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**ARTICLE REVIEW: “CRACKING THE WHIP: THE  
DELIBERATIVE COSTS OF STRICT PARTY DISCIPLINE”  
BY UDIT BHATIA**

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Pranjal Pagaria, Symbiosis Law School, Nagpur

While talking about Parliament the first and foremost function that clicks our mind is the legislative function of the Parliament. But this is not all about Parliament, comprised of representatives, directly elected from all over the country, it is also the highest platform of discussion and debate.

The above statement very simply defines the function of Parliament but the actual functioning of Parliament is too complex, intricate and we can loosely say that the way it functions it tends to forget the main purpose of its working- a debate without restrictions.

The article- “*Cracking the whip: the deliberative costs of strict party discipline*” by Udit Bhatia very beautifully explains that how the anti-defection laws, introduced by 52<sup>nd</sup> amendment, cost us quality deliberations. Here, anti-defection laws need to be distinguished from party switching which means legislators giving up their membership of the party from which they contested elections to serve as independent MPs or to join another party.

The author uses 2 sets of anti-defection laws.

1<sup>st</sup> SET

**CROSS-VOTING**

This restricts the legislators from voting against party’s whip.

India has a legislation of this sort.

2<sup>nd</sup> SET

**PARTY-EXPULSION**

Rules whereby legislators who are disqualified by the party also lose their membership of the legislative assembly.

Countries like Nepal, Singapore

have such laws.

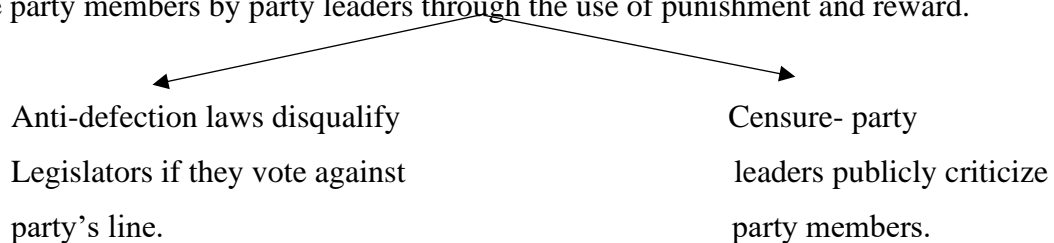
- Following a Supreme Court ruling in *G. Viswanathan v The Honorable Speaker, Tamil Nadu Legislative Assembly* case in 1996, a legislator is tied with to the directives of its party. Abstaining from voting in a particular manner is also included in anti-defection laws.
- Party expulsion anti defection laws are more stringent than the cross-voting types since they permit party leaders to pre-emptively act against legislators rather than waiting for them to actually vote against the party’s directive.
- These sets of anti-defection laws are used to maintain party unity, through the means of party discipline. The author has very eloquently explained the difference between party discipline and party cohesion.

**PARTY DISCIPLINE**

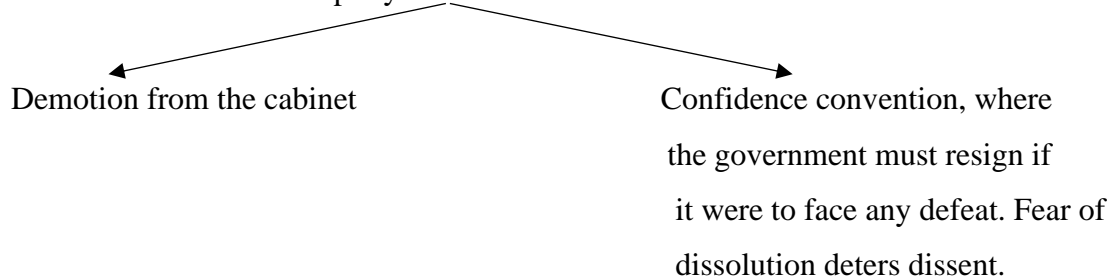
It refers to rules and regulations through which party leaders try to obtain the obedience of the party members, in every aspect of their public appearance.

2 steps to achieve party discipline are-

1. Formal and informal rules, which serve different purpose but to achieve alignment among the party members by party leaders through the use of punishment and reward.



2. Exploitation of rules and regulations by party leaders to achieve party unity resulting in punishment or reward of the party members.



- These rules lead to control mechanisms where the dissent and development is regulated

through the means such punishments.

## **PARTY COHESION**

Cohesion is where the interests and preferences of the party members are in consonance with each other.

Such party cohesion is a result of shared preferences, socialisation, consensus and genuine loyalty of the party members.

- The article mainly focuses on the party discipline as it costs quality deliberation.
- Now the question arises why party unity is so important that party leaders desire to achieve it through hook and crook?

## **PARTY UNITY**

These are the following reasons why party leaders try to achieve party unity so desperately.

### **1. Accountability**

The parties are very much accountable to the electors and a certain of partisanship is required to hold parties accountable. Also, to see that parties are acting in alignment with their promises.

### **2. Representation**

Parties are pivotal to the election system. Elections are not about self-interests of a single candidate. Elector's vote for a candidate is strongly connected with the support of party-justifying party discipline.

### **3. Political deliberations**

As these parties indulge in public and political justification, performing epistemic role of gathering information.

The author also highlights the situation of zero competition. Such a situation will lead to deterioration of epistemic activities as parties will no more, engage in political justification.

- After having the knowledge of party discipline, its facets and party unity it comes of great importance as why author thinks that all these things lead to deliberative costs.

## **Party discipline and dissent**

### **1. Hinders the formation of dissent**

Adverse consequences of dissenting can lead to deterrence from active participation. MPs will just try to justify party's view without engaging in any discussion. They compromise their opinion to fit into party's unity.

### **2. Stifles the expression of dissent**

Anti-defection law merely direct legislators to vote with their parties and does not control the dissenting opinion. But dissenting on a subject matter and then voting for it will make legislators look hypocrite and inconsistent.

### **3. Reduces the uptake of dissent-**

When party leaders have the tool of party discipline, they use it to dodge the preferences of dissenters. In absence of such control, party leaders would be bound to consider the dissenting opinions.

## **Deliberative costs**

### **1. Epistemic approach**

This includes procedure-independent standards to solve problems related to health care system, environmental issued, etc.

It requires conceptualising the problem and weeding out good arguments from the bad ones. The first two hindrances of formation and expression of dissent affect the epistemic approach of deliberation as they affect argument formation ability hence disrupting the purpose of epistemic approach.

### **2. Political Justification**

This approach provides legitimacy of power, through scrutiny of decisions by those whom the decision will affect. Parliament becomes the forum of political justification. The role of legislators is to clarify to the external public the differences that exist between them and the reasons for them, no effort is made to change opinions of others.

The third hindrance of uptake of dissent poses problem to political justification as it restricts the scope of discussion among party members.

- Political parties need to take cognizance of the opinions of opposition as well as of the party members to efficiently outline a map of arguments and to make its own footing of arguments stronger.

- Control mechanisms of strict party discipline adversely affect the map of arguments. How unrestricted map of arguments benefit parties is discussed under 2 heads.

**1. Makes them aware of the negatives of their arguments-**

When the party addresses the dissents of other members it makes them aware of the points that the opposition party may make to counter their position.

**2. Agreement through various justifications-**

It is difficult for people to switch their perspectives but with the help of partisans, they can easily acknowledge the various justifications for their own points. This helps in giving variety of justifications for one idea.

**Benefit of size**

- Author has also considered the importance of size in political deliberations. Helene Landemore says- “wisdom of the many over the few”. The attempt to enhance cognitive diversity is the rationale behind having big legislative bodies. But strict party discipline reduces the cognitive ability of a large group by making them coincide with the same opinion as their parties have.
- Continuing with the same analogy, the author also mentions that why judicial intervention in legislative arena is criticised. The reason that judicial benches comprise of lesser number of people, it is referred as cognitively inferior.
- In the same line author also talks about the importance of bicameralism. It enhances the epistemic quality of legislative-decisions and is regarded as a ‘second-opinion mechanism’. He also mentions that the second chamber should not be regarded as superior but if it offers an independent judgement then it helps in dividing the labour of deliberations and are helpful in detecting flaws. But again, strict party discipline deprives them of benefits of division of labour.
- As we have seen author takes into consideration various aspects one more aspect upon which the author dwells, is the intra-party deliberations. He advocates it as it could add to the epistemic benefits and would also help in mitigating some costs of strict-party discipline. But there is no mention of this deliberation under Indian system.

## **Conclusion**

The major take-away of this article is that anti-defection laws can severely restrict the Parliament's ability to deliberate on a subject matter.

Disqualification from the legislature entails loss of one's legal ability to block the decision on which dissent has been expressed. On the other hand, countries without anti-defection laws give legislators at least the formal power to block a government's move. In my opinion this forms one of the greatest drawbacks of anti-defection laws.

Speaking of the article, I found the article really engaging and worth every minute I spent! The article very articulately brought out the flaws of anti-defection laws. Author also explores various ideas to mitigate the deliberative costs. This article is a motivation for the legislators to pursue unity in a way that it does not affect the epistemic quality of the legislation and the capacity to achieve public justification.