

A LEGAL APPRAISAL OF THE IMPLICATION OF POLITICAL PARTY DEFECTION IN NIGERIA DEMOCRATIC PROCESS

BY

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Abstract

Political party defection has become a norm in Nigeria especially amongst elected executive and legislative office holders who leave the political party that got them into office to join another political party while in office. This state of affair betrays the will of the electorate who must have cast their votes for a political party they believe in. This article did a legal appraisal of the implication of political party defection in Nigeria. The article used doctrinal research methodology and employed both primary and secondary sources of data. The primary sources of data include the Constitution of the Federal Republic of Nigeria 1999(as amended) and case laws while secondary sources of data from journal articles and internet materials were used. The research found that there has been incessant cases of defection in Nigeria's democratic journey, and while there are some legal implications for defecting legislators, there is no legal implication for their executive counterparts, and there is need for such defection to come with some consequences. The article recommended that the consequences for party defection should be extended to elected executive office holders.

Keywords:*Defection, Political Party, Democratic Process, Legislature, Executive*

1.0 Introduction

Modern day democracies are built on political party politics, these political parties have the onerous task of sponsoring candidates for elections at various levels of governance; canvassing for votes for the candidates who are the political party's flag-bearers with the aim of gaining powers and controlling the government. It is therefore worrisome that when a political party has gone through the rigors of sponsoring a candidate for an election; canvassing votes for the candidate, and in most cases the candidate gets to win the election solely by riding on the good name and goodwill of the political party and when he gets into office, he defects to another political party, a process which in common parlance in Nigeria is called "cross-carpeting".

Defection from one political party to another political party has been the bane of party politics in Nigeria and despite the moral question mark on this act of jumping ship from one party to another party, the practice has continued unabated in the Nigeria's political space. This state of affairs has generated lots of opinions amongst political analysts; commentators; scholars and the public.

History of political party defection in Nigeria dates back to the pre-independence era. In 1951, several members of National Council of Nigeria and Cameroon (NCNC) defected to the Action Group (AG) to deny Dr. Nnamdi Azikiwe and his NCNC the possibility of having a majority in the Western Region House of Assembly.¹ The culture of defection from one political party to another continued in 1983 when Chief Akin Omoboriowo, the then Deputy Governor of Ondo State who was elected under the platform of Unity Party of Nigeria (UPN) defected to National Party of Nigeria (NPN) to contest the 1983 Governorship election of Ondo State under the platform of NPN.² The wind of defection blew its way into Nigeria's extant fourth republic which commenced with the return of democratic rule in 1999, and has become a norm both at executive and the legislative arms of government. Most notably being the defection of the then Vice President of the Federal Republic of Nigeria, Alhaji Atiku Abubakar from the People's Democratic Party (PDP) to the Action Congress (AC) in 2007 in his bid to secure the highest office in the land, the office of the President.

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¹L Adejuwon, 'Of Carpet-Crossing and Old Wine in New Bottle' *Newswatch* 23 December 2013, p. 21.

²Khalid Idris Nuhu, 'The Legal Implication of Political Defection on Nigeria's Democracy' *Sriwijaya Law Review* Vol. 5(2) July 2021, PP.247-261, @p. 248.

This paper will study the defections at the legislative and executive arms of government in Nigeria; whether there are any constitutional inhibitions to movement from one political party to another in Nigeria, and its implications to Nigeria's democratic process. The paper will then make some recommendations aimed at curtailing the gale of political defections in Nigeria in order to strengthen and sustain our nascent democracy.

1.1 Conceptual Clarifications

This paper will explain some of concepts that will aid in the discussion of this subject matter. These concepts are political party; democratic process and defection.

1.1.1 Political Party in Nigeria

There have been several attempts at definition of the term political party. Black's Law Dictionary³ defined political party as an organisation of voters formed to influence the government's conduct and policies by nominating and electing candidates to public office. Political parties have been defined as 'formally recognized organisations whose members share certain common values, ideas and aspirations about how society should be politically, socio-culturally and economically organised for the common good and aspire to translate these ideas and values through the control of government by placing their representatives in a competitive free, fair and honestly conducted elections, without harassment, intimidation and threat of violence'.⁴ The above definitions capture what political parties should be in an ideal situation. In Nigeria, there is a great doubt whether members belonging to same political party actually shares common values and ideas, this is because there appears to be total lack of ideologies in the respective political parties in Nigeria.

Political party has also been defined as 'an organised group of people with at least roughly similar political aims and opinions that seeks to influence public policy by getting its candidates elected to public office'.⁵ Collins dictionary defined political party as 'an organisation of people who share the same views about the way power should be used in a country or society (through government, policy-making, etc)'.⁶

The major dividing line between political parties and other pressure groups that seek good governance is that political parties compete for power and control of governance, and in the event that they cannot get hold of power, they act as opposition parties that play the role of a watchdog to the government and the political party in power in a bid to ensure accountability in government. Political parties are vehicles for getting into elective offices at any level of governance especially in a country like Nigeria where independent candidacy is outlawed. The pivotal role of political parties in Nigeria is captured in the Constitution of the Federal Republic of Nigeria 1999(as amended). Section 221 of the Constitution provides thus, 'no association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election.' It presupposes therefore, that the primary duty of a political party in Nigeria is to canvass for votes for candidates contesting election under its platform; and to bear the financial burdens and expenses of its candidates. Section 222 of the Constitution stipulates criteria which a political party must meet before it can be strictly so called and

³Bryan A Garner, *Black's Law Dictionary* 10th Ed. (Thomas Reuters) cited in Oyetola Muiywa Atoyebi, "Political Defection in Nigeria: Issues and Legal Implications" *The Nigerian Lawyer* 28 February 2022. <https://thenigerianlawyer.com/political-defection-in-nigeria-issues-and-legal-implications/> Accessed on 23 January 2024.

⁴SYB Kura, 'Towards a Sustainable Democratisation in Nigeria: Defining the Role of and Challenges to Political Parties', Paper presented at *First Africa-Europe Group for Interdisciplinary Studies (AEGIS)'s European Conference on African Studies*, SOAS, London, UK, 29 June – 2 July 2005.

⁵ACE The Electoral Knowledge Network, <https://aceproject.org/ace-en/topics/pc/pca/pca01/pca01a/mobile_browsing/onePag> Accessed on 12 January 2024.

⁶Collins Dictionary, <https://www.collinsdictionary.com/dictionary/english/political-party> Accessed on 12 January 2024.

widely recognised as a political party. Currently Nigeria has 18 registered political parties with the All Progressive Congress (APC) as the political party in power in the federal executive arm of government and all wields majority control of the National Assembly.

1.1.2 Democratic Process

The cardinal point of democracy is the prevalence of the will of the people through the process called election. Elections are the hallmark or the starting point of the democratic process of any society. Democracy has been defined, in the popular definition of Abraham Lincoln, as the government of the people by the people and for the people. At its origin in the ancient city of Athens, democracy involved the participation of every male adult in the decision making of the society, however, as population of the world expands, direct democracy became unsustainable warranting the introduction of indirect democracy which is a concept whereby the people as electorate through the process called election, willingly and freely confer mandate on a set of people that will represent their interests at various arms and levels of government.

Democratic process 'is the process of expressing primary political or inalienable rights through decision-making. It must promote effective participation, enlightenment, and final agenda control. The agenda controller defines the process and the production of its outcome'.⁷ Democratic process is the entire process from the election of leaders to the implementation of the mandate conferred on those leaders and further to the rights of the electorate to hold those leaders accountable. In all of these, political parties play inalienable role in democratic process not just in Nigeria but also in every modern democracy.

1.1.3 Defection

Defection has been defined as 'abandonment of allegiance or duty; the forsaking of a person or cause; desertion'.⁸ Merriam-Webster dictionary⁹ defines defection as conscious abandonment of allegiance or duty (as to a person, cause or doctrine). Defection from one political party to another therefore is the abandonment of a person's allegiance for one political party to take up allegiance for another political party. It could be an elected office holder, a politician occupying no office or just an ordinary citizen. This paper is not concerned with the party defection of non-elected office holders as they are under no obligation to remain in a particular political party, that obligation only arises when they have been sponsored by a political party and garnered votes from the people and gained power.

2.0 Defection by Members of the Legislative Arms of Government in Nigeria

As stated early in this article, there has been a gale of political party defections in Nigeria's democratic journey so far, the latest being the defection of 27 members of the Rivers State House of Assembly from the People's Democratic Party (PDP) to the All Progressives Congress (APC), claiming that there is division in the PDP.¹⁰ The effect of these incessant defections is that the political party that undertook the responsibility of canvassing for votes for a candidate will bear the brunt of seeing the fruits of their labour reaped by another political party. Also, the electorate who might have

⁷AfroCave, 'What is Democracy and the Democratic Process?' <<https://afrocave.com/democracy-and-democratic-process/>> Accessed on 13 January 2024.

⁸Bryan A Garner, *Black's Law Dictionary* 10th Ed. (Thomas Reuters) cited in Oyetola Muyiwa Atoyebi, "Political Defection in Nigeria: Issues and Legal Implications" *The Nigerian Lawyer* 28 February 2022. <<https://thenigerianlawyer.com/political-defection-in-nigeria-issues-and-legal-implications/>> Accessed on 23 January 2024.

⁹Merriam-Webster Dictionary, *Defection*. <<https://merriam-webster.com/dictionary/defection>> Accessed on 23 January 2024.

¹⁰Leadership News, "Why We Defected – 27 Rivers Lawmakers" *Leadership News* 12 December 2023. <<https://leadership.ng/why-we-defected-27-rivers-lawmakers/>> Accessed on 23 January 2024.

voted for the candidate because of their affinity or attachment or belief on a particular political party will sit back and watch that mandate controlled by another political party.

In order to checkmate the incidences of defection from one political party to another, the Constitution made provisions abhorring such defections by legislators, however, the same Constitution made a proviso which created a perfect excuse for legislators that intend to jump ship to another political party.

Section 68(1)(g)¹¹ stated thus:

1) A member of the Senate or of the House of Representatives shall vacate his seat in the House of which he is a member if...

g) 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 the House was elected;

provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored.

Flowing from the constitutional provision reproduced above, a legislator will not vacate the legislative seat which he occupies as a result of moving from one political party to the another, in the event that the political party that sponsored his candidacy at the election that brought him his current term in office as a legislator has division or has merged with one or more other political parties. Merger of political parties seems to be self-explanatory as we witnessed the merger of Action Congress of Nigeria; Congress for Progressive Change; All Nigeria Peoples Party; a breakaway faction of All Progressive Grand Alliance and the new People's Democratic Party all came together in 2013 to form the current ruling All Progressives Congress. Therefore, any legislator that belonged to each of those political parties that participated in the merger has a right to defect to another political party and still retain his legislative seat. The proviso that seems ambiguous is the part that deals with the defection of a legislator as a result of division in the political party that sponsored his candidacy during the election. The issues as relating to "division" are; what amounts to division, what is the magnitude of division sufficient to justify defection from one political party to another? Another question is what actually constitutes a division in political party, is it factionalisation of the political party at ward, state or national level?

The Court dealt with the issue of the level of factionalisation that will justify defection on the grounds of division in a political party in the case of *Hon. Ifedayo Sunday Abegunde v Ondo State House of Assembly &ors.*¹² in that case, Hon. Abegunde who was elected as member representing Akure North and South Federal Constituency in the House of Representatives under the platform of Labour Party defected to Action Congress of Nigeria citing factionalisation in the state chapter of Labour Party. He approached the Federal High Court through an originating summons praying for an interpretation of section 68(1) (a) & (g) of the Constitution especially the proviso which provides for justifiable grounds on which a legislator can be allowed to move from one political party to another and still retain his legislative seat. He sought among other reliefs an order of court restraining the defendants (respondents) from declaring his seat at the Federal House of Representatives vacant. The defendants (respondents) counter-claimed that the factionalisation or division in the Ondo State chapter of Labour Party is not sufficient to satisfy the proviso of section 68(1)(g) of the Constitution, they sought an order of court compelling Independent National Electoral Commission to conduct bye

¹¹Constitution of the Federal Republic of Nigeria 1999(as amended), section 109(1)(g) made identical provision for defection of state legislators.

¹²(2015) 8 NWLR (pt. 1461) 314.

election to fill the vacant seat occupied by the plaintiff (appellant). The Court dismissed the plaintiff (appellant)'s claim and granted the counter-claim.

Dissatisfied, the plaintiff as appellant appealed to the Court of Appeal which dismissed his appeal. He further appealed to the Supreme Court. The apex court of Nigeria refused the invitation of the appellant to set aside the concurrent findings of the Federal High Court and the Court of Appeal and firmly held that the Court of Appeal was right in stating that the division enough for reliance to be placed on the proviso to section 68(1)(g) must be that which affects the political party at the national level. In the lead judgement, per Musa Dattijo Muhammad JSC held thus:

“In the instant case, the two courts are right that the Labour Party that has continued to function as a political party by meeting the conditions associations by virtue of Section 221 and 222 of the Constitutions must necessarily meet, cannot be said to have been so factionalised, fragmented, split or divided to justify the defection of the appellant to another party and retention of his seat inspite of the defection. This remains the position of this Court on the issue. The interpretation of Section 68(1) (a) and (g) of the 1999 Constitution in relation to sections 221 and 222 of the same constitution to arrive at the same conclusion does not derogate from the position. After all, it is a trite principle of interpretation of the Constitution that its entire provisions be read together as a whole in ensuring the enthronement of the real intention of its framers. Isolated consideration of a particular section is disallowed. The Lower Court must be commended for its consideration of several clauses of the same Constitution and coming out with the harmonious conclusion it has and by so doing enthroning the real intention of the framers of the Constitution”.

In concurring with the lead judgement of his learned brother, Suleiman Galadima JSC opined as follows:

“Quite rightly, Section 222 (a) (f) and (e) of the 1999 Constitution made no reference to the "ward" "local government" or "state structure." However, a calm reading of Section 68 (1) (g) of the Constitution will show that no reference is made by the framers of the Constitution to "a state branch" ward level or "unit level" of a Political Party, when the framers of the Constitution repeatedly referred to "Political Party" in that Section. If the framers of the Constitution had really intended that a "division" within a "State branch" "ward level" or "unit level" of a Political Party, as suggested by the learned silk, they would have so expressly stated. Therefore, contrary to the argument of the appellant at paragraph 29 of his brief, Section 222 (a) (e) and (f) which referred respectively to "National officers", "geographical area" and "headquarters in the Federal Capital Territory", is to support the argument that a national outlook of a Political Party is intended by the framers of the 1999 Constitution in Construing Section 68 (1) (g) (supra)”.

In reaching the above decision, the Supreme Court referred to its previous judgement in the case of *Federal Electoral Commission v Goni*¹³ which is a case decided on section 64(1)(g) of the 1979 Constitution which provision is *in pari material* with section 68(1)(g) of the extant constitution. In that case the plaintiff (respondent) who was elected Governor of Borno State in 1979 under the platform of Great Nigeria Peoples Party (GNPP) and while in office he defected to another political party, Unity Party of Nigeria (UPN) on whose platform he intended to contest governorship election for a second term in office. The reason for the Governor's defection was that GNPP split into two factions; the faction to which the plaintiff/respondent belonged further split into two and the plaintiff/respondent and his loyalists joined UPN. The appellant (defendant at trial court) wrote a letter to the plaintiff/respondent and his party (UPN) conveying the disqualification of the plaintiff/respondent to contest the governorship election on the grounds of sections 64(1)(g) and 166(1)(a) of the 1979 Constitution.¹⁴ The Supreme Court held that there was division in GNPP to justify the Governor's defection. Aniagbolu JSC (as he then was) who delivered the lead judgement in that case, stated the mischief which the law barring legislators from jumping ship from the political party that brought them to office to another intends to cure. He stated thus:

“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 bedeviled 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”.

3.0 Defection by Chief Executives and their Deputies in Nigeria

Since the return of democratic rule in Nigeria in 1999, the waves of defection of elected office holders from one political party to another have not been peculiar to legislators; the Executive arm of government has witnessed its fair share of political party defections by Chief Executives and their deputies. At the federal level, no incumbent president has so far moved from one political party to

¹³(1983) LPELR-1266(SC).

¹⁴Section 166(1)(a) of the 1979 Constitution provides thus, “A person shall not be qualified for election to the office of Governor if – (a) he does any act, acquires any status or suffers any disability which, if he were a member of the Senate would have disqualified him from membership of the Senate”, defection from one political party to another being a ground that can disqualify a senator of his membership, can equally disqualify a Governor from contesting for second term in office. There is no similar provision of section 166(1)(a) of the 1979 Constitution in the 1999 Constitution. Therefore, that disability is no longer applicable.

another, only an incumbent vice president has changed political party, AtikuAbubakar. Between the year 1999 and 2023, 23 incumbent governors defected from the political party that got them into office to another political party.¹⁵ Some of these defections have been challenged in courts to ascertain the legality or otherwise of the defections especially in the light of the fact that there is no constitutional provision clearly prohibiting defections of elected executive office holders. Two of such cases will be considered in this paper.

In *AtikuAbubakar v A.G. Federation & 5 ors.*¹⁶ the facts of this case was that the then Vice President of the Federal Republic of Nigeria AlhajiAtikuAbubakar who was elected alongside his principal, President Olusegun Obasanjo under the platform of Peoples Democratic Party, defected to the Action Congress and this action annoyed President Obasanjo who declared the seat of the Vice President vacant, the declaration of the Vice Presidential seat vacant necessitated AtikuAbubakar to invoke the original jurisdiction of the Court of Appeal¹⁷ to determine the validity of the declaration of his seat vacant. The Court, while nullifying the declaration of the seat of vice president vacant, held that the ways by which a vice president will vacate office are resignation, death, impeachment and permanent incapacitation, therefore defection from one political party to another is not one of such ways. The Court went further to state that Vice President enjoys freedom of association pursuant to section 40 of the Constitution.¹⁸

In *Senator Ogbuoji&Ors v David Umahi&Ors*,¹⁹ the 1st and 2nd respondents were elected as governor and deputy governor of Ebonyi State respectively under the platform of Peoples Democratic Party in 2019; on 17 November 2020 they defected to All Progressives Congress. The appellant approached High Court of Ebonyi State seeking *inter alia* an order of court directing the 1st and 2nd respondents to vacate the seats they were holding on the grounds that their defection to another political party amounts to abandonment of votes cast for them at the election. The trial court dismissed the suit, still aggrieved by that judgement, the appellant appeal to the Court of Appeal. The Court in dismissing the suit, stated as follows on the issue of the legal implication of defection by a governor and/or deputy governor:

“The removal of the 1st and 2nd respondents as provided for in the Constitution must be in the circumstances contained in sections 180, 188 and 189 of the Constitution. Defection from the political party on the platform of which they were elected was not stated as one of the grounds and cannot be made a ground for the removal by the courts pursuant to the extant legal principle of expression *uniusest exclusion alterius...*”

The issue of defection of governors and deputy governors from the political party which got them into office to another political party has generated a lot of arguments, while some are of the view that such defection is not illegal, others hold the view that it should be illegal. Mike Ozekhome SAN was of the view that it is within the constitutional and fundamental rights of a governor or deputy governor to move from one political party to another just like other citizens possess the same

¹⁵Chibuzo Ukaibe & Kunle Olasanmi, ‘23 Sitting Governors Defect in 24 Years’ *Leadership News* <https://leadership.ng/23-sitting-governors-defect-in-24-years/> Accessed on 22 January 2024.

¹⁶(2007) 3 NWLR (Pt. 1022) 601CA.

¹⁷Constitution of the Federal Republic of Nigeria 1999(as amended), section 239 empowered the Court of Appeal to hear and determine, as a court of first instance, *inter alia*, questions as to whether the term of office of a president or vice president has become vacant.

¹⁸Per Abdullahi P.C.A (as he then was).

¹⁹(2022) LPELR-57166(CA).

right of freedom of association including changing membership of a political party.²⁰ However, Femi Falana SAN disagreed with his learned brother silk, he stated that while a governor has a right to freedom of association and is free to exercise his constitutionally protected rights, he should not be permitted to infringe on the democratic rights of the voters.²¹

This paper agrees with the views expressed by Femi Falana, and also submits that the right to freedom of association, just like every other right, is not absolute. Section 45(1)²² stipulates thus: ‘Nothing in sections 37,38,39,40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society-

- (a) in the interest of defence, public safety, public order, public morality or public health; or
- (b) for the purpose of protecting the rights and freedom of other persons.

The implication of the above cited constitutional provision is that defection from one political party to another by both elected executive and legislative members arguably offends public morality and also infringes on the rights and freedom of the voters to decide that they want a particular political party to govern them for the tenure until it is time for another election.

4.0 Implications of Incessant Political Party Defections in Nigeria’s Democratic Process

As has been started earlier in this paper, incessant defections from one political party to another both by elected office holders and politicians who are not holding any elected office or who aspires to contest for one office or another has been the bane of Nigeria’s politics and this has far- reaching effect on our democratic process. These implications include, but are not limited, to the following.

4.1 Promoting or strengthening the Existence of Political Parties that lacks Political Ideologies.

Ideally political parties should be ideologically based associations. A political party is expected to have what the party is known for; these ideologies form the visions,missions, and aspirations of the political party. It is these ideologies that will attract people of like minds to take up membership of a political party and it will also inform the voters who will naturally vote for political parties whose ideologies align with their beliefs.

For instance, in the United States of America where there exists two dominant political parties, the Democratic Party aligns with the liberal ideology while the Republican aligns with conservative ideology.²³ A politician who firmly believes in the liberal ideology will most likely remain with the Democratic Party and will rarely have any reason to defect to another political party. If there are measures to forestall the incessant political party defections, political parties will be forced to formulate strong political ideologies knowing that the voters will only start taking them seriously if they are ideologically based. On the need for political parties with political ideologies, Sen. IfeanyiOkowa stated that, “the establishment of strong political parties with members who have a common interest and who remain loyal to the party due to its political ideology is necessary for democracy,”²⁴

4.2 Creates and Strengthens Lack of Trust amongst Political Actors

The fact that among the political actors any one of them can wake up one morning and defect to another political party from the one which he is a member, creates and strengthens lack of trust and

²⁰John ChuksAzur, “Nigeria: Why Governors escape Legal Hammer over Defections” *Daily Trust* 29 March 2022. <<https://allafrica.com/stories/202203290337.html>> Accessed on 23 January 2024.

²¹*Ibid.*

²²Constitution of the Federal Republic of Nigeria 1999(as amended).

²³Khan Academy, *Ideologies of Political Parties*. www.khanacademy.org/humanities/us-government-and-civics/us-gov-american-political-ideologies-and-beliefs/ Accessed on 24 January 2024.

²⁴IfeanyiOkowa, “Towards Sustainable Democracy in Nigeria: The Role of Political Parties” *A Lecture delivered at Bishop Kelly Pastoral Center, Benin, reported in Guardian Newspaper* 24 September 2015. <www.guardian.ng> Accessed on 25 January 2024.

loyalty among political actors who can be allies today and opponent tomorrow. This can be captured in the popular saying that in politics “there is no permanent friend and there is no permanent enemy. This lack of trust can only be strengthened if this spate of uncontrolled political defection continues, and this has a very negative implication on Nigeria’s democratic process. Even the voters can no longer trust the political actors aspiring for various positions under the umbrella of their preferred political party, knowing full well that these political actors can defect to another political party once they secure their votes.

4.3 Leads to Bad Governance

This point is closely linked to the issue of lack of political ideology, where an elected office holder dumps the party which brought him into office and takes on membership of another political party, in most cases it is evidence of lack of direction which can lead to bad policy making and bad governance. The defecting office holder will be forced to drop the party manifesto of his previous party and may not be able to articulate plans for the running of the government and the resultant effect will be bad governance.

4.4 Lack of Accountability to Political Parties and the Voters by Elected Office Holders

Most politicians seeking elections to public offices merely see political parties as necessary vehicles to gain power and nothing more. This explains why politicians quickly move to another political party to contest election and when they win the election based on the sponsorship of their new political party and votes of the public that believe in the party manifesto, some of these elected office holders either move back to the political party wherein they failed to secure ticket for the election or they move to yet another political party for their own selfish and/or pecuniary interests. In some cases, politicians contest elections in the political party where they are members but immediately, they get elected they switch allegiance to another political party. This happens mainly in cases where the party on whose platform they got elected is a minority party and for selfish reasons they want to belong to the party that have the majority or that is the ruling party. This underscores lack of accountability to both the political party that sponsored their elections and to voters that voted them under the party’s platform.

4.5 Erosion of Party discipline which weakens Political Parties

The pivotal role played by political parties in democracies cannot be over-emphasized, ideally party members including those holding elected offices should be loyal to the political party and should work in the interest of the party, and they should be subjected to party discipline. Party discipline can be referred to the ability of party leaders to influence their party members to support the party line on the floor of the legislature.²⁵ Although there are instances even in other democratic states where legislators vote against policies of their political parties in the floor of the legislature, it is a rare occurrence and those legislators still remain loyal party members and still work to actualise the party manifestos as expected of them. Incessant defections especially among legislators erode party discipline and in turn weaken political parties. Defection threatens democracy in the long run by weakening political parties and lowering public confidence.²⁶

5.0 Conclusion

Defection from one political party to another by legislators carries the legal implication of forfeiture of the legislative seat except the legislator comes within the constitutionally provided exceptions of

²⁵Marta Curto-Grau & Galina Zudenkova, “Party Discipline and Government Spending: Theory and Evidence” *Journal of Public Economics* Vol. 164 (August 2018) PP. 139-152.

²⁶Mackson Oruma & Ufuoma Oyibodoro, “Defections in Political Parties and Its Implications for Stability of Democracy” *South Asian Law Review Journal Annual* Vol. 9 (2023) ISSN 2456-7531. PP. 86-98.

a merger of the political party that got him into office with another or other political parties, and a division in the party that elected him. The ambiguity on what amounts to a division as to justify such defection creates a leeway for legislators to jump ship even when the alleged division is orchestrated by them, so far as the division happens at the national level of the political party, they can defect to another party. The Constitution also conferred the powers of declaration of the seat of a defecting legislator vacant on the President of Senate; Speaker of House Representatives or Speaker of a state House of Assembly depending on the concerned legislative house.²⁷ The big question is what happens if the head of the concerned legislative chambers fails to give effect to the vacation of seat of a defecting legislator especially where his political party might be the benefactor of the defection or where he is the one defecting to another political party.

In the case of elected chief executives and deputies there is currently no legal implication for their movement from one political party to another irrespective of the reason for such movement. We are of the view that this state of affair ought not to be so.

The overall implication of this incessant and unruly political party defection in Nigeria's democratic process is that it has exposed and strengthened the fact that political parties in Nigeria lack political ideologies the resultant effect being government without any political ideology as its guiding principles. It also creates and strengthens lack of trust among political actors political actors; leads to bad governance; exposes lack of accountability by political office holders to the political parties and the voters and also erodes party discipline which in turn weakens political party.

6.0 Recommendation

This paper therefore recommends that the prohibition from defection from one political party to another should be extended to the President, Vice President, Governors and Deputy Governors. The justifiable grounds for defection should be restricted to cases of merger of political parties or where the office holder is expelled from the political party that sponsored him; in that case he has not option than to find another political party after such expulsion. The powers granted to heads of legislative houses to give effect to the vacation of seat of a defecting legislator should be removed, once an office holder joins another political party except in the permissible situations he should automatically lose his seat. To accommodate that of the executives, section 308 of the Constitution should be amended to accommodate litigations calling for the vacation from office by a defecting elected executive office holder, that way such suits will not be thrown away on grounds of executive immunity.

²⁷Constitution of the Federal Republic of Nigeria 1999 (as amended), sections 68(2) & 109(2).