BEYOND TIMELINES: THE EVIDENTIARY VACUUM IN TENTH SCHEDULE ADJUDICATION AND THE ARTICLE 14 IMPERATIVE

Kshitij Saruparia, B.A. LL.B. (Hons.), NALSAR University of Law

ABSTRACT

In July 2025, the Supreme Court directed the Speaker of the Telangana Legislative Assembly to decide ten pending anti-defection petitions within three months. The Speaker complied. By March 2026, every petition had been dismissed for want of "conclusive documentary or legally sustainable evidence" that the ten members had defected. The timeline cure, developed from *Keisham Meghachandra Singh* to *Padi Kaushik Reddy*, produced no disqualifications. This article argues that the outcome was not a failure of enforcement. It was the predictable result of a constitutional defect that timeline enforcement cannot address: the Tenth Schedule prescribes no evidentiary standard for the central determination under Paragraph 2(1)(a), namely whether a member has voluntarily given up party membership. The Supreme Court held in 1994 that this determination may be made by inference from conduct alone, without any formal resignation. The Telangana Speaker dismissed televised attendance at party induction ceremonies, public association with the ruling party's leadership, and a sitting MLA's candidacy on a rival party's parliamentary ticket as legally insufficient. These two positions cannot coexist. The article argues that the evidentiary silence of the Tenth Schedule constitutes a defect under Article 14's guarantee of non-arbitrary adjudication. A quasi-judicial tribunal operating without any prescribed evidentiary standard produces adjudication that is structurally arbitrary, not merely occasionally so. The perversity review mandated by *Kihoto Hollohan* cannot supply, prospectively, the standard the law has not provided. The article further argues that the structural conflict of interest inherent in Speaker adjudication acquires renewed constitutional urgency when evidentiary silence gives a motivated adjudicator the tools to defeat the law's purpose through procedural compliance.

Keywords: Anti-Defection Law; Tenth Schedule; Evidentiary Standards; Article 14; Speaker; Quasi-Judicial Adjudication; Kihoto Hollohan; Padi Kaushik Reddy.

1. Introduction

In December 1990, the Speaker of the Goa Legislative Assembly disqualified three MLAs who had walked to the Governor's residence in the company of opposition legislators. They had not resigned their party membership. They had not publicly announced any change of allegiance. From their conduct alone, the Speaker drew an inference of defection. The Supreme Court upheld it. The principle that emerged from that case[1] has governed Indian anti-defection law for three decades: "voluntarily giving up" party membership under Paragraph 2(1)(a) of the Tenth Schedule encompasses inference from conduct, and no formal document is required.

In December 2025, the Speaker of the Telangana Legislative Assembly applied a different principle. Ten members who had switched from the Bharat Rashtra Samithi to the Indian National Congress[2] had attended public induction ceremonies, sat alongside the Chief Minister at government events, and in one case contested a parliamentary election on an INC ticket. The Speaker found no "conclusive documentary or legally sustainable evidence" of defection. The petitions were dismissed. Every one of the ten members continued in their seats.

Between these two outcomes lies a question the existing scholarship on the Tenth Schedule has not asked with sufficient precision: what evidentiary standard governs the determination of voluntary giving up of membership, and who decides what evidence is legally sufficient?

The standard diagnosis of the anti-defection law's failures is institutional. The Speaker is politically biased; therefore the Speaker should be replaced by an independent tribunal or the Election Commission. The Supreme Court has urged Parliament to consider this reform in every major anti-defection judgment since 2020, most recently in *Padi Kaushik Reddy v. State of Telangana* in July 2025. But the Telangana outcome occurred after that judgment, within the timeline the Court mandated, following in-camera hearings that included cross-examination of witnesses. The Speaker complied with every procedural requirement the Court imposed. The law's purpose was not served.

[1] *Ravi S. Naik v. Union of India*, AIR 1994 SC 1558 (India). The conduct-inference holding appears in the Court's discussion of Paragraph 2(1)(a).

[2] SNV Sudhir, *KCR's Team Look to Contain Defections, Disqualify Turncoats after Fifth MLA Quits BRS to Join Congress*, Deccan Herald (June 2024); SNV Sudhir, *BRS Submits Response to Speaker Over Disqualification Petitions Against 'Turncoat' MLAs*, Deccan Herald (Sept. 16, 2025).

Institutional reform, even if enacted, does not address the evidentiary problem. An independent tribunal operating under the same Tenth Schedule provisions, facing the same silence on evidentiary standards, could reach exactly the result the Telangana Speaker reached. The conduct-inference doctrine from 1994 would remain unenforceable, not because the adjudicator was partisan, but because nothing in the law requires its application.

This article makes two connected arguments. First, the Tenth Schedule's silence on evidentiary standards creates a structural incoherence in anti-defection adjudication: the Supreme Court established that conduct-based inference suffices, but prescribed no framework to ensure that standard is applied. Second, Article 14's prohibition on arbitrary state action applies to quasi-judicial tribunals, and a tribunal without any prescribed evidentiary standard produces adjudication that is structurally arbitrary, not merely occasionally so. The remedy identified in *Kihoto Hollohan* through post-decision perversity review cannot supply, prospectively, what the law has not specified.

Section 2 examines what the Tenth Schedule and its associated procedural rules actually prescribe and identifies the evidentiary silence at the centre of the adjudicatory scheme. Section 3 analyses the conduct-inference doctrine from *Ravi S. Naik* and what it actually requires of an adjudicating authority. Section 4 traces the judicial response to Speaker delay from *Keisham Meghachandra Singh* to *Padi Kaushik Reddy*. Section 5 analyses the Telangana aftermath and the contradiction it creates with existing doctrine. Section 6 develops the Article 14 argument. Section 7 examines the structural bias problem and its relationship to the evidentiary defect. Section 8 concludes.

2. The Evidentiary Silence of the Tenth Schedule

The Tenth Schedule contains eight paragraphs. Paragraph 2(1)(a) disqualifies a member belonging to a political party if "he has voluntarily given up his membership of such political party."[3] Paragraph 2(1)(b) disqualifies a member who votes or abstains contrary to a party direction.[4] Paragraph 4 provides the merger exemption, requiring at least two-thirds of the

[3]INDIA CONST. sched. X, para. 2(1)(a).
[4]Id. para. 2(1)(b).

legislature party to agree.[5] Paragraph 6(1) vests adjudicatory power in the Speaker or Chairman, whose decision is described as "final."[6]

What Paragraph 6 does not prescribe is how that adjudicatory power is to be exercised. It says nothing about what evidence may be received, what standard of proof applies, or what a petitioner must demonstrate to establish that a member has voluntarily given up membership. The paragraph is entirely silent on the quality or character of evidence required to sustain a disqualification.

Each State Legislative Assembly has disqualification rules made under the Tenth Schedule. The Members of Telangana Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986 are representative: they prescribe the procedure for filing petitions, serving notices, filing replies, and conducting hearings.[7] They do not prescribe evidentiary standards. A petitioner who files a petition and serves the requisite documents has satisfied every procedural requirement. Whether those documents constitute legally sufficient evidence of the specific factual determination under Paragraph 2(1)(a) is left entirely to the Speaker's unguided assessment.

This silence reflects a legislative assumption that the Supreme Court's subsequent doctrine has overtaken. The Statement of Objects and Reasons of the 52nd Amendment Bill treated defection as a self-evident act, apparent from formal party decisions and documented resignations.[8] The Court's recognition that defection can occur through informal conduct, without any formal act, was a significant doctrinal step. But it was a step that the procedural machinery of the Tenth Schedule was not designed to support. The Rules contemplate documentary evidence of formal party affiliation. They do not contemplate the assessment of political conduct communicated through media reports, televised appearances, or electoral participation.

[5] Id. para. 4.
[6] Id. para. 6(1).
[7] Members of Telangana Legislative Assembly (Disqualification on Ground of Defection) Rules, 1986, rr. 6 and 7. Equivalent rules exist for every state legislature; the Telangana Rules are representative of the procedural-only character of these instruments.
[8] The Constitution (Fifty-Second Amendment) Bill, 1985, Statement of Objects and Reasons, Lok Sabha, Jan. 24, 1985. The Statement describes political defection as a "matter of national concern" requiring a clear and identifiable act of disloyalty.

The practical consequence is that the most important factual question in any Paragraph 2(1)(a) proceeding is answered, where it is answered at all, by each Speaker independently, without a prescribed framework, without a binding methodology, and without any mechanism for testing consistency. Two members whose conduct is equally indicative of defection may receive opposite outcomes depending on the Speaker's unarticulated evidentiary preferences.

3. The Conduct-Inference Standard: What Ravi S. Naik Actually Established

The Supreme Court's 1994 decision in *Ravi S. Naik v. Union of India* is the foundational authority on the meaning of "voluntarily gives up his membership" under Paragraph 2(1)(a). Three MLAs of the Maharashtrawadi Gomantak Party had appeared at the Governor's residence in Goa alongside Congress (I) legislators. No written resignation had been submitted. No formal statement of party-switching had been made. The Speaker inferred defection from this conduct and issued disqualification orders.

The Supreme Court upheld the approach. It held that the words "voluntarily given up his membership" are not synonymous with "resignation" and carry a wider connotation.[9] A member may voluntarily give up membership without tendering a formal resignation. The Court was explicit: "even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs."[10]

The principle established in *Ravi S. Naik* is therefore this: the factual determination of voluntary giving up of membership does not require documentary proof of formal resignation or formal party-joining. Conduct from which the inference is reasonably available is sufficient. The inference must be drawn from the conduct; it cannot be manufactured. But the conduct itself need not take any particular formal character.

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[9] *Ravi S. Naik v. Union of India*, AIR 1994 SC 1558 (India). The appellants in this case were three MLAs of the Maharashtrawadi Gomantak Party who had accompanied Congress (I) legislators to the Governor's residence in Goa in December 1990. See also *Sanjay Bandekar v. Union of India*, decided together with *Ravi S. Naik* on the same day.

[10] Id. (conduct-inference holding). The Court held: "The words 'voluntarily given up his membership' are not synonymous with 'resignation' and have a wider connotation. A person may voluntarily give up his membership of a political party even though he has not tendered his resignation from the membership of that party. Even in the absence of a formal resignation from membership an inference can be drawn from the conduct of a member that he has voluntarily given up his membership of the political party to which he belongs."

Two aspects of *Ravi S. Naik* are important for what follows. First, the conduct that founded the disqualification was a meeting at the Governor's residence, an event that would have been known primarily through contemporaneous reporting. The Speaker did not personally witness the meeting. Knowledge that it occurred came through sources of the same character as a media report. Second, the petitioners had not denied the allegation about the meeting; they contested only whether the inference of defection could properly be drawn from it. The Court held it could. The evidentiary question turned on the sufficiency of the inference, not on the formality of the proof.

A strict "documentary evidence only" standard is incompatible with *Ravi S. Naik*'s holding. Where a member attends party events publicly, campaigns for a rival party's candidate, or contests an election on a rival party's ticket, the conduct is more direct and more public than the Governor's residence meeting. The inference available is at least as strong. A rule demanding documentary formalism in the face of such conduct does not apply the standard *Ravi S. Naik* established; it substitutes a different, stricter standard for which there is no authority.

4. The Judicial Response to Speaker Delay: From Keisham Meghachandra Singh to Padi Kaushik Reddy

The Supreme Court's sustained engagement with the failures of Tenth Schedule adjudication has focused almost entirely on the problem of Speaker delay. In *Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly*, decided in January 2020, disqualification petitions had been pending since April 2017, nearly three years, while the MLA concerned served as a minister in the government he had helped bring to power.[11] A bench of three judges directed the Speaker to decide the petitions within four weeks, established a three-month outer limit as the general rule for Tenth Schedule proceedings, and recommended that Parliament "seriously consider" replacing the Speaker with a permanent independent tribunal headed by a retired

[11] *Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly*, (2021) 16 SCC 503, paras. 3--7 (India). The first disqualification petitions were filed in April 2017; the Supreme Court was seized of the matter in January 2020; the Speaker ultimately decided the petitions in March 2020 only after the Court removed the MLA concerned from the state cabinet.

judge.[12]

Neither the timeline nor the institutional recommendation produced legislative change. The Maharashtra political crisis of 2022 generated the Constitution Bench decision in *Subhash Desai v. Principal Secretary, Governor of Maharashtra*, which reaffirmed that the Speaker must act "fairly, independently and impartially" and that the political party and the legislature party are constitutionally distinct.[13] Timelines were again imposed on the pending Maharashtra proceedings.[14]

Padi Kaushik Reddy v. State of Telangana, decided on 31 July 2025, is the most direct engagement with the delay problem in the Court's recent jurisprudence.[15] The Telangana petitions had been filed in March and April 2024. By January 2025, when the Supreme Court took up the matter, notice had still not been issued to the members concerned, eleven months after the petitions were lodged. The Court held that the Speaker acting under Paragraph 6(1) enjoys no constitutional immunity under Articles 122 or 212 when exercising adjudicatory power, because that power is exercised as a tribunal independently of the House's proceedings.[16] It directed the Speaker to conclude the proceedings within three months of the judgment, observing that further delay would frustrate the purpose of the Tenth Schedule.[17]

The scholarly commentary on this line of judgments has concentrated on the institutional design question that the Court itself has repeatedly flagged: who should adjudicate?[18] The assumption underlying that focus is that the core problem is adjudicator motivation. Given

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[12] *Keisham Meghachandra Singh*, (2021) 16 SCC 503, para. 33 (India). The Court stated: "It is time that Parliament has a rethink on whether disqualification petitions ought to be entrusted to a speaker as a quasi-judicial authority when such Speaker continues to belong to a particular political party either de jure or de facto."

[13] *Subhash Desai v. Principal Secy., Governor of Maharashtra*, (2024) 2 SCC 719 (India).

[14] *Subhash Desai v. Principal Secy., Governor of Maharashtra*, (2024) 2 SCC 719 (India) (directing the pending disqualification proceedings before the Speaker to be concluded and observing that the Speaker was expected to act "fairly, independently and impartially").

[15] *Padi Kaushik Reddy v. State of Telangana*, 2025 INSC 912 (India). The judgment was delivered on 31 July 2025 by a bench of Chief Justice B.R. Gavai and Justice A.G. Masih. The petitions had been filed in March and April 2024.

[16] *Padi Kaushik Reddy v. State of Telangana*, 2025 INSC 912 (India). Full text available at sci.gov.in.

[17] *Padi Kaushik Reddy v. State of Telangana*, 2025 INSC 912, para. 6 (India) (describing the Speaker's conduct as "lackadaisical").

[18] Darsan Guruvayurappan, *Rethinking Defection: An Analysis of Anti-Defection Laws in India*, 76 Parliamentary Affs. 443 (2023) (arguing that party-based anti-defection laws do not achieve government stability and harm representative decision-making, but not addressing the evidentiary framework for adjudication). See also B. Muthu Kumar, *Study on Anti-defection Law and Inner-Party Democracy with Specific Reference to India and the United Kingdom*, in Comparative Law (Springer, 2024).

sufficient impartiality and sufficient speed, the law will work. But neither *Keisham Meghachandra* nor *Padi Kaushik Reddy* addressed what happens inside the three months: what evidentiary standard the adjudicator must apply, what kinds of proof establish conduct-based inference, and whether the standard from *Ravi S. Naik* is enforceable in any proceeding regardless of how expeditiously it is conducted. The timeline cure left the evidentiary question open.

5. The Telangana Aftermath: Compliance Without Remedy

The Telangana Speaker did comply with the Supreme Court's direction. In-camera hearings commenced in October 2025, involving cross-examination of witnesses in a process reported to be the first of its kind in the assembly's history.[19] Orders were delivered in staggered batches: five in December 2025, two in January 2026, and the final decisions on Danam Nagender and Kadiyam Srihari on 11 March 2026. The Court's three-month outer limit was met, at least approximately. Every procedural box was checked. And every petition was dismissed.

The Speaker's reasoning, as reported from the 55-page order, turned entirely on evidentiary insufficiency.[20] Media reports and television footage of the ten members attending INC events, sitting alongside the Chief Minister, and publicly associating with Congress leadership were characterised as hearsay and held inadmissible. Congress insignia worn at party events were described as "tricoloured cloth" not bearing a registered party symbol. The implication of this reasoning, applied consistently, is that no act of public political association constitutes legally sufficient evidence unless it is formally documented by the parties themselves.

The most striking case concerned Danam Nagender. He had not merely attended INC events. He had contested the 2024 Lok Sabha elections from Secunderabad on an INC ticket, a fact notified by the Election Commission and not susceptible to any factual dispute. The Speaker

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[19]SNV Sudhir, *Telangana Speaker Begins Trial Over BRS Disqualification Pleas*, Deccan Herald (Oct. 2025) (reporting that the in-camera hearings, including cross-examination of witnesses, were "the first instance in the history of the Telangana Legislative Assembly where the Speaker himself is directly conducting hearings on disqualification petitions").

[20]V. Aravinda, *Telangana Speaker's Actions Test Anti-Defection Law's Evidentiary Limits*, The Federal (Mar. 17, 2026); SNV Sudhir, *Telangana Assembly Speaker Rejects BRS Petitions Against Defected MLAs*, Deccan Herald (Dec. 2025); *Telangana Assembly Speaker Dismisses Disqualification Petitions Against Two BRS MLAs*, News on Air (Jan. 15, 2026). The characterisations in this section are drawn from these news reports. The full text of the Speaker's 55-page order has not been officially published.

held that contesting a parliamentary election for a rival party did not automatically trigger disqualification at the state level. The legal basis for this asserted distinction between parliamentary candidacy and state-level membership abandonment was not explained in the orders as reported.

Kadiyam Srihari's case is no less striking. He did not contest the election himself, but openly campaigned for his daughter who stood as the Congress candidate from Warangal. That conduct, canvassing votes publicly for a rival party's candidate, was, in the Speaker's assessment, still insufficient to establish the inference.

One possible response to this analysis is that the Speaker was applying *Ravi S. Naik* correctly: that case required the petitioner to produce adequate evidence, and here the evidence, whatever its probative value, was presented through secondary sources that the Speaker was entitled to discount. This response does not survive scrutiny. The conduct that founded the disqualification in *Ravi S. Naik* was itself known to the Speaker through secondary accounts of a meeting that the petitioners had not denied. What distinguished that case was not the formality of the evidence but the directness of the inference. Contesting a parliamentary election on a rival party's ticket is at least as direct a basis for inference as appearing at the Governor's residence with opposition legislators. The Telangana Speaker did not apply a different weight to the same standard. He applied a different standard.

The gap exposed by the Telangana outcome is not between the Court's direction on timelines and the Speaker's compliance. The gap is between the Court's existing evidentiary doctrine and the absence of any mechanism to enforce it. The Speaker was free to create an evidentiary standard of his own, more restrictive than what binding authority requires, and to apply it without any framework to constrain or test the standard itself.

6. Article 14 and the Requirements of Non-Arbitrary Quasi-Judicial Adjudication

Kihoto Hollohan v. Zachillhu established that the Speaker acting under Paragraph 6(1) "is a Tribunal."[21] This characterisation carries constitutional consequences that *Kihoto Hollohan* did

[21]*Kihoto Hollohan v. Zachillhu*, 1992 Supp (2) SCC 651, para. 100 (India) ("By these well known and accepted tests of what constitute a Tribunal, the Speaker or the Chairman, acting under Paragraph 6(1) of the Tenth Schedule is a Tribunal."). The text of this paragraph was reproduced in *Padi Kaushik Reddy v. State of Telangana*,

not draw to their logical conclusion. A tribunal exercises quasi-judicial power. It adjudicates rights and obligations. Its decisions are reviewable by courts. And it performs a function of the state, making its action subject to Part III of the Constitution.

Article 14's guarantee of equality before the law applies to all state action, and the Supreme Court has consistently held that wherever there is arbitrariness in state action, there is a denial of Article 14.[22] This principle applies to the exercise of quasi-judicial power as much as to legislative or executive action. A state authority that adjudicates rights cannot do so arbitrarily and claim constitutional immunity simply because its jurisdiction derives from the Constitution rather than a statute.

A potential objection should be addressed at the outset. It might be argued that the Tenth Schedule is itself a constitutional provision, and that Article 14 cannot read evidentiary requirements into a constitutional text. This objection conflates the constitutional source of the adjudicatory jurisdiction with the constitutional obligations governing its exercise. The argument here does not seek to supplement Paragraph 2(1)(a) with evidentiary requirements it does not contain. The argument is that the Speaker's exercise of quasi-judicial power under Paragraph 6(1) must conform to Part III obligations. *Kihoto Hollohan* confirmed this proposition directly: Paragraph 7, which sought to exclude all judicial review of the Speaker's decisions, was struck down as unconstitutional because it would have placed the Speaker's quasi-judicial action beyond the Constitution's reach. That holding presupposes that the Speaker's Paragraph 6(1) power is subject to the Constitution, including Part III.

The question is then what makes a quasi-judicial process arbitrary in the constitutional sense. Arbitrariness in adjudication is not established merely by showing that the adjudicator reached the wrong conclusion. Adjudicatory errors, even serious ones, do not necessarily constitute constitutional violations. The constitutional problem arises when the process itself lacks the minimum rational framework required to produce consistent, reviewable outcomes.

An evidentiary standard is a component of that minimum framework. When a tribunal has no

2025 INSC 912, para. 31 (India).

[22] *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3 (India) (Bhagwati J., concurring) (holding that Article 14 is a guarantee against arbitrariness and that wherever there is arbitrariness in state action there is a denial of Article 14).

prescribed evidentiary standard, there is no basis for evaluating whether two factually similar cases will be decided consistently, and no basis for a reviewing court to assess whether the evidence accepted was sufficient for the conclusion reached. The absence of a standard makes rationality review structurally impossible, not because the adjudicator's reasoning is opaque, but because there is no articulated benchmark against which the reasoning can be tested.

Kihoto Hollohan recognised four grounds of review for Tenth Schedule decisions: violation of constitutional mandate, mala fides, non-compliance with natural justice, and perversity.[23] Perversity review is the most substantive of these in the evidentiary context. It allows a reviewing court to ask whether the evidence was so inadequate that no reasonable tribunal could have reached the conclusion from it. But perversity review of a specific decision is not a substitute for a prescriptive evidentiary standard. A reviewing court confronting the Telangana orders must either import the *Ravi S. Naik* standard directly and hold the Telangana reasoning perverse by reference to it, or accept that the Speaker's evidentiary framework, however restrictive, was within the range of approaches a tribunal might adopt. The first path addresses the Telangana outcome specifically. Neither path supplies the prospective standard that prevents the same outcome in the next proceeding.

The Supreme Court has the tools to fill this gap. The three-month outer limit established in *Keisham Meghachandra Singh* is not found anywhere in the Tenth Schedule or the Disqualification Rules. The Court specified it as a constitutional requirement implied by the objective of the Tenth Schedule, using its jurisdiction under Articles 32 and 142. The evidentiary question calls for the same kind of intervention: a direction grounded in *Ravi S. Naik* and the purpose of the Tenth Schedule that evidence of public political conduct is not inadmissible hearsay in Paragraph 2(1)(a) proceedings; that conduct-based inference from secondary sources is sufficient where the conduct itself is not in factual dispute; and that documentary formalism is not a permissible evidentiary standard in anti-defection

[23]*Kihoto Hollohan v. Zachillhu*, 1992 Supp (2) SCC 651, para. 109 (India) ("The scope of judicial review under Articles 136, 226 and 227 of the Constitution in respect of an order passed by the Speaker/Chairman under Paragraph 6 would be confined to jurisdictional errors only, viz., infirmities based on violation of constitutional mandate, mala fides, non-compliance with rules of natural justice and perversity. But judicial review cannot be available at a stage prior to the making of a decision by the Speaker/Chairman and a quia timet action would not be permissible.").

adjudication.

7. The Structural Bias Problem and the Deferred Question in Kihoto Hollohan

Kihoto Hollohan was decided by a three-to-two majority. The majority upheld the Speaker's adjudicatory role, finding that judicial review for perversity, mala fides, and natural justice violations was adequate protection against abuse. Justice Pandian, writing for the minority, held that the Speaker was structurally disqualified from serving as a neutral adjudicator. The Speaker holds office by the will of the majority, and any proceeding that threatens members of that majority directly implicates the Speaker's political survival.[24]

The majority did not deny this concern. It deferred the question, treating the Speaker's structural position as a legislative design choice that Parliament could revisit, and holding that the existing judicial review mechanism was constitutionally adequate in the meantime. This was a reasonable position in 1992. It has not aged well.

The pattern across the past decade is consistent. In Manipur, disqualification petitions against a Congress MLA who had joined the BJP government went undecided for nearly three years while the member served as a minister.[25] In Maharashtra, the Speaker delayed proceedings that would have threatened the Shinde government which had appointed him.[26] In Telangana, the Speaker declined to issue notices for eleven months and then, when compelled by the Court to decide, acquitted all ten members on evidentiary grounds. The Court acknowledged the pattern explicitly: a Speaker who "continues to belong to a particular political party either de jure or de facto" cannot be expected to adjudicate dispassionately on petitions that threaten that party's

[24]*Kihoto Hollohan v. Zachillhu*, 1992 Supp (2) SCC 651 (India) (Pandian, J., dissenting). Justice Pandian held that the Speaker was not an appropriate tribunal because the Speaker holds office by the support of the majority and therefore has an inherent interest in the outcome of disqualification proceedings that threaten members of that majority.

[25]*Keisham Meghachandra Singh v. Speaker, Manipur Legislative Assembly*, (2021) 16 SCC 503, paras. 3--7 (India). The MLA concerned had been elected on a Congress ticket, crossed over to support the BJP-led government, and was made a minister. The disqualification petitions filed in April 2017 remained undecided until March 2020, when the Supreme Court removed the MLA from the cabinet and directed a decision within four weeks.

[26]*Subhash Desai v. Principal Secy., Governor of Maharashtra*, (2024) 2 SCC 719 (India). The Maharashtra crisis involved the Shinde faction of the Shiv Sena walking out of the coalition government in June 2022; the Speaker, who had been appointed by the Uddhav Thackeray government, faced disqualification petitions against the rebel MLAs but declined to proceed against them while the political crisis unfolded.

members.[27]

The relationship between the structural bias argument and the evidentiary vacuum is not merely additive. The absence of a prescribed evidentiary standard is especially consequential in a structurally biased adjudicatory system because it provides the motivated adjudicator with a legitimate-seeming instrument. A Speaker who simply refused to disqualify politically convenient defectors would be vulnerable to a finding of mala fides, which is one of *Kihoto Hollohan*'s reviewable grounds. A Speaker who conducted formal hearings, received evidence, and dismissed petitions for documentary insufficiency has satisfied every procedural requirement. The acquittals carry the appearance of findings of fact rather than findings of favour. The evidentiary vacuum turns structural bias into procedurally undetectable arbitrariness.

The reform proposals that have accumulated since *Kihoto Hollohan* share a focus on replacing the Speaker as adjudicator.[28] The Law Commission's 255th Report recommended vesting disqualification power in the President or Governor acting on the Election Commission's advice.[29]*Keisham Meghachandra Singh* and *Padi Kaushik Reddy* both recommended a permanent tribunal under a retired judge.[30][31] None of these proposals have been enacted. The question the minority in *Kihoto Hollohan* asked has gone unanswered for thirty years.

The evidentiary vacuum argument does not depend on resolving the institutional question. But it is not separable from it either. Evidentiary specification addresses the standard the adjudicator must apply. It does not address the adjudicator's motivation to apply it faithfully. An evidentiary framework, applied by a structurally biased adjudicator, can be honoured in

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[27]*Keisham Meghachandra Singh*, (2021) 16 SCC 503, para. 33 (India). This recommendation has been repeated in *Padi Kaushik Reddy v. State of Telangana*, 2025 INSC 912 (India), where the Court again urged Parliament to reconsider the Speaker's adjudicatory role under the Tenth Schedule.

[28]See Law Comm'n of India, Report No. 170: Reform of the Electoral Laws, at 50--55 (1999) (recommending repeal of the merger exemption); Nat'l Comm'n to Review the Working of the Constitution, Report, para. 4.18 (2002) (recommending the Election Commission as a neutral adjudicatory body); PRS Legislative Research, The Anti-Defection Law 4 (Discussion Paper, Dec. 12, 2022) (summarising the full landscape of reform proposals).

[29]Law Comm'n of India, Report No. 255: Electoral Reforms (2015). The Commission recommended that the power to decide questions of disqualification under the Tenth Schedule be vested in the President or Governor acting on the advice of the Election Commission of India, rather than the Speaker or Chairman.

[30]*Keisham Meghachandra Singh*, (2021) 16 SCC 503, para. 33 (India) (recommending "a permanent Tribunal headed by a retired SC judge or a retired Chief Justice of a High Court, or some other outside independent mechanism").

[31]*Padi Kaushik Reddy v. State of Telangana*, 2025 INSC 912 (India) (urging Parliament to "reconsider the issue" of whether disqualification petitions should continue to be entrusted to the Speaker as a quasi-judicial authority).

form and defeated in substance: the adjudicator can find the evidence technically insufficient, assign no weight to conduct evidence, or draw no inference where inference is available. The Telangana outcome, even under a clear evidentiary direction from the Supreme Court, might not have been different.

This is not an argument against judicial specification of evidentiary standards. It is an argument for recognising that the two problems require sequential attention. The evidentiary question has a constitutional answer available through the Court's interpretive jurisdiction. The structural question has required legislative action since 1992 and has not received it. The deferred question in *Kihoto Hollohan* is more urgent today than when the majority deferred it.

8. Conclusion

The debate about reforming India's anti-defection law has consistently treated institutional design as the solution. Replace the Speaker with an independent tribunal; vest the power in the Election Commission; create a permanent judicial body. The assumption is that the problem is adjudicator motivation, and that adequate impartiality and speed will make the law work.

The Telangana experience tests this assumption. An independent tribunal operating under the same Tenth Schedule provisions, with the same evidentiary silence, and the same absence of prescribed standards, could reach every result the Telangana Speaker reached. Contesting a parliamentary election on a rival party's ticket would still not "automatically" disqualify at the state level. Media footage of party induction would still be hearsay. The conduct-inference standard from *Ravi S. Naik* would remain unenforceable, not because the adjudicator was partisan, but because nothing in the law required its application. Institutional reform without evidentiary specification addresses the adjudicator's motivation. It does not address the framework within which the adjudicator operates.

The Article 14 imperative identified in this article is therefore prior to, and independent of, the institutional question. The absence of an evidentiary framework is a constitutional defect in the current scheme regardless of who adjudicates. The Supreme Court has the tools and the precedent to address it: a direction, grounded in the objective of the Tenth Schedule and the conduct-inference doctrine of *Ravi S. Naik*, specifying that evidence of public political conduct is not inadmissible hearsay, that documentary formalism is inconsistent with Paragraph 2(1)(a) jurisprudence, and that inference is available wherever the conduct is public and not in factual dispute. This is the same kind of gap-filling the Court performed in *Keisham Meghachandra Singh* when it specified a three-month outer limit for proceedings the Schedule itself did not provide.

Whether the structural bias argument in the *Kihoto Hollohan* minority also succeeds as a constitutional matter is a separate question, but one that three decades of practice have made more difficult to avoid. A scheme that was constitutionally adequate in 1992 on the condition that judicial review would protect against abuse may have failed that condition through accumulated practice. The timeline was met in Telangana. The evidentiary question remains open. The structural question has been deferred since 1992 and has not gone away. These are sequential failures in the same system, each requiring a distinct response.