Manufacturing Artificial Majorities

Pure Politics, Unconstitutional Defections, and the Politics of Resistance in India

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17.06.2026 doi: 10.59704/587be7d3ac7113ab

Assessing Indira Gandhi's breed of politics, Ashis Nandy noted that Gandhi enjoyed pursuing her political goals via pure politics, defined as

> *"a politics characterised by constant political-cost calculations, assumption of non-synergy and a single-minded pursuit of self-interest by all actors in the system." (At the Edge of Psychology, 114)*

The state, and the political system built around it, are then meant to serve a singular purpose: power maximisation and its retention, irrespective of the ethics of the means adopted. The constitutional limits on power, its design for power-sharing, and the achievement of certain positive socio-economic outcomes for the collective benefit of the society take the backseat. What is going on in India currently is eerily similar.

The 2026 West Bengal State Election and Its Aftermath

Last month, in a set of crucial state elections, the BJP was able to win the election in the state of West Bengal for the first time. It dislodged the government of a regional party – the Trinamool Congress – that has presented a strong opposition to the BJP for the last decade by also sending a high number of legislators to both Houses of Parliament. There are several questions around the fairness and integrity of the elections, as they took place against the backdrop of a large-scale electoral roll revision exercise that caused massive disenfranchisement. Negligible legal opportunities were provided to the individuals whose names were deleted from the rolls, while the Supreme Court virtually legitimised this exercise by noting that those whose names had been deleted could vote in the next election once they defend their rights in a tribunal. After the election, several reports have emerged that question the integrity of the electoral voting machines, raising tough questions about the health of electoral democracy in India.

TMC, like most of the other regional parties in India, is not a well-organised political party and largely works on a presidential model by building electoral campaigns around its leader, Mamata Banerjee. As Banerjee also lost her election, a major faction of the elected TMC legislators separated itself from the party leadership in the state legislature, though retaining their allegiance to the party in order to avoid disqualification under the Indian anti-defection law.

Beyond this intra-party struggle for power, a more concerning set of events took place at the central level, in both the Houses of Parliament. In the 2024 general elections, TMC had won elections on 29 seats out of 42 constituencies of the state of West Bengal, and thus held a major role in the parliamentary opposition against the BJP. Immediately after this electoral victory in the state election, the BJP has engineered the defection of 20 of these legislators in order to boost its numbers. They merged with an unrecognised party and then joined the BJP-led alliance. Readers would recall that earlier this year, the BJP had attempted to introduce a constitutional amendment bill to redraw the electoral map of India, and it failed due to its inability to muster a two-thirds majority in Parliament. In addition, the BJP is also attempting to enact an amendment that would introduce synchronised national and state elections in India, in the hopes that it could sideline state-specific issues and victory at both the national and state levels could be achieved by projecting a single Prime Ministerial face. These defections must be viewed in light of the attempts to meet the constitutional majority requirement for passing these amendments.

A similar set of defections is in play for mustering a majority in the Upper House of Parliament. The members of the Upper House are elected by the state legislative assemblies, and therefore, as the BJP has now won the state government in West Bengal, it has engineered the resignation of multiple TMC upper house legislators, so that they can either be replaced or re-elected under the BJP's sponsorship.

These are not the sole incidents. A few months back, a faction of 7 upper house legislators elected from the state of Punjab under the banner of another opposition party – Aam Aadmi Party – had transferred their allegiance to the BJP. And currently, an attempt to secure the defection of a similar number of legislators is underway from a regional party in Maharashtra – Shiva Sena (UBT) – which has already witnessed a split in favour of the BJP in the recent past.

What these events show is that, beyond the integrity of the elections, even the sanctity of the voters' preference is increasingly lost in the Indian state. Upon failing to secure victory at the booth, the BJP has been comfortably deploying other means to ensure that an artificial majority could be created. The news reports, as well as the history of defections in India, show that the ruling parties have used the carrot and stick approach in manufacturing such artificial majorities. If a bribe fails to convert an elected legislator, the central government conveniently frames false charges against them. Once they switch, the charges are either dropped or pushed to the back burner.

The Uselessness of the Anti-Defection Law

The Tenth Schedule to the Indian Constitution is meant to check exactly such actions. It proscribes the defection of legislators, and it mandates that once an individual is elected on a party ticket or independently, they are mandatorily disqualified if they switch their affiliation. However, as the individual empowered to decide such petitions is the House Chairperson, they tend to sit on such disqualification petitions or don't admit them at all. While the provision of judicial review remains, the pace at which such a review takes place ensures that no ethical and constitutionally-compliant outcome is achieved before the term of the House itself is over, leaving the matter infructuous.

Moreover, the defecting legislators have increasingly come to rely on an exception to the anti-defection law to argue the legality of their actions. The Tenth Schedule provides that if the original political party of the legislators under question decides to merge with another political party, they can be saved from disqualification if such a merger is also approved by two-thirds of the elected legislators. As this description would clearly show, this requirement of the approval of a two-thirds majority is supposed to operate as a check against the decision of their original party to merge with another one. It is not supposed to operate as a trigger to a merger. However, in all the above-discussed episodes, involving AAP, TMC, and SS(UBT), the legislators have justified their actions by arguing that their faction constitutes the two-thirds majority and thus, they are constitutionally allowed to defect, irrespective of whether their original party has initiated such a merger. This is a blatant violation of the Constitution, and the House Chairpersons, rather than upholding the law, have acted complicitly in approving this interpretation.

Concluding Remarks

The BJP has been trying extremely hard to secure the required number in the two Houses of Parliament. In a different election for the upper house from the state of Madhya Pradesh, it was able to collude with the returning officer in charge of handling nominations to cancel the nomination of an opposition candidate. Given the party composition in the MP legislative assembly, it was certain that the opposition candidate would easily win the election. However, with her nomination cancelled, the BJP gained another seat illegally. In vain, urgent interventions were sought from the Election Commission and the Supreme Court.

In most of the democracy and constitutional law scholarship, these two institutions have been heralded as the guardians of Indian democracy and the protectors of the Constitution. The veil is off, and their vulnerabilities and the tendency to capitulate are now clearly visible. Guardians no more.

It is high time that these institutions, including the cognitively awake members from the BJP as well, realise that elections and the theatre of electoral democracy work as a safety valve in a polity. The logic of elections is nothing but to determine who gets the legitimate right to govern the citizens. The legal processes, including the constitution, built around this notion aim to ensure a sense of certainty and fairness. Once that sense is lost, which is increasingly on the verge of collapsing, laws tend to lose their appeal, and much could be threatened. An overall sense of injustice and unfairness cannot be allowed to have free rein. The call to the politics of resistance by Rahul Gandhi, Leader of the Opposition in Parliament, is hopeful and scary at the same time. While it shows that there is an increasing recognition that the entire constitutional system has virtually been captured by the BJP, and thus the political fight has to change its language and move beyond the institutions to the streets, it also depicts the evidence of the failure of India's constitutional project.

At the end of the Constituent Assembly deliberations in 1949, BR Ambedkar had argued that the newly introduced constitutional system was, among other things, meant to bring order to Indian politics. For it to operate well, he argued that it is important that politics is pursued while remaining within the four corners of the constitution, which would provide (hopefully) equal opportunities and a fair ground:

> *"If we wish to maintain democracy not merely in form, but also in fact, what must we do? The first thing in my judgment we must do is to hold fast to constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution. It means that we must abandon the method of civil disobedience, non-cooperation and satyagraha. When there was no way left for constitutional methods for achieving economic and social objectives, there was a great deal of justification for unconstitutional methods. But where constitutional methods are open, there can be no justification for these unconstitutional methods. These methods are nothing but the Grammar of Anarchy and the sooner they are abandoned, the better for us."*

He justified anarchy when "there was no way left for constitutional methods". What the BJP is doing is recreating this situation. I hope that better sense prevails and the stakeholders change their approach to politics. Pure politics is a clear route to instability.

ABOUT THE AUTHOR

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SUGGESTED CITATION

Jain, Anmol: Manufacturing Artificial Majorities: Pure Politics, Unconstitutional Defections, and the Politics of Resistance in India, Verfassungsblog, 17.06.2026, doi: 10.59704/587be7d3ac7113ab.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20260617-190644-0.