

Demerits of Anti – Defection Law

1. **Violates freedom of expression:** The Anti defection Law forces the individual legislators to follow party whip. It thus interferes with the individual member's freedom of speech and expression by curbing dissent against party policies or party whip.
2. **Lowers accountability of elected candidate towards his electorate:** Following party diktat every time, the legislator cannot vote in line with his conscience, judgements and interest of his electorate. It lowers elected representative accountability towards his electorate. Thus, anti-defection law breaks the link between the elected legislator and his electors.
3. **Weakened Oversight:** The law weakens the legislator's oversight on executive action as they are bound by party whip.
4. **Against internal party democracy:** The law removes the need for the govt. to build broad consensus for its decisions/ policy making. The ruling party can ensure the support of each of its MP by issuing a whip. Thus, it works against internal party democracy. Secondly, if it needs to get further support to get a majority, it only needs to convince the leader of other parties and not individual MPs.
5. **Proliferation of Small political parties:** The law has led to the birth of small political parties out of existing ones, primarily in order to bypass the law. This has further resulted in the formation of a number of unstable coalition government.
6. **Circumvention of anti-defection law:** The law was introduced to curb political defection. However, political defection continues to be common even today. Example – Recent defection by 16 MLA's in Karnataka assembly.
7. **Decision making authority:** The presiding officer of the house is vested with adjudication powers related to the law. This is criticized on two grounds:
 - a. It may not be impartial due to political bias towards a political party.
 - b. For instance, in Karnataka, the Speaker kept 17 MLAs at bay for days by refusing to act on their resignations.
8. **No specific time period:** The Law does not provide a time limit for presiding officer to take decision regarding disqualifying a member.
9. **Individual vs Group Defection:** The law allows group defection by providing exception in the law for merger between political parties. But it doesn't allow individual defections. This distinction is irrational.
10. **Discrimination between a nominated and an independent member:** An independent member (Member not belonging to any political party) of the house becomes disqualified if he joins a political party after the elections. But a nominated member of the house becomes disqualified if he joins any political party six months after his nomination to the house. This discrimination between the nominated and the independent member of the house is considered to be irrational.