

# The anti-defection law in Barbados: Politics and law (Part 1)



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As one may be aware, the Barbados Lower House recently passed an amendment of Section 45 of the Constitution, such that, “if a member of the house who was previously a candidate of a political party, and elected to the house as a candidate of that political party resigns from that political party, or is expelled by that party or crosses the floor, then according to the amended Section 45D (2), the seat thus becomes vacant, triggering discretionary legal proceedings challenging the validity of this section, or alternatively a by-election.

The underlying political rationale for the amendment is such that, and it is accurate, that, individuals are elected to the House of Assembly, not solely by their actions, but because of the political party through which their candidacy is facilitated and supported.

Put another way, it is not a secret, recognising how indispensable the two-party system is within Barbados and Westminster that people within the respective constituencies elect a candidate on the basis of their own accord and also the political party they represent. In fact, there are some instances where, the individual, the prevailing issues, social cleavages, performance or lack thereof, are not the underlying basis for the vote, but instead, it is the persons’ association with the political party that provides them with the gravitas and electoral win.

It is known commonly in political science as the ‘partisan voter’, who due to their psychological connection, familial, value systems, clientelist among other reasons support a political party, and the party acts as a perceptual screen through which information is filtered. In pragmatic Caribbean politics, it is not a secret that countries are divided numerically, in bases of political parties which are expected and mobilised for electoral victories. If this were not the case, one would easily see the increased number of independents winning their seats within election contests on their own volition.

Of course it is also not a secret that the lack of affiliation, party recognition, financial backing and ability to sway policy and determine who forms the government all contribute towards their inability to be elected in our political system. Make no mistake that the individual is weighing and balancing the abovementioned considerations as they place their x for a candidate.

One only has to look at the electoral fate of most of the candidates who have indeed crossed the floor, even if they have represented another political party, and they have not been returned to the House, nor have they even stayed within the political seat that they ran in the first place, thereby also showing you their lack of ownership of that particular constituency. In fact, it reinforces the centrality of the political party within the Constitutional architecture, such that, an individual without party ‘backative’, finds it arduous to command the support of the majority of people within the constituency.

As such, in circumstances where the voter bases their vote on the abovementioned, and where the counterfactual would be to not vote for that individual if they were not running under that political party banner, it is reasonable, that if this person switches their allegiance, then the people should be provided with a new opportunity to determine whether they would like this candidate to represent them in the Parliament under this new banner.



It is also foolhardy to ignore, though, that not only does the political party provide the tent under which the candidates shelter, but enormous amounts of resources — both personnel and financial for use by the candidates.

Beyond the abovementioned, the individual has run the political campaign, aligning themselves with the messaging, policies, leadership, philosophy et cetera of this political party, and as such individuals are voting on that premise as well.

To suggest that this individual, on their own accord, can now be permitted to cross the floor, after benefitting from these nets for their own increase in their candidacy and realign themselves with prescriptions of another political party not supported by the voters is akin to a break of the social contract between the candidate and the voters, which is even more problematic if there has been no concurrence with the people of the constituency. In fact, it is quite difficult to conceptualise one just shifting ideological convictions from party to party in short periods of time and using this as a fig leaf for their crossing over and denying their constituents the opportunity to opine and validate their ideological change, as they are only an instrument through which political power is expressed. And even if this were the case, should not the people be determinant of the extent to which one is permitted to shift ideological dispositions? Perhaps, the switching of ideology should also coincide with the maintenance of the material reality of salaries, et cetera, in order to maintain the people’s belief that one has shifted for the cause and not their selfish abilities.

It is no different from the termination of a marriage, such that one cannot be legally married to another person, without the divorce and the consequent formal marriage to the other party.

As such, the basis of the legislation is indeed accurate and required. This is even more so recognising that some of the data coming out suggests that the crossing of the floor is not always ideologically based, such that there is a fundamental difference with the party from which one got elected, but there are considerations of personal gain, corruption, promise of other political positions from the government or opposition, horse trading et cetera. In fact, the recent example in Guyana and also in other countries demonstrate the connection between crossing the floor, votes of no confidence, government stability and the promise of Cabinet positions among personal benefits. All of this is done without the concurrence of the people that are being represented. Who gives the politician the authority to determine whether they should stand in opposition to or in harmony with the government? The indication that the politician is a sole proprietor is at odds with our system, where they are solely transmitters of the people’s will. As such, reducing these incidences, from the body politic reduces electoral manipulation and is also an encouraging by-product of this legislation.

The unfortunate politics underlying this provision is that the Prime Minister also recognises that in the past individuals have

crossed the floor mere moments after the election victory and during the term. As such, in order to consolidate her power, and instil a sense of ‘if you try this, this is what is going to happen to you’ feeling among the back benchers, recognising that they are more inclined to cross the floor, due to their lack of ministerial standing as a benchmark of political success. It is akin to whipping the troops in line, and a chilling effect such that if one even thinks of such a move, they are aware of the electoral repercussions.

Another lens to look at this is that it can if we utilise it properly create a new cadre of independent political hopefuls, who can speak and act on their own terms, knowing that they would not be bound to any political party, such that their deference will trigger a by-election.

Internally though, the notion that this can threaten defection and open critique from the back benches, reducing the check and balance on the executive, is no more significant than it was before. I say so, because the action of critiquing does not trigger a by-election, but only if it is utilised as a basis for expulsion. On the other hand, the use of critique by the back benches in order to isolate and replace a member of Parliament, is no more prevalent than it was prior to this amendment. If it is done from a minister in the front bench, the tools of firing by the prime minister still exist.

What should be advocated for though is not only a reduction of the powers of the Prime Minister, but an internal rethinking of democracy that facilitates and encourages internal dissent, in order to strengthen democracy, consensus building, and policy, as opposed to utilising the opportunity to isolate and alienate members of the political party. Speaking one’s mind and conscience though should not be utilised as a trigger for the removal of a member of the house. Moreover, there must be some mechanisms to protect constituents from the constituencies with back benchers — particularly in circumstances where resource allocation will be determined based on party dynamics and partisan agendas. This may even be more appropriate where the individual may have crossed the floor and been successful at the polls but now slighted by their previous party.

It is problematic though because these amendments should not be divorced from a deeper and wider Constitutional Reform project, such that Constitutional Reform is being cherry-picked at the partisan and political convenience of the political party. This is particularly the case, when this recommendation as per pg. 27 of the Constitutional Reform Commission’s Report and also the Parliamentary Reform Commission was not supported by the majority of the Commissions. I however disagree with the rationale and where the Commission believes the locus of power resides — when it notes that “the Parliamentarian is elected by the people, and the MP must have the ability during the Parliamentary term to act as necessary in pursuit of that mandate.”

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