

Political Party Defections by Elected Officers in Nigeria: Nuisance or Catalyst for Democratic Reforms?

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ABSTRACT

The article interrogated whether defections or party switching by elected officers, both in Nigeria's executive and legislative arms of government, constitutes a nuisance capable of undermining the country's nascent democracy or can be treated as a catalyst to ingrain democratic reforms in the country. This question has become a subject of increasing concerns in view of the influx of defections by elected officers from one political party to the other in recent times, especially before and after election periods, without the slightest compunction. It was discovered in the article that though the Constitution of the Federal Republic of Nigeria 1999 (as amended) has made significant provisions regarding prohibition of defection, except in deserving cases, yet elected officers go about 'party-prostituting' with reckless abandon. The article concludes that political party defections by elected officers, if left unchecked, may amount to a nuisance capable of undermining the democratic processes in Nigeria in the long run.

Keywords: Political Party, Party Defection, Cross-Carpeting, Party-Switching, Democratic Reforms, Nuisance, Catalyst.

INTRODUCTION

Political parties represent a vital element of the contemporary democratic tradition. This is so because in the absence of political parties, "democracy that is based on the liberal model of majority rule would be practically impossible."¹ One of the foremost definitions of a political party was advanced by Edmund Burke, who described a political party as "a body of men united for promoting by their joint endeavours the national interest upon some particular principles in which they all agreed."² The Nigerian Constitution, in recognition of the significant role a political party plays in the overall growth and welfare of a nation as well as in the "construction of a stable and participatory political order"³ in democratic society, boldly prohibits political activities and the canvassing for votes by any association except a registered political party.⁴ As a matter of fact, the formation of political parties in Nigeria dates back to the colonial period when the Nigeria National Democratic Party (NNDP) was formed by Sir Herbert Macaulay in 1923 following the introduction of the elective principles recognised under the Clifford's Constitution of

1922. Ever since then, there has been increase in the number of registered political parties in Nigeria. As at the 2019 general elections, 91 registered political parties took part in the election according to the Independent National Electoral Commission (INEC).⁵

Just like the formation of political parties in Nigeria predates the country's independence, so also is the case of party defection by politicians. The noun, "defection," is taken from the Latin word, *defectionem* or *defectionum* to signify an "action of deserting or abandoning a party leader."⁶ It implies a deliberate act of abandonment of allegiance or duty, desertion, or disloyalty to a cause or person. In the context of this article, it will be used to mean an intentional act of leaving one's political party for another party regardless of the reason or purpose. The first known case of party defection in Nigeria can be traced to the cross-carpeting of some lawmakers in the defunct Western House of Assembly in 1951 when some members of the defunct National Council of Nigeria and Cameroons (NCNC) cross carpeted to the Action Group (AG) to enable Chief Obafemi Awolowo to become the Premier of the Western

Region instead of Dr. Nnamdi Azikiwe of NCNC.

Shortly before Nigeria gained her political independence in 1960, three major political parties took part in the 1959 general elections. They were the NCNC led by Dr. Nnamdi Azikiwe, the Northern People's Congress (NPC) led by Sir Ahmadu Bello, and the AG led by Chief Obafemi Awolowo. However, at the end of the election, none of the three political parties could secure a majority win which necessitated an alliance between the NCNC and the NPC to form a national government. Subsequent political mistrusts and rivalry among the key political leaders at the time led to factionalisation and establishment of other new political parties like the United Progressive Grand Alliance (UPGA); the Nigerian National Democratic Party (NNDP) which was led by Chief Samuel Ladoke Akintola; and Aminu Kano's Northern Elements Progressive Union (NEPU), etc. Widespread party defections by politicians were also recorded during the second republic as well as in the current political dispensation.

Knowing the danger which could be posed to the Nigerian nascent democracy by indiscriminate party defections by politicians and as a means of regulating the procedure, the extant 1999 Nigerian Constitution mandates that a member of a legislative house stands to vacate his/her seat in the legislative house of which he/she is a member in the case of defection from a political party on whose platform he/she was elected to the legislative house except in a permissible circumstances recognised by the Constitution. The Constitution is however mute regarding the defection of a member of the executive arm of the government. It is in this context that this article will seek to address the issue whether party defection or party switching by politicians is a nuisance or a mechanism for political reforms in Nigeria.

HISTORICAL EVOLUTION OF PARTY DEFECTION IN NIGERIA

The 1951 carpet-crossing of some parliamentarians in the then Western Region House of Assembly from the defunct National Council of Nigeria and the Cameroons (NCNC) to the defunct Action Group (AG) to "prevent Azikiwe from being head of the government in the Western Region and to prevent him from being elected from the Western House of Assembly to the House of Representatives in Lagos"⁷ has been reputed to be the birthplace of

defection by members of a political party in Nigeria.⁸ The tribalistic and politically motivated scheming forced Nnamdi Azikiwe to resign from the Western Region House of Assembly and return to his Eastern Region to oust Eyo Ita, who was from the minority area of Calabar, to become the head of the government in the Eastern region. Rather than quit the legislative house, Eyo Ita chose to form another political party, National Independence Party (NIP), and remained as a member of the Eastern Region House of Assembly.⁹

The first republic (i.e. 1960-1966) also witnessed landmark defections by some key politicians. For instance, following intra-party disagreements between Chief Samuel Ladoke Akintola, a former Premier of the defunct Western Region of Nigeria, and Chief Obafemi Awolowo, the former defected from Action Group to form another political party, Nigerian National Democratic Party (NNDP).¹⁰

Similarly, a political rivalry between Dr. Nnamdi Azikiwe and Dr. Kingsley Mbadiwe in the Eastern Region resulted in the latter quitting the NCNC to form a new party, Democratic Party of Nigeria Citizen (DPNC), which sought a political alliance with the AG at the federal level during the 1959 elections.¹¹ The second republic, spanning from between 1979-1983, also witnessed its own share of defections by aggrieved party members. Among the prominent defectors was Chief Akin Omoboriowo from the Unity Party of Nigeria (UPN) to become the Ondo State gubernatorial candidate of the National Party of Nigeria (NPN) in the 1983 election, along with his supporters including Chief Fagbamigbe.¹² This subsequently culminated in the post-election crisis in Ondo State.¹³ Also during this period, Alhaji Abubakar Rimi defected from his political party, the People's Redemption Party (PRP) which was under the leadership of Aminu Kano to seek re-election under a new political alliance, the Nigeria People's Party (NPP), which eventually he lost to the PRP governorship candidate at the election.¹⁴ Similarly, a disagreement between the Nigerian People's Party and Alhaji Waziri Ibrahim, who was a founding member of the party, compelled the latter to lead a group of minorities in the northern part of Nigeria and some southerners to form the Great Nigerian Peoples Party (GNPP).¹⁵

The re-introduction of democratic governance in 1999, after a military interregnum that lasted for about 16 years, also witnessed series of carpet-

crossing by party members. Prominent among them was the defection of Alhaji Atiku Abubakar, then a Vice President of Nigeria, who defected to the Action Congress after he had won the ticket on the platform of the People's Democratic Party (PDP). This later became a subject of litigation up to the Nigerian Supreme Court.¹⁶ Furthermore in the build-up to the 2014 general elections, there were also cases of members' defections from PDP to the newly formed APC. The 2019 general elections also recorded renewed cases of defections in the pattern of the 2014. The former senate president, Bukola Saraki, and a number of other senators decamped from their respective parties to new ones. For instance, while Senator Saraki and a host of other senators, including Senator Dino Melaye, defected from the All Progressive Congress (APC) to the Peoples Democratic Party (PDP), Senator Godwills Akpabio, a minority leader in the Senate and a chieftain of the PDP decamped from PDP to APC.¹⁷ Also in Akwa Ibom State, about 20,000 former party members of APC were reported to have defected to the ruling party in the State (PDP) in anticipation of the 2019 elections.¹⁸

Moreover, encouraged by recent judicial pronouncements on the outcome of the 2019 general elections, many politicians across the country dumped their political parties for the ruling parties either at the State or national level. The defections began from Ogun State after the Nigerian apex court affirmed Dapo Abiodun as the duly elected governor of the State. Shortly thereafter, his main opposition candidate in the gubernatorial election, Adekunle Akinlade, announced that he was returning to the APC, which he had earlier dumped to contest the governorship election under the platform of Allied Peoples Movement (APM), along with his supporters. Also, another governorship candidate in the election, Prince Gboyega Isiaka, defected from the Action Democratic Congress (ADC) along with some other politicians to the ruling APC. Other decampers from the PDP were not also left out.¹⁹

In Kano State, many of the supporters of Rabiu Kwankwaso, the former State Governor, dumped the PDP after the judicial decision in favour of the incumbent governor, Abdullahi Ganduje against the PDP governorship candidate, Kabiru Yusuf.²⁰ Sokoto State lawmaker, Muhammadu Lili, and his supporters decamped to PDP following the favourable apex court decision in favour of the incumbent

governor and member of PDP, Aminu Tambuwal. Similarly, in Imo State, the judicial sacking of former State Governor Emeka Ihedioha by the Supreme Court and installing Senator Hope Uzodima in his place also brought about widespread defections in the State. For instance, many members of the State House of Assembly defected from PDP and other minor opposition parties to the APC. Even PDP party chieftains were caught in the web of political defections to the ruling party, APC.²¹ The irony of it is that in most, if not all, of these defections, the defectors are always welcomed into the new parties with great fanfare and celebrations.²²

REASONS FOR PARTY DEFECTIONS BY POLITICIANS IN NIGERIA

A number of reasons can be advanced for the ceaseless defections of elected office holders and other politicians from one political party to the other in Nigeria. First, Nigerian political parties lack clear-cut party ideologies unlike what is obtainable in other developed democracies like the United States of America, Britain, Germany, Russia, etc. In the United States for instances, it is practically impossible to see a democrat politician cross-carpet or defect to Republican Party for any reason whatsoever and vice versa. As Olanrewaju rightly submits, political ideology is an essential vehicle of a political party. Where political parties and political leaders are bereft or barren of any political ideology, then cross-carpeting from one political party to another will continue incessantly.²³ Lack of political ideology tends also to encourage party members to engage in anti-party activities by working against their political parties where they failed to secure their political interests. This happened, for instance, in Imo and Ogun States respectively during the 2019 general elections when the then State Governors worked against the successes of their party's candidates, in their respective States. While Okorocho of Imo State was sponsoring and campaigning openly for his son-in-law, Uche Nwosu, who had earlier defected from APC to Action Alliance (AA) as the gubernatorial candidate, Amosun of Ogun State on the other hand was working for the candidate of the Allied Peoples Movement (APM), Adekunle Akinlade.²⁴

Another reason for notable defections by party members in Nigeria is as a result of politicians' personal political interests. Rebenstorf has contended that political interest is a key factor

for political motivation as well as a variable indicating ability in “ideological conceptualisation,” which is important for participation in the democratic process. The author argues further that such interest leads politicians to evaluate their ideological positions, weigh the pros and cons, make commitments as well as achieve political identities.²⁵ In the absence of one’s political identity and interest, political commitment to one’s political party can be elusive. Applying this concept to the Nigerian politics, a politician will readily defect from his party to another without the slightest compunction when his political interest and commitment in the former party is no longer ascertained.

Third, closely linked with personal interest is the issue of personal ambition of politicians. The aspirations to attain a political office or a higher political office cause politicians to make various forms of “investments” into their parties. However, the moments it becomes apparent that a politician cannot realise the contemplated political ambition on the platform of a particular political party, the politician along with his/her supporters may choose to pursue the political ambition in another political party that provides a ready platform for the actualisation of the ambition. As a writer puts it, the “line that separates one politician from the other is so thin that some politicians have practically traversed all political parties in a bid to satisfy their burning interests.”²⁶ This may explain the possible reasons surrounding the constant defections by Atiku Abubakar from party to party in a bid to secure a presidential ticket.²⁷

The indiscriminate defections by Senator Rochas Okorocha should not also be forgotten in a hurry. After an abortive attempt to secure the PDP governorship ticket for Imo State, he defected in 2003 to the All Nigeria People’s Party (ANPP) where he unsuccessfully contested as a presidential candidate. He returned to the PDP and was made a Special Assistant to the then President Olusegun Obasanjo. He later formed another party, the Action Alliance (AA) to contest as a presidential candidate in 2007. When the dream could not materialised, he returned like the prodigal son to the PDP from where he defected again in 2010 to join the All Progressive Grand Alliance (APGA) on which political platform he contested and won the governorship election in Imo State. He was later to leave APGA for the APC when the latter party was formed.²⁸ As far

as such politicians are concerned, elections are merely a vehicle to attain their personal ambitions.

Failure of a political party to have or execute its political agenda may also cause some aggrieved party members to leave the party. Every political party is required to have a manifesto or political agenda which serves as its clear-cut policy direction, philosophy, ideologies and strategies which guides and shapes its governance strategies when it comes into power.²⁹ However, where a political party in power fails or neglects to fulfil its political agenda or redeem the promises made to the electorates during campaigns and/or is unable to positively impact on the socio-economic welfare of the citizenry, this may serve as possible excuse for some party members to defect. For instance, the incumbent governor of Benue State, Samuel Ortom, used the poor handling of the farmers-herders crisis in the State and nationwide by the APC-controlled federal government as one of the excuses why he dumped the party for PDP in seeking a re-election as the State Governor during the 2019 general elections.³⁰

The fifth possible reason for defection can be attributed to lack of transparency and internal party democracy in the affairs of the party. This is often the case during party primaries, especially where candidates are handpicked by party leaders without providing a plain-level ground for all the aspirants. Where a political party fails to achieve internal unity or some party members feel that they have been marginalised or ostracised from party affairs, they will naturally want to seek better opportunities and relationships in other political parties. In announcing his defection from the APC to PDP, Governor Ortom was allegedly quoted as stating, “I recall that I had issues with the leader of the APC in Benue State and while the national leadership of the party was trying to resolve it, the party in the State embarked on aggressive campaign of calumny against me....It is on that note that I tender my resignation letter to my ward chairman of APC.”³¹ Also in defecting from the Action Congress (AC) to the Labour Party in 2006, the former Deputy Governor of Lagos, Mr. Femi Pedro, allegedly cited gross manipulations in the selection processes of candidates for the 2007 general elections as a reason why he had to dump his former party.³²

Omilusi,³³ agreeing with Mbah,³⁴ has also identified the need by politicians to stay connected to the party in power as another possible reason why there is usually a mass defection to the ruling party by members of the opposition parties. In this respect, he submits that the “possession of State power leads directly to economic power, and those who hold positions in the power structure determine the location and distribution of economic resources and political rewards.”³⁵ The implication of this is that disconnection or exclusion from the source of political power in Nigeria may be very expensive and may mean an “outright ruin” to any politician who desires to “avoid economic discrimination as a political weapon in the hands of the ruling party.”³⁶

Moreover, the fear of avoiding persecution or prosecution by the government in power have been speculated to be a contributory reason why some staunch party stalwarts may defect from their initial political parties to the party in power. For instance, there were speculations that the main reason why Senator Akpabio, who was a commissioner under a PDP government in his State for 8 years; became governor of his State for another 8 years on the same political platform and later a senator and minority leader of the Senate under the PDP, may have defected to APC in 2018 was to avoid criminal prosecution by the Economic and Financial Crimes Commission (EFCC),³⁷ though the assertion had been refuted by his associates.³⁸ However, in a rather judicial twist, a judge of the Federal High Court, Abuja ruled that Senator Akpabio only “moved to join APC out of frustration of being expelled by the PDP through a letter dated August 2, 2018.” The judge further noted that having been expelled, Akpabio was at liberty to join another political party of his choice in line with section 40 of the 1999 Constitution and that same cannot be termed as defection.³⁹

The court’s ruling followed an action filed by the Legal Defence and Assistance Project (LEDAP) seeking an order to declare the seats of 54 members of the National Assembly vacant, including Akpabio’s for unlawful defection from political parties which sponsored their elections to new ones. While the court struck out the cases of 53 others on the ground that the plaintiff lacked the *locus standi* to maintain the cases against the federal lawmakers, it went ahead to determine Akpabio’s case on the merit, which it

dismissed.⁴⁰ It is submitted that having held that the plaintiff lacked the *locus standi* to maintain the actions against the defendants, the court was wrong to have turned around and singled out the case of Akpabio to hear and determine on the merit. What stripped the plaintiff of the *locus standi* to maintain its actions against the other 53 lawmakers should also have robbed it of sustaining the action against Akpabio before the same court.

POSITION UNDER THE 1999 NIGERIAN CONSTITUTION AND JUDICIAL ATTITUDE

In an attempt to address the issue of party defection or cross-carpeting, the 1999 Constitution, like most Constitutions around the world,⁴¹ makes elaborate provisions banning party defection by a legislature, except in circumstances permitted under the extant Constitution. Specifically, these provisions are stated under sections 68 (1) (g) and 109 (1) (g) of the Constitution. By these provisions, a member of the National Assembly or a State House of Assembly shall vacate his seat in a legislative house of which he is a member if “being a person whose election to the House was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected.”

However, the 1999 Constitution exonerates from sanction a defector who “becomes a member of another political party before the expiration” of his four years if the defection was occasioned by reason of a division in the former political party or was caused by a “merger of two or more political parties or factions by one of which” the defecting legislator was earlier sponsored. Thus, from the wordings of the constitutional provisions, it is apparent that the only circumstances whereby a legislator can defect from his previous party to another one, without a corresponding constitutional repercussion or sanction is where there is a division or faction in the political party to which he had formerly belonged or there is a unification of two or more other political parties by one of which he was previously sponsored.

What can constitute a factionalisation of a political party to warrant a member of a legislative house to freely decamp therefrom without negative constitutional consequences has been a subject of speculations. Akin to this is the issue of the scope of the anti-defection clause in the Constitution. In other words, does

the anti-defection clause cover both the elected members of the executive and legislative arms of government? The Nigerian courts have made attempts at providing solutions to these sensitive issues.

In *Federal Electoral Commission v. Alhaji Mohammed Goni*,⁴² the substantive issues before the Nigerian Supreme Court were first, whether section 64(1)(g) of the erstwhile Constitution of the Federal Republic of Nigeria 1979, which is *in pari materia*, with the extant section 68(1)(g) of the 1999 Constitution grant an open licence for members to join other existing political parties once there is a division in their own party; and second, whether a person who was elected to a post on the seat of one political party can lose his right to contest re-election by virtue of becoming a member of another political party. The facts of the case were that the respondent was elected the Governor of Borno State on the platform of the Great Nigeria People's Party (GNPP). During the tenure of his office, there were some disagreements within the party which resulted in a split up of the party into two factions. The respondent was a member of one faction which subsequently, following further squabbles split into two, with one half joining the National Party of Nigeria (NPN) and the other half joining the Unity Party of Nigeria (UPN). The respondent joined UPN and sought to contest re-election on that platform as a Governor. The appellant opposed the re-election bid of the respondent on the ground that he was disqualified by virtue of sections 64(1)(g) and 166⁴³ of the erstwhile 1979 Constitution. It was their further argument that once a political party splits up into two or more factions, each faction of the splitting can take advantage of the exception in the *proviso* to section 64(1)(g), but that a sub-faction of a faction of the initial split-up cannot.

In dismissing the appeal, the apex court noted that it will amount to a mockery of justice to deny the fact that the original GNPP had not disintegrated into factions, first by a "bifurcation and later by a quaternity," thereby allowing the respondent to come within the escape route provided under the *proviso* to section 64(1)(g) of the said Constitution.⁴⁴ Regarding the rationale for the introduction of the *proviso* into the Constitution, the apex court pointed out that:

The mischief which the framers of the Constitution wanted to avoid was carpet-crossing which, from our constitutional history, in the not

*distant past, had bedevilled the political morality of this country. They had however to allow for a situation where a political party, by reason of internal squabbles, had split into one or more factions. A split or division could arise without any fault of the members of a political party, resulting in a member rightly or wrongly, finding himself in a minority group which may not be big enough, or strong enough, to satisfy the recognition, as a separate political party, of the Federal Electoral Commission. For such a member not to be allowed to join another political party with his faction may be to place him in a position where his right to contest for political office will be lost. Such a situation is entirely different from the fraudulent and malevolent practice of cross-carpeting politicians of yester years who, for financial consideration or otherwise, crossed from one political party to another, without qualms and without conscience. Such a practice had to be discouraged by the framers of our Constitution if political public morality of our country was to be preserved.*⁴⁵

In his own contribution in the case, Obaseki, JSC in his characteristically forthright manner added that:

*It is now political history that some of the Nigerian politicians who had the honour of being voted in Parliaments...under the previous civilian Constitutions just before and after independence did little to keep their loyalty to the political parties which sponsored them for election. No self-respecting politician would wish to see a repeat of the wave of carpet-crossing and sitting-tight that characterised those eras. Section 64 of the 1979 Constitution was therefore aimed at curbing the sit-tight appetite of corrupt politicians who were honoured by the Nigerian electorate with elective office of Governor and a seat in the National Assembly.*⁴⁶

The question regarding what nature of factionalisation or division in a political party would entitle a defector to successfully rely on the *proviso* to section 68(1)(g) or 109 (1)(g) of

the 1999 Constitution resurfaced in *Abegunde v. Ondo State House of Assembly*.⁴⁷ In the case, the appellant on the basis of the factionalisation or division in the Ondo State chapter of the Labour Party, on whose platform the appellant was elected to the House of Representatives, defected to the defunct Action Congress of Nigeria (ACN). The appellant consequently filed an action at the trial court seeking *inter alia*, the interpretation of section 68(1)(g) of the 1999 Constitution and a declaration that by virtue of the *proviso* to that section he was entitled to retain his seat despite his defection. In determining the appeal the Supreme Court considered the provisions of sections 68(1)(g), 222 and 229 of the 1999 Constitution as well as section 80 of the Electoral Act 2010 (as amended) and came to a conclusion that

*...only such factionalisation, fragmentation, splintering or 'division' that makes it impossible or impracticable for a political party to function as such will, by virtue of the proviso to section 68(1)(g), justify a person's defection to another party and the retention of his seat for the unexpired term in the house in spite of the defection. Otherwise ...the defector automatically loses his seat....*⁴⁸

Thus, to escape the punitive hammer of the extant section 68 (1) (g) or 109 (1) (g) hitting a defecting legislator on the head, it is incumbent on him/her to lead a credible, cogent and convincing evidence to establish that his/her conduct in defecting from his former party to a new one was covered by the *proviso* to the section. The division complained of must affect the national structure of the party and not merely a minor division in the ward, local government or a State chapter of the party.

No doubt, sections 68(1) and 109(1) of the 1999 Constitution spell out the events upon the happening of which the seat of a member of a legislative house is terminated. Such termination is mandatory, automatic and not merely directive. However, by sub-section (2) thereof, the President of the Senate, the Speaker of the House of Representatives, the Speaker of the House of Assembly or a member must first present satisfactory evidence to the relevant legislative house establishing that any of the circumstances enumerated in the sub-section has become applicable in respect of the member. Apparently, it seems that on the authority of *B.*

A. Alegbe, Speaker Bendel State House of Assembly v. M. O. Oloyo,⁴⁹ once a member of a legislature defects from the political party that sponsored him in an election to the legislative house to another political party, and the defection is outside the scope allowed by the *proviso* thereto, his seat is compulsorily or automatically vacant and it is within the right of the head of the legislative house to exclude him from the legislative house without first having recourse to the appropriate court.⁵⁰ Such a member, if aggrieved by the action of the head of a legislative house could go to court to challenge the action of the Senate President or Speaker of the House.⁵¹

It is not in doubt that the power of the head of a legislative house in excluding members from the house could be abused. For instance, following the recent gale of defections in the Nigerian Senate, the then Senate President, Senator Bukola Saraki, and some Senators defected from their original party, the All Progressive Congress (APC) to the Peoples Democratic Party (PDP) and other political parties. But in a twist of events, rather than vacate his seat as constitutionally required, the Senate President was reported to have targeted other decampers who left the PDP for the APC.⁵² However, the mere fact that the Senate President or the Speaker may abuse his power in this wise does not defeat the argument that by virtue of sections 68 (1) and 109 (1) of the extant Constitution, such seats become automatically vacant and the presiding head of a legislative house in the conduct of the meetings of the legislative house could prevent a defector from being in the house.⁵³

The case of *Attorney-General, Federation v. Abubakar*⁵⁴ on the other hand examines defection by an incumbent elected member of the executive arm of government. The brief facts of the case were that as a result of an unhealthy relationship that existed between the then President Olusegun Obasanjo and his then Vice President, Atiku Abubakar, during their tenure as the President and Vice President, respectively, the then Vice President Atiku Abubakar defected from the People's Democratic Party (PDP) that co-sponsored the duo in the presidential election to another political party, the Action Congress of Nigeria (ACN), on whose platform he also sought to contest as a presidential candidate. Aside from dumping his sponsoring political party for another party as a sitting Vice President, the latter also openly castigated the very

government whose policies and administration he was part of and played very active role in. Aggrieved by the conduct of the then Vice President, the then President Obasanjo declared the office of his Vice President vacant and proceeded to withdraw all his due entitlements and privileges accruable to the office of the Vice President. The action of the then President resulted in the institution of the action at the Court of Appeal in its original jurisdiction and which later culminated in the instant appeal to the Supreme Court.

On whether the provisions of sections 68(1)(g) and 109(1)(g) of the existing 1999 Constitution could be extended to the elected officers in the executive arm of government, Aderemi, JSC cautioned thus:

....It is manifest from the above quoted constitutional provisions that the lawmakers intended to and indeed have made punishable the defection of an elected member, from the political party that sponsored him, to another political party before the expiration of the period for which the House was elected by declaring his seat vacant. No similar provision was made for the Vice President [or] even for the President.... Had the lawmakers been minded that punishment or consequences of political cross-carpeting should be applicable to the President or Vice President as they have done in respect of a member of the Senate or of the House of Representatives or even a member of the House of Assembly...they would have stipulated same in an unmistakable term in section 146 of the 1999 Constitution....To stealthily read words in the terms of section 68(1)(g) or section 109 (1)(g) of the 1999 Constitution into section 146(3)(c) of the same Constitution and hold that, by his conduct, the Vice President has voluntarily vacated his office will paint a picture of the judiciary foraging into the exclusive territory of the legislators.⁵⁵

The decision of the apex court was not a tacit approval of the conduct of the then incumbent Vice President as the Supreme Court was quick to admit that a situation of defection by a sitting Vice President could “amount to gross misconduct” for the purpose of impeaching him

within the contemplation of section 143 (11) of the 1999 Constitution. The court went on further to suggest that in a more civilised society, where “ the President and his Vice are poles apart, each facing different directions in speech and actions” as a result of their political union having collapsed, a more dignifying option for the Vice President to have adopted would have been a resignation.⁵⁶ Obviously, the provisions of the 1999 Constitution relating to either the presidency or the position at the State level, conceives a cohesive presidency between the President and his Vice President or a Governor and his Deputy throughout the tenure stipulated in the Constitution subject to the relevant provisions regarding their removal.⁵⁷

DEFECTIONS: NUISANCE OR CATALYST FOR DEMOCRATIC REFORMS?

Generally speaking, there are two peak periods when cross-carpeting thrive in Nigeria. First there is a mass movement of politicians from various political parties into the ruling party towards the period of general elections. The essence of this is to enable interested aspirants to contest for the party’s primaries in the ruling party. The second movement begins after the primaries where aggrieved members who did not secure their respective parties’ tickets defect along with their supporters to another political party or even form new political parties to resituate themselves in a manner that things will favour them.⁵⁸ Irrespective of the period or possible reasons proffered by defectors, the fact still remains that cross-carpeting has the capacity of either hitting up the polity or negatively impacting on the country’s political system and may undermine Nigeria’s burgeoning democracy if not properly handled.

First and as earlier pointed out, incessant defections by politicians clearly reveal a problem of lack of political philosophy and integrity by Nigerian politicians. This can make people to lose confidence in the country’s political process as many politicians consider political parties merely as a vehicle for realising their selfish political gains and ambitions. This belief is further strengthened by the fact that elected decampees take along with them the offices, positions or portfolios they occupied by virtue of their previous parties. In other developed countries, the proper thing would be for the defectors to resign from the offices they occupied on the tickets of the previous parties before joining new ones.

In Constitutions like the ones operating in Namibia, Nepal and Singapore, the anti-defection clauses punish defectors by requiring them to give up their seats in the parliament upon notification from the political party that the lawmaker has either abandoned the party or was expelled and/or resigned from the party on whose platform he was elected to the parliament.⁵⁹ On the other hand, under Israeli law, the anti-defection provisions defer the penalty for unlawful defection until the next election where the defector would be debarred from contesting in an election to enter the next parliament (Knesset).⁶⁰

Secondly, widespread defections by politicians, especially from the opposition parties to the ruling party have the potentials of destroying a viable and strong opposition, which could provide effective checks and balances against the ruling party's dictatorial and suppressive tendencies. Thus, the absence of a strong opposition party can lead the country to a one party State which may not be healthy for Nigeria's democracy and the general good of the citizenry. In fact, following the massive defections of lawmakers from the ruling APC in the build up to the 2019 general elections and the subsequent invasion of the National Assembly by the State's owned security operatives, the Department of State Services (DSS), many accusing figures were pointed at the presidency and regarded the action as an unnecessary interference with the activities of a separate and independent arm of government.⁶¹

Associated with the fear that constant defections by politicians from opposition parties to the ruling party may lead to an establishment of a one party system is the fact such defections can equally lead to the creation of weak multi-party system which cannot provide effective opposition to the government in power even in the face of irresponsible governmental policies. As earlier noted, during the 2019 general elections, about 91 registered political parties contested the elections. But of all these parties, how many can be classified as effective opposition party (parties) aside from the PDP which is not really doing enough?

Finally, party defection may also seriously undermine and threaten the consolidation of democratic gains in Nigeria. For instance, while the pre-independence party-crossing of some NCNC Yoruba politicians into the AG to give Awolowo a political leverage over Azikiwe may have led the foundation for ethnic rivalry into

the body of Nigerian politics, the crisis in some western States of Nigeria that resulted from the controversial cross-carpeting of some key UPN politicians like Chief Akin Omoboriowo and Mr. Fagbamigbe into the NPN may have contributed significantly to the collapse of the second republic and the re-introduction of military adventurism into the Nigerian political system in December 1983.

CONCLUSION AND RECOMMENDATIONS

The Article made an attempt to critically examine the issue of defections by politicians from one political party to another. It was discovered that while the extant 1999 Constitution prohibits carpet-crossing by lawmakers there is no corresponding provisions regarding either the elected office holders in the executive arm of government or non-elected members of political parties. It appears therefore, that the Constitution only targets members of the legislative arm, who, as the article clearly shows, are not the only culprits in carpet-crossing. Unfortunately, defections have become a part of the country's political cultural norms, which may likely undermine the country's nascent democracy.

It is submitted that defection from a political party attacks the very foundations of Nigerian democracy. For instance, many Nigerian electorates elect either the legislators or elected office holders in the executive arm of government based on the parties' identities they contested on. This is because political parties are the main apparatus connecting the electorates and politicians in modern democracies. Thus, party defections by either the lawmakers or executive office holders vitiate or destroy the trust and the electoral agreement between the voters and those they elected into offices. That is why party defection should automatically compel the defector to seek a fresh mandate from the electorates under the new party he/she has defected to.

Furthermore, to forestall the reoccurrence of the Obasanjo/Atiku or the Yuguda/Gadi episodes by the elected members of the executive arm of government, it is suggested that similar provisions of sections 68(1)(g) and 109(1)(9) be introduced in relation to the executive arm of government as was obtainable under sections 128(1) and 166(1) of the erstwhile 1979 Constitution. This is because until the Constitution expressly pronounces the defection of an executive office holder unlawful and

imposes in no unclear terms penalty for such an act, the position will remain unchanged. After all, what may be morally despicable may not be legally punishable as was rightly noted by the Nigerian apex court in the earlier cited case of Atiku Abubakar. Also non-elected party members who have defected from one party to another should be barred from appointments as ministers, commissioners, members' of State or Federal established executive bodies, ambassadors, etc. If these could be done, politicians would be discouraged from cross-carpeting.

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