

“Plugging the Loopholes: An Analytical Study on the Need to Strengthen the Anti-Defection Law”

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Abstract:

Political parties play a crucial role in a parliamentary democracy. The stability of a government in Parliament or a State Legislature depends on the continued majority of the political party or coalition. The current practice of defections due to horse-trading or solely to change the government is a manifestation of unethical political practices that violate the democratic mandate and undermine our democracy. The Anti-Defection Law, the Tenth Schedule, was introduced into the Indian Constitution in 1985 to ensure governance stability. To prevent political defections, the Tenth Schedule included provisions for disqualification from the House. Members of the House ridiculed this, as a disqualified member immediately contests a by-election and becomes an MP or MLA again. Recently, Manipur, Karnataka, Telangana, and Maharashtra have witnessed cases of unnecessary delays in resolving disqualification petitions for defection. This raises questions about the Speaker's impartiality. To what extent is it appropriate to grant a two-thirds exemption for political party mergers? To answer these questions, this research paper has been prepared with the aim of analyzing the loopholes of the Tenth Schedule of the Indian Constitution and presenting appropriate suggestions.

Keywords:

Defection, disqualification, democracy, mandate. merger, split, tenth schedule.