • Book publishers • Exam prep apps

[✉ epicbharat@gmail.com](mailto:epicbharat@gmail.com)

Write to us for rates & media kit

Free UPSC & State PCS Current Affairs · ujiyari.com · bharatnotes.com