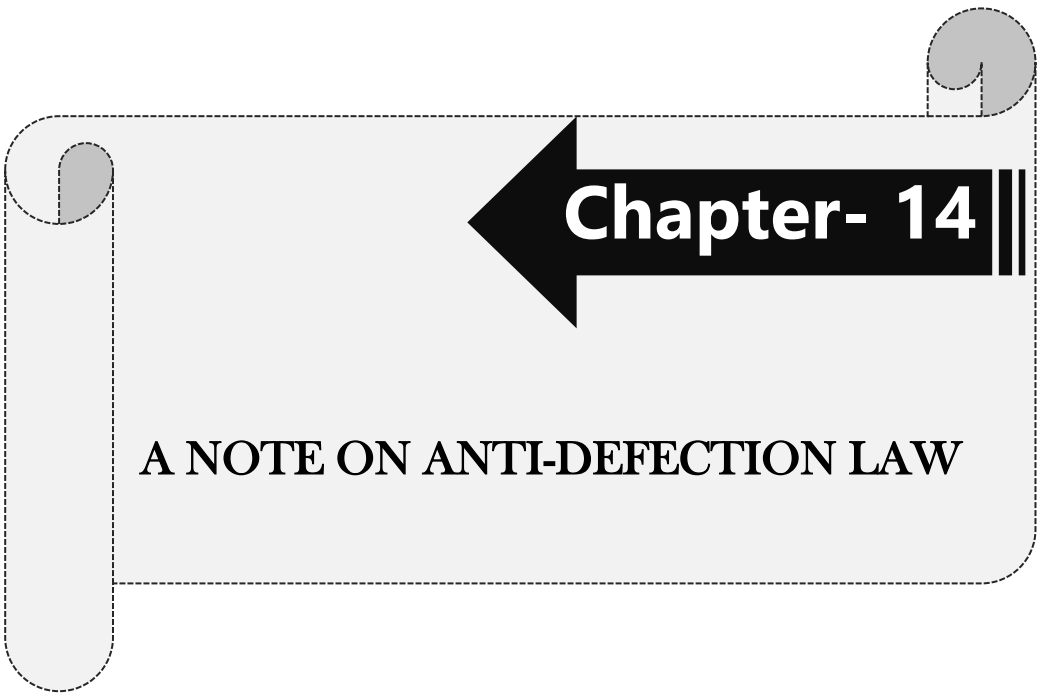




Chapter- 14

A NOTE ON ANTI-DEFECTION LAW

¹**Mr. ANURANJAN SHARMA**

¹Apeejay Stya University

Ch.Id:- ASU/NSP/EB/TBTL/2022/Ch.14

DOI: <https://doi.org/10.52458/9789391842673.nsp2022.eb.asu.ch.14>

The latest Political upheaval in Maharashtra has again reignited the debate on the Defection laws. The history can be traced back to 1960's where one of the political leader changed the government thrice in a day, which led to the invent of infamous expression "Aya Ram Gaya Ram" for the leaders who were changing commitment to political parties intermittently.

To tackle this peril of defection, a committee was formed under Y.B Chavan as chairman. In 1985 there was 52nd Constitutional amendment which added 10th schedule to Indian Constitution. This law was armored in 2002. This defined defection as an act to "abandon a position or association, to join the opposite group".

This new Anti-defection law was made applicable to elected members of political parties of States and union so that MPs and MLAs can be prevented from departing one party to another under influence of other party.

In 1985, the rule was that if a member of political party, from one party switches to other party, he will be considered as disqualified, but at the same time, if one-third members are segregating themselves from the original party to the new one, then it will be considered as amalgamation or merger. However this rule was toughened by changing one-third criteria to two-third, by 91st constitutional amendment Act, 2003. However at the same time they are allowed to contest election again.

The decision with regard to disqualification will be decided by the speaker or chairman of the House. Earlier the decision of the presiding officer was irrefutable but since 1992 the Supreme Court in one of the cases declared, this provision, a subject of Judicial review on the grounds of malafides and bias. Although the courts will have all the watchfulness to allow or to decline, to intervene.

Key issues related to Anti-defection law are:

1. Whether the order of Presiding Officer subject to Judicial review?
2. What should be the time limit in which the Presiding Officer must decide?
3. What is the Judicial Trend in interpreting the law while deciding on related matters?
4. What are the various recommendations proposed to bring reforms in Anti-Defection Law.

A Note on Laws on Child Rights:

Dr Virendra Chauhan, Asso. Prof. Narayana College, Shikhoabad.

Laws passed for Juveniles are

1. Juvenile Justice (Care and Protection of children) Amendment Act 2021
2. Protection of children from Sexual Harassment Rules, 2020
3. Juvenile Justice Care and Protection of children Act 2015
4. Protection of children from Sexual Harassment Act, 2012
5. Prohibition of child marriage Act 2019
6. Immoral traffic Prevention Act 1956

There are other legal provisions as well in Constitution & IPC which deals with the critical Issues like liberation from child labor, bonded labor, begging and specific crimes.

The Crime world is very brutal they do not spare, even the children, from its clutches. The socio-environmental conditions and unsuitable nurturing of a child derives him to the wrong paths. The worst among them are the sexual harassment, begging, addiction to drug. This drags them, to crime world advertently or inadvertently and later-on in to some heinous crimes and thus converting them as delinquents.

Similarly on every railway platform, bus stations, religious places, markets, educational Institutions etc, at the most of the populated places, Juveniles involved in begging can be found. They are sometimes two-three in number and with a controller. Is it that much difficult to find the chain of control. These are obviously those people involved in stealing of children. These are the people who are responsible in mutilation and amputation of their organs and throwing them in the dark world.

The idea behind passing of Juvenile Justice Act was to provide the Justice to the victim and reformation to the child in conflict with law. Initially when the act was passed the children engaged in any illegal or criminal activity were considered as delinquents. But later-on this approach of govt. changed

This fragile world of children are required proper care and nurturing. The government has to play an active role in their development and protection.

CONCLUSION

Changing names of the acts does not, mean betterment of their situation. What is meaningful is that, whether the system is protective and supportive enough to help them. The administrative system is required to identify the real culprits and thus stopping them from doing further damages to the society.