

LEGAL AND SOCIO-POLITICAL DYNAMICS OF PARTY DEFECTION IN NIGERIA: AN APPRAISAL OF THE DECISION OF THE FEDERAL HIGH COURT REMOVING THE GOVERNOR AND DEPUTY GOVERNOR OF EBONYI STATE*

Abstract

The question as to the existence or otherwise of ‘true’ multiparty democracy in Nigeria is one that has consistently begged for answer among political scholars at various levels of government. The said question also raises the issue as to the possibility or otherwise of achieving a viable and credible opposition to strengthen democracy in Nigeria. Existing literature shows that party defection is rampant in Nigeria’s democratic system due to the nature of the country’s democratic process. This notwithstanding, the paper is borne out of the March 8, 2022 judgment of the Federal High Court of Nigeria sacking the Governor of Ebonyi State and his Deputy from office on account of party defection. It is on this premise that this paper made a wholistic appraisal of the relevant constitutional provisions on removal of political office holders on grounds of having defected from the political party that sponsored them during their election to another political party. It critically analyzed the concept of defection and its implications on the political dynamics in Nigeria. This paper then considered the propriety or otherwise of the decision of the Federal High Court of Nigeria removing the Ebonyi State Governor and Deputy Governor from both legal and socio-political perspectives. This paper found that though it may be socio-politically desirable to reduce incidents of defection among political office holders, the said decision of the Federal High Court of Nigeria is insufficient to put the issue at rest, in view of the different decisions of the Supreme Court in her earlier decisions in relation to who can be declared winner of an election, such that an authoritative decision of the Supreme Court may be required to clear the air.

Keywords: 1999 Constitution, Defection, Political Party, Removal of Governor, Judgment of Federal High Court of Nigeria.

Introduction

Nigeria’s return to democracy in 1999¹ ushered in a great hope of democratic dividend and heralded a rare opportunity for the country to launch a new democratic strategy, after years of military dictatorship. The emergence of multiparty democracy in Nigeria since 1999 has been seen as a major breakthrough in the democratic process.² Since then, there have been different clogs in the wheel of democratic system in Nigeria which affect the country from having a ‘true’ multiparty democracy.³ Indeed, the morality of Nigerian politics has, over the years, come under series of challenges on account of the activities of some political gladiators in the Nigerian political arena. The challenges incessantly ravaging the scene of politics in the country include but are not limited to the joyful switch of the political platform under which a candidate for election was returned successfully at the detriment of the electorates,⁴ otherwise known as party defection. The way and manner politicians in Nigeria defect from one party to the other has not only constituted democratic nuisance, but has continued to raise serious concern among political observers and participants in Nigeria.⁵ Extant literature reveals that the issue of party defection, where politicians cross from one political party to the other, is rampant in Nigeria which cut across all levels of government from federal to local.⁶ According to Aleyomi, this phenomenon has become a permanent feature of the Nigerian nascent democracy.⁷ As a matter of fact, politicians in Nigeria have continued to lay claims to their fundamental rights to freedom of association as a means of moving in and out of political parties at will, a development which is gradually assuming a frivolous status,⁸ thus raising concerns in the build-up to the 2023 general elections. Nigerians were therefore not surprised when the news broke out in November 2020 that the Governor of Ebonyi State, Engr. David Umahi and his Deputy, Eric Kelechi Igwe had decamped from the Peoples Democratic Party (PDP) on whose platform they were returned to office in 2019 to the All-Progressive Congress (APC). Feeling aggrieved by this fact, the PDP commenced *Suit No.*

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¹Nigeria’s democracy is 23 years old since the country returned to a democratic government in May 29, 1999. See MB Aleyomi, ‘Election and Politics of Party Defection in Nigeria: A Clue from Kogi State’, (2013) 1(1) *Covenant Journal of Politics and International Affairs (CUJPIA) (Maiden Edition)*, 82 – 94, 82.

²LI Edet, ‘Politics of Defection and its Implications on Nigeria’s Democracy’, (2017) 17(1) *Global Journal of Human-Social Science (F) Political Science*, 1 – 6, 1.

³ MB Aleyomi, *op. cit.*, p. 82.

⁴ KI Nuhu, ‘The Legal Implication of Political Defection on Nigeria’s Democracy’, (2021) 5(2) *Sriwijaya Law Review*, 247 – 261, 247.

⁵ LI Edet, *op. cit.*, p. 1.

⁶ MB Aleyomi, *op. cit.*, p. 82.

⁷ *Ibid.*, p. 83.

⁸ OI Eme & A Ogochie, ‘The Legal/Constitutional Basis for Political Party Defection in Nigeria’, (2014) 3(11) *Kuwait Chapter of Arabian Journal of Business and Management Review*, 19 – 34, 19.

FHC/ABJ/CS/920/2021: PDP v. INEC & 3 Ors before the Federal High Court of Nigeria seeking *inter alia* a declaration that the Governor of Ebonyi State, Engr. David Umahi and his Deputy, Eric Kelechi Igwe had by virtue of decamping from the PDP to the APC resigned or be deemed to have resigned from their position as Governor and Deputy Governor respectively. On the 8th day of March 2022, Nigerians were greeted with some serious news. The Federal High Court of Nigeria, Abuja Judicial Division delivered a landmark decision in the said *Suit No. FHC/ABJ/CS/920/2021*. In the said judgment which was delivered by the Honourable Justice Inyang Ekwo, the Federal High Court of Nigeria agreed with the contentions of the PDP and *inter alia* removed the Governor of Ebonyi State, Engr. Dave Umahi and his Deputy, Eric Kelechi Igwe, from office.⁹ Granted that Engr. Dave Umahi and his Deputy, Eric Kelechi Igwe readily appealed against the said judgment of the Federal High Court of Nigeria removing them from office, the propriety or otherwise of the said judgment has continued to generate serious controversies among legal and political scholars. As a matter of fact, scholarly opinions remain divided as to the position of the law on the consequences of defection of political office holders from one political party to another, vis-à-vis the socio-political implications of such dynamics. This paper becomes imperative in view of the importance of its subject to the development of Nigeria's democratic process and enhancing political stability of the country.

2. Political Parties and Electoral Mandate under Nigerian Law

A political party is seen as an alliance of like-minded people who work together to win elections and control the government.¹⁰ It is also seen as an association of men and women who have similar views and organize themselves to obtain political power and control government machinery.¹¹ Political party, in another perspective, is seen as a group of persons who are organized in order to acquire and exercise political power.¹² Hence, the precise and all-encompassing definition in the Constitution¹³ as judicially endorsed in the case of *National Conscience Party v. National Assembly of the Federal Republic of Nigeria*¹⁴ which defined it as 'Any association whose activities including canvassing for votes in support of a candidate for election to the office of President, Vice-President, Governor, Deputy-Governor or Member of a Legislative House or a Local Government Council.' It follows that a political organization with a strong desire to attain and wield political power is a product of people of similar if not the same political philosophy and policies. It depicts that these like-minded people, though with different views and preferences, give into similar struggles and program with a zeal to achieving them on the attainment of power. Therefore, political parties are often espoused on expressed ideology or vision bolstered by a written platform with specific goals, forming a coalition among disparate interests, with a strong desire to protect the interest of its members upon victory, not to disappoint them by switching to another party of interest.¹⁵

Electoral mandate means an authority given to an elected group of people, such as the government, to perform an action or govern a country.¹⁶ It also refers to the authority to carry out a policy and is regarded as given by the electorates to a party or candidate that wins an election.¹⁷ It means that mandated policies are typically perceived to be those contained in the party's manifesto at the relevant election before taking power.¹⁸ These definitions can be instructive towards understanding the level of indebtedness of political office holders to their electorates after winning the election. It suffices to say that by the mere casting of votes in favour of a candidate, the voters have by so doing entrusted the winning candidate with their harmonized political policies and programmes as contained in their party's manifesto. The winning candidate is to give effect to the mandate, which is the command or authorization to act in a particular way on a public issue given by the electorates to its representative¹⁹ at the time of election. It has never been the case anywhere in Nigeria that part of the nature and conditions of the mandate given to any candidate at the point of election by the electorates is the choice to decamp from one political party to another after winning the election. Hence, the electoral mandate becomes real at the moment of the election with no time to amend or vary before the expiration of the mandated term. Thus, Thomas Mazur posited that. 'It is fairly cut and dried once a vote has been taken. An issue is presented and then voted on by the body, and it either passes or fails according to vote'.²⁰

⁹A certified true copy of the said judgment is available on line at <<https://r6a8n4n6.stackpathcdn.com/wp-content/uploads/2022/03/JUDGEMENT-IN-PDP-V.-INEC-2-ORS-4.pdf>> Last accessed on 22/04/2022.

¹⁰BT Badejo *et al*, 'The Politics of Defection and Power Game in Nigeria: Insights from the 7th Lower Legislative Chamber,' (2016) 6(9) *Public Policy and Administration Research*, 6 – 14.

¹¹P Mbaya, *Element of Comparative Government and Administration* (Maiduguri: Mike-B Printing Works, 2009), cited in KI Nuhu, *op. cit*, p. 250.

¹²AA Mustapha & SM Isah, 'Politics of Inter-Party Defections in Nigeria: Who's Interest?', (2018) 3(4) *African Journal of Management*, 127.

¹³1999 Constitution of the Federal Republic of Nigeria (as amended), s. 229.

¹⁴(2016)1 NWLR (Pt. 1492) 1 at 23.

¹⁵KI Nuhu, *op. cit*, p. 250.

¹⁶<www.dictionarycambridge.org> accessed on 19/07/2020, cited in KI Nuhu, *op. cit*, p. 251.

¹⁷<www.tutor2u.net/politics/topic> accessed on 19/07/2020, cited in KI Nuhu, *op. cit*, p. 251.

¹⁸KI Nuhu, *op. cit*, p. 251.

¹⁹<www.dictionary.com> accessed on 19/07/2020, cited in KI Nuhu, *op. cit*, p. 251.

²⁰TJ Mazur, 'When is an Electoral Mandate Really A Mandate?', <www.eric.gov/legislature/district08district08news021207asp>, cited in KI Nuhu, *op. cit*, p. 251.

3. The Concept of Political Party Defection

Conceptual exploration of defection and democracy is necessary in this study to give clear understanding of the terms and their impact on each other. The term of defection concerning politics acquired different meanings and connotations as it is known in different nomenclature such as ‘Decamping’, ‘Cross Carpeting’, ‘Party Hopping’, ‘Party Switching’, ‘Party Crossover’, and ‘Canoe Jumping’²¹ among others. It is defined as an act of swapping political parties or changing party allegiance, or moving from one party to another.²² It has also been described as the act of abandonment of one’s group or party to join an opposition or ruling group or party over the issue of political ideology, manifesto or program and party management.²³ Party switching as described in the United Kingdom is a common occurrence where members of Labour, Conservative and Liberal Democrat hop when it suits them while the Nigerian model of ‘party hopping’ is a class on its own, in other words, ‘carpet crossing’ in the Nigerian context refers to a situation in which a member of Legislature (or Executive) elected on one party ticket changes his political allegiance before the next general election.²⁴ Therefore, it follows from the preceding definition that political defection in all of its metamorphosis connotes a situation where an elected officeholder elopes along with the mandate of his electorate to another political platform irrespective of the differences in the mandate of the other groups for the purpose of conservation of office.²⁵ It goes without saying that the moment a political office holder defects, the expectation of the voters which informed their decision to belong together in a particular political platform becomes defeated. This is because the harmonized political policies, vision, values and programmes may not be the same as that of the favoured party, thereby breaking faith with the electorates.²⁶ Political party defectors are usually regarded as political prostitutes without political principle, morality, conscience and lacking in political ideology to champion the cause of leadership for the wellbeing of the society and political development of the country. Various reasons may be adduced for cross carpeting or defection of politicians, ranging from personality clash, power tussles, divergent views on the operations of a political party’s philosophy, crisis or division within a given political party, disagreement on party’s position on an issue, realization of one’s personal political ambition and party leaders renegeing on agreed issues of the political party probably on power sharing formula.²⁷

The antecedence of ‘Party-Hopping’ in Nigeria is not unconnected with the then status of the country as a colony of the British government. It was the practice in the British Parliament to have its members separated by a red carpet according to the opinion held on a prevalent issue to be decided. Any member from either side of the divide can decline his initial opinion and cast his vote in favour of the other side by crossing the red carpet to join the other side and vice versa till a decision is reached.²⁸ The Nigerian political imbroglio widened the innovation to include an act of leaving one’s party to another.²⁹ The landmark incident of ‘ship-jumping’ in Nigeria was recorded in 1957 when members of the NCNC were lobbied to cross over to the Action Group (AG)³⁰ on the floor of the Western Nigerian House of Assembly. It resulted in a significant deflation in the political strength of the party in the house and a good ground that compelled Nnamdi Azikiwe to shift base to the Eastern Region where his party had dominated.³¹ There were series of rivalry and personality issues that greeted this development up to the post independent era. Notably, this resulted in the mistrust between the regions that was relevant to not only the two illustrious nationalities to wit Awolowo and Azikiwe, but also to their respective kinsmen.³² This nascent political development matured through transitional politics with an endless list of events to become more adorable and almost a political norm in the most controversial Fourth Republic. The celebrated case in this Republic include those of Alhaji Atiku Abubakar, who decamped from the ruling PDP to Action Congress in 2006 with the chain of unsuccessful legal battles with the PDP-led government of Chief Olusegun Matthew Aremu Obasanjo.³³ He has since then decamped severally between different political parties. Another is the case of the erstwhile speaker of the lower chamber, Right Honourable Aminu

²¹ BT Badejo *et al*, *op. cit*, pp. 6 – 14.

²² LI Edet, *op. cit*, p. 2.

²³ OI Eme & A Ogbochie, *op. cit*, p. 22.

²⁴ ME Blunt, ‘Carpet-Crossing’, (1964) 18(1) *Parliamentary Affairs*, 82 – 91. Also available online at <<https://academic.oup.com/pa/article-abstract/XVIII/1/82/1518268?redirectedFrom=fulltext>> Last accessed on 22/04/2022.

²⁵ KI Nuhu, *op. cit*, p. 251.

²⁶ *Ibid*, p. 251.

²⁷ OI Eme & A Ogbochie, *op. cit*, p. 22.

²⁸ O Alaba, ‘A Season of Carpet Crossing,’ Niger Delta Congress, 2007, available online at <www.nigerdeltacongress.com/articles/aseasonofcarpetcrossing.htm> Last accessed on 22/04/2022.

²⁹ KI Nuhu, *op. cit*, p. 252.

³⁰ O Awofeso and PA Irabor, ‘Party Cross-Carpeting in Nigeria’s Fourth Republic: Cases and Causes’, (2016) 6(3) *Journal of Public Administration and Governance*, 31 – 40.

³¹ PW Okparaji, ‘Political Party, Defection and The Law,’ *The Tide*, 2010, available online at <www.thetidewsonline.com/?p=8510> Last accessed on 22/04/2022.

³² A Adewale, ‘The History and Law of Political Carpet Crossing in Nigeria’, available online at <<http://squib.guest.blogspot.com/2009/11/history-and-law-of-political-carpet.html>> Last accessed on 22/04/2022.

³³ *Ibid*.

Waziri Tambuwal when he jumped from the ruling party PDP to the opposition All Progressives Congress in 2014³⁴ and that of the erstwhile President of the Upper Chamber, Olusola Bukola Saraki, who crossed from the ruling APC back to the main opposition, the PDP, in 2018.³⁵ The most recent defections of the sitting governor of Ebonyi State,³⁶ Governor David Umahi and his Deputy, Eric Kelechi Igwe, as well as that of the serving member of the 9th Assembly, Senator Elisha Ishaku Abbo (representing Adamawa North Senatorial District) all from the main opposition party PDP to the ruling APC with impunity are both instances that do not seem to end the gale of defection in the country.³⁷ The defection of Governor David Umahi and his Deputy, Eric Kelechi Igwe was however greeted with a law suit by the PDP who challenged the said defection. Though the Federal High Court of Nigeria has delivered judgment in the said suit, the propriety or otherwise of the said judgment has continued to engender debates among jurists and scholars.

4. Propriety or Impropriety of the Judgment in Suit No. FHC/ABJ/CS/920/2021

The Federal High Court judgment sacking Ebonyi State governor, David Umahi and the State Deputy Governor, Eric Kelechi Igwe for their defection from the PDP to APC has triggered heated debate and anxiety in the Nigerian polity, and evidently put many political office holders who are in similar situation as Umahi in some discomfort. Umahi who won a second term seat as Governor of Ebonyi under the platform of the PDP in 2019, defected to the APC in November 2020, alongside the Deputy Governor of the State, Igwe.³⁸ The Federal High Court had in its judgment delivered by Hon. Justice Inyang Ekwo, held that the total number of 393,042 votes Governor Umahi secured during the March 9, 2019 governorship election in Ebonyi state, belonged to the PDP and same could not be legally transferred to the APC. According to the court, having defected to the APC, both Umahi and his deputy, not only jettisoned the PDP, but also the votes that belonged to it. It held that going by the outcome of the governorship election, the office of the Governor and Deputy Governor in Ebonyi state, belong to the PDP and no other political party. According to the Court, ‘there is no constitutional provision that made the ballot transferrable from one party to the other.’ The Court further held that the PDP is bound to retain the votes and mandate that was given to it by electorates in Ebonyi State, as both Governor Umahi and his Deputy could not validly transfer same to APC.³⁹ According to the Court, the Governor and his Deputy did not on their own win the election of 9th November, 2019 to become Governor and Deputy Governor of Ebonyi State respectively. They were sponsored by PDP in compliance with the provisions of Section 221 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Therefore, it was the PDP that the electorate voted for and the Constitution will be put in jeopardy where the will of the electorate when they voted for a particular political party can be brazenly merchandized by candidates without consequences. The Court therefore ordered both Umahi and Igwe to immediately vacate their positions while it ordered the Independent National Electoral Commission (INEC) to immediately receive from the PDP, names of persons to replace Umahi and his Deputy, or in the alternative, conduct fresh gubernatorial election in Ebonyi State in line with Section 177(c) of the 1999 Constitution of the Federal Republic of Nigeria (as amended). The Court further restrained both Umahi and Igwe from further parading themselves as Governor or Deputy Governor of Ebonyi State.⁴⁰

From the above details emanating from the said judgment, the Court relied heavily on the provisions of Section 221 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) as well as the Supreme Court decision in *Amaechi v. INEC*⁴¹ in reaching its decision. The said 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’. In the case of *Amaechi v. INEC*, the Supreme Court, per Oguntade, JSC while pontificating on the legal effect of Section 221 of the Constitution, held as follows:

The above provision effectually removes the possibility of independent candidacy in our elections; and places emphasis and responsibility in elections on political parties. Without a political party a candidate cannot contest. The primary method of contest for elective offices is therefore between parties. If as provided in Section 221 above, it is only a party that canvasses for votes, it follows that it is a party that wins an election. A good or bad candidate may

³⁴O Agbajileke, ‘Tambuwal: A Defection So Controversial’, *Business Day*, November 2, 2014, available online at <<https://businessday.ng/exclusives/article/tambuwal-a-defection-so-controversial/>> Last accessed on 22/04/2022.

³⁵E Yafugborhi, ‘Saraki, Ahmed Defection to PDP Another Reflection of APC Failure’, *Vanguard*, 1st August, 2018, available online at <<https://www.vanguardngr.com/2018/08/saraki-ahmed-defection-to-pdp-another-reflection-of-apc-failure-wike/>> Last accessed on 22/04/2022.

³⁶News Agency of Nigeria, ‘I Didn’t Defect to APC Over Presidential Ambition – Umahi Reiterates,’ *The Guardian*, 29th November, 2020, available online at <<https://guardian.ng/politics/i-didnt-defect-to-apc-over-presidential-ambition-umahi-reiterates/>> Last accessed on 22/04/2022.

³⁷MJ Azimazi, ‘PDP Kicks as Senator Abbo Defects to APC,’ *The Guardian*, November 26, 2020, available online at <<https://guardian.ng/news/pdp-kicks-as-senator-abbo-defects-to-apc/>> Last accessed on 22/04/2022.

³⁸O Ezugwu, ‘Tension in Political Parties over Ebonyi Judgement’, <<https://hallmarknews.com/tension-in-political-parties-over-ebonyi-judgement/>> Last accessed on 22/04/2022.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ (2008) LPELR-446(SC).

enhance or diminish the prospect of his party in winning but at the end of the day, it is the party that wins or loses an election. I think that the failure of respondents' counsel to appreciate the overriding importance of the political party rather than the candidate that has made them lose sight of the fact that whereas candidates may change in an election but the parties do not. In mundane or colloquial terms we say that a candidate has won an election in a particular constituency but in reality and in consonance with *section 221 of the Constitution*, it is his party that has won the election.

The implication of the ratio espoused by the Supreme Court in the case of *Amaechi v. INEC* on the peculiar facts of Umahi's case tends to validate the decision of the Federal High Court in the latter case. Put simply, since it is the PDP that owns the highest number of valid votes and won the gubernatorial election in Ebonyi State, the candidates of that party cannot move the said votes to APC and thereby make APC the winner of the election. Laudable as this logic may sound, there remains another angle to the issue. The same Supreme Court in the case of *CPC & Anor v. Ombugadu*⁴² had held as follows:

Section 141 of the Electoral Act 2010 (as amended) provides in unmistakable terms: 'An election tribunal or court shall not under any circumstance declare any person Winner of an election in which such a person has not fully participated in all the stages of the said election.' By the above provision, the National Assembly has set aside the decision of this court in *Amaechi v. INEC (2008)5 NWLR (Pt. 1080) page 227 at 296*. Contrary to the decision of this court in *Amaechi's* case, the implication of Section 141 of the Electoral Act, 2010 (as amended) is that while a candidate at an election must be sponsored by a political party, the candidate who stands to win or lose the election is the candidate and not the political party that sponsored him. In other words, parties do not contest, win or lose election directly; they do so by the candidates they sponsored and before a person can be returned as elected by a tribunal or court, that person must have fully participated in all the stages of the election, starting from nomination to the actual voting.

The implication of the decision of the Supreme Court in the case of *CPC & Anor v. Ombugadu* on the peculiar facts of Umahi's case presupposes that it is Engr. Umahi and his Deputy, Dr. Igwe that own the highest number of valid votes and won the gubernatorial election in Ebonyi State, such that they are entitled to move the said votes to APC and thereby make APC the winner of the election.

The decision of the Supreme Court in the case of *CPC & Anor v. Ombugadu* tends to validate the earlier decision of the same Court in *AG – Federation v. Atiku Abubakar*⁴³ where it held thus:

It is manifest from the provisions of Sections 68(1)(g) and 109(1)(g) of the 1999 Constitution that the makers of the Constitution intended to, and indeed made punishable the defection of a member of the Senate, House of Representatives, or a House of Assembly from the political party that sponsored him into another party before the expiration of the period for which the legislative house was elected by declaring the seat vacant. However, no similar provision is made for the Vice President. In other words, if the makers of the Constitution had intended that the Vice President or the President to suffer the same fate as a member of the Senate, House of Representatives or House of Assembly, they would have inserted such provision in the Constitution in clear terms... The 1999 Constitution does not provide that the President or Vice President of the Federal Republic of Nigeria shall be removed or is removable from that office if he defects from the political party on whose platform he was elected to that office and joins another political party.

In reaching the decision in the case of *AG – Federation v. Atiku Abubakar*, it is clear that the Supreme Court applied the rule of interpretation expressed in the Latin maxim '*expressio unius est exclusio alterius*' which means that the 'express mention of a thing is to the exclusion of another'.⁴⁴ By logical deduction, the express mention of sanction for defection by a legislator is an exclusion of imposition of sanction for a holder of executive office who defects. In order to discover which of these competing views is correct, it is proper to situate the said decisions of the Supreme Court in proper perspective. The decision in the case of *Amaechi v. INEC* was reached by the Supreme Court in interpreting the provisions of Section 221 of the 1999 Constitution of the Federal Republic of Nigeria (as amended). Conversely, the decision in *CPC & Anor v. Ombugadu* was reached by the same Court while interpreting the provisions of Section 141 of the Electoral Act 2010 (as amended). On the face of it, one may argue that the decision in *Amaechi v. INEC*, having been premised on the provisions of the Constitution, should override the decision in *CPC & Anor v. Ombugadu* which was premised on the Electoral Act, regards being had to the doctrine of constitutional supremacy as enshrined in Section 1(1) & (3) of the 1999 Constitution.⁴⁵ However, another may also argue that the decision in *AG – Federation v. Atiku Abubakar* having been premised on an interpretation of Sections 68(1)(g) and 109(1)(g) of the 1999 Constitution which specifically deal with party defection must override the decision in *Amaechi v. INEC* which was premised on an interpretation of Section 221 of the 1999 Constitution which generally dealt with

⁴² (2013) LPELR-21007(SC).

⁴³ (2007)10 NWLR (Pt. 104) 1 at 29.

⁴⁴ *Commissioner for Local Government & Chieftaincy Affairs & Anor v. Onakade* (2016) LPELR-41133(CA).

⁴⁵ *Abacha v. Fawehinmi* (2000)4 SC (Pt. II) 1; *AG - Abia State v. AG - Federation* (2002)6 NWLR (Pt. 763) 204; *AG - Ondo State v. AG - Federation* (2002)1 NWLR (Pt. 772) 222; *Balonwu v. Governor of Anambra State* (2009)18 NWLR (Pt. 1172) 13.

capacity to sponsor a candidate for an election, regards being had to the rule of statutory interpretation enshrined in the Latin maxim '*generalia specialibus non derogant*' which means that where there are two provisions, one specific and the other general, covering the same subject matter a case falling within the words of the specific provision must be governed thereby and not by the terms of the general provisions.⁴⁶ What is more, the Supreme Court decision in *CPC & Anor v. Ombugadu* expressly overruled the decision in *Amaechi v. INEC* and supports the earlier decision in *AG – Federation v. Atiku Abubakar*. In the case of *PDP v. Mohammed & Ors*,⁴⁷ Abiru, JCA cautioned as follows: It is trite that in the interpretation of statutes, a Court must not give an interpretation that would defeat the intention and purpose of the lawmakers, and it should adopt a holistic approach and interpret the provisions dealing with a subject matter together to get the true intention of the law makers.

Bearing the above caution in mind, it is submitted that the proper interpretation to the relevant constitutional provisions on sanction for defection of elective office holders should be that Section 221 of the Constitution only applies to the election process. By that provision, only a political party can present a candidate for an election and the votes cast at the said election belongs to the political party and not the candidate. However, the moment the person is sworn in and assumes office, he is no longer considered the representative of the winning political party *simpliciter*, but rather represents the State in so far as the said office is concerned. Accordingly, the said person cannot be removed from that office except in strict compliance with the provisions of the Constitution, and since the said Constitution does not provide for the removal of the holder of an executive office on ground of party defection, the holder of an executive office is immune from removal from office on that ground.

5. Removal of Members of Legislative Houses from Office on Ground of Party Defection

In contrast to the position applicable to holders of executive office, elected legislators across the country have their freedom of assembly and association⁴⁸ curtailed by the provisions of sections 68(1)(g) and 109(1)(g) of the Constitution. These twin sections are in *pari-materia* and provide to the effect that a member of either the Federal or State Legislature shall vacate his seat when he changes his political party under whose platform he was elected and before the expiration of his term of office. These sections were interpreted by the Courts in Nigeria to curb the excesses perpetrated through the rampant practice of 'cross carpeting' by elected legislators.⁴⁹ Thus, the Court in *Hon. Michael Dapianlong & Ors v. Chief (Dr.) Joshua Chibi Dariye*,⁵⁰ per Katsina Alu, JSC (as he then was) declared vacant the seat of 14 members of the Plateau State House of Assembly out of 24 members, including the Speaker and his Deputy who defected from the PDP to APC in 2010. In concurring to the declaration, Mahmud Muhammad, JSC (as he then was) held that, 'It is not in dispute that 14 of the 24 members of the House has (sic) vacated their seat under Section 109(1)(g) of the same Constitution.'⁵¹ Eme and Ogbochie have lauded the provisions of Sections 68(1)(g) and 109(1)(g) of the Constitution as a step in the right direction towards discouraging party switching by members of the legislature.⁵² According to them, the said provisions serve a dual purpose in that it seeks not only to emphasize the supremacy of political parties but also to ensure that the interests of citizens are not ignored by opportunistic politicians who switch political parties for selfish reasons. The Nigerian constitution implicitly recognizes two kinds of party switching: (a) Opportunistic party switching aimed at conferring benefits or advantages on the switching candidate; and (b) Party switching as a result of division in the switching candidate's political party. The first kind – opportunistic party switching – is prohibited and could lead to disqualification. The second – leaving a party following a division – is permitted by law and ordinarily does not affect the standing of the party switching legislator.⁵³ Interestingly, the law may seem to be brutal enough in effecting a wholesome approach on the menace of 'cross carpeting' in the Legislative Houses. However, a painstaking study of the law may impart otherwise. The skepticism of the drafters of the Constitution is apparent in the proviso to the twin sections, which introduced division in or merger of the parties to cushion the effect of the main provision.⁵⁴ However, the paucity of the law on the nature and degree of the division or factions in a party to qualify the justification offered in the proviso to the law has constituted an effective escape route to defecting elected members. This has practically been the case with our decamping legislators, who habitually hinge on the flimsiest ground that could even be rehearsed with a willing partner to cross over. The implication is that no member in the recent past ever vacated his seat, even with the

⁴⁶See *Schroder v. Major* (1989)2 NWLR (Pt. 101) 1; *FMBN v. Oloho* (2002)9 NWLR (Pt. 773) 475; *Akpan v. State* (1986)3 NWLR (Pt. 27) 225; *NNDC v. Precision Associates Ltd* (2006)16 NWLR (pt. 1006) 527 at 553.

⁴⁷(2015) LPELR-40859(CA) 1 at 33 – 34, Paras. B – E. Also see *Abia State University, Uturu v. Otsi* (2011)1 NWLR (Pt. 1229) 605; *Ayodele v. State* (2011)6 NWLR (Pt. 1243) 309; *National Union of Road Transport Workers v. Road Transport Employers Association of Nigeria* (2012)10 NWLR (Pt. 1307) 170; *AG – Federation v. AG – Lagos State* (2013)16 NWLR (Pt. 1380) 249; *Abdulraheem v. Olufeagba* (2006)17 NWLR (Pt. 1008) 280 at 355; *Peoples Progressive Alliance v. Saraki* (2007)17 NWLR (Pt. 1064) 453; *Elabanjo v. Dawodu* (2006)15 NWLR (Pt. 1001) 76 at 138; *Rivers State Government v. Specialist Konsult* (2005)7 NWLR (Pt. 923) 145.

⁴⁸ 1999 Constitution of the Federal Republic of Nigeria (as amended), s. 40.

⁴⁹ *Agbegunde v. OSHA* (2015)8 NWLR (Pt. 1461) 314.

⁵⁰ (No.2), (2007)8 NWLR (Pt. 1036), 332.

⁵¹ *Ibid.*

⁵² OI Eme & A Ogbochie, *op. cit.*, p. 27.

⁵³ *Ibid.*

⁵⁴ KI Nuhu, *op. cit.*, p. 256.

unfounded excuses bereft of substance offered by the defectors.⁵⁵ Thus, the lamentation of the immediate past Senate President Bukola Olusola Saraki when defecting back to PDP as part of his reason stated that: ‘I will like to emphasize that it is a decision that has been inescapably imposed on me by certain elements and forces within the APC; All government principles which were required for a healthy functioning of the party and the government were deliberately violated or undermined.’⁵⁶ A similar statement was vaguely made by the former speaker of the House of Representatives, Rt. Hon. Aminu Waziri Tambuwal when he nailed his reason for crossing to the APC in 2014 on the provision of this law by declaring thus: ‘In pursuit of the provisions of the 1999 Constitution and given the political developments in my state, I wish to inform you of my membership of the APC, formally.’⁵⁷ This pregnant statement of the defunct speaker of the Lower Chambers is a vivid account of how our defecting legislatures dribble the Nigerian anti-defection law. The cacophony of voices of Nigerian electorates may not cease anytime soon when the only legal remedy available is treated with levity owing to its porosity.⁵⁸ Eme and Ogochie, commenting on this situation have suggested some factors to be considered in determining the nature of ‘division in a party’ as can justify defection to another party by a legislator. According to them,

The constitution recognizes a division in the party as a ground for switching parties without vacating one’s seat in the legislature. The term ‘division in the party’ has not been expressly defined by either the legislature or the courts. There are no bright lines or litmus-paper test for determining when a division exists in a political party. It is up to the courts to give the provision its operational text. The court must evaluate the nature and character of the matter or issues raised by the parties to support a claim of a division in the party and decide whether or not a division exists. What is the kind or nature of division contemplated by the law? Is it organizational or ideological? Two scenarios are likely to arise from the phrase ‘division in the party’. The first is where members are unable to reconcile their differences or process them through channels and procedures contained in the party’s constitution. Disgruntled party members break into several factions led by different members. The second scenario is where a person joins a party because the party’s position on issues is consistent with his view points. Six months later, the party reverses itself and adopts a different platform that espouses views inconsistent with his beliefs. A pertinent question likely to arise is whether a member who disagrees with the party’s ideology or stand on key issues can leave the party without losing his seat? The plain meaning of the phrase ‘division in the party’ includes the first scenario. It also does not and should not exclude the second scenario. Division in the party must be interpreted to encompass ideological differences. Ideological difference should be proof or even support for a claim of a division in the party. Excluding ideological differences as evidence of division in the party would be an improper and unacceptably narrow reading of the language and policy of the anti-party switching legislation. Such a narrow interpretation would only make a difficult problem more problematic.⁵⁹

⁵⁵OS Apadere & JO Agbana, ‘Cross Carpeting in Nigerian Politics: Some Legal and Moral Issues Generated’, (2015) 3(2) *Frontiers of Legal Research*, 33.

⁵⁶Channels Television, ‘Why I Defected From APC To PDP,’ Channels, 2018, available online at <<https://www.channelstv.com/2018/07/31/why-i-defected-from-apc-to-pdp-saraki>> Last accessed on 22/04/2022.

⁵⁷C Ugonna, ‘Finally, Tambuwal Defects to APC,’ Premium Times, October 28, 2014, available online at <<https://www.premiumtimesng.com/news/headlines/170247-finally-tambuwal-defects-to-apc.html>> Last accessed on 22/04/2022.

⁵⁸ KI Nuhu, *op. cit.*, p. 257.

⁵⁹OI Eme & A Ogochie, *op. cit.*, pp. 27 – 28. One of the major selling points of political parties in a democracy is that they espouse and advance viewpoints that are different from those advocated by other parties. Citizens join a political party chiefly because they agree with the party’s ideology or viewpoint on important issues. For example, most citizens in the United States find the Republican Party’s view point on abortion very appealing. Some citizens join the Democratic Party because of its liberal views on issues like affirmative action and same sex marriage. Any change in the major platform of a political party is enough to cause significant unease among members and may lead to a division in the party. The scheme to protect legislators who switch parties because of a division in their party would be more effective if it extends similar protection to legislators who switch parties because of ideological differences with their party. It would be unfair under the circumstances to say that a division does not exist in the party when a legislator has ideological differences with his or her party. Legislators are supposedly insightful and principled representatives deeply committed to their view points. In fact, some of them joined a particular party principally because of the party’s ideology. Any changes in the party’s ideology that run contrary to what they believe in will cause them to rethink their membership of the party. If ideological difference does not count as a division, legislators would have a binary moral choice to make, a choice eloquently stated by former British Prime, Minister Winston Churchill: ‘Many people change their minds in politics. Some change their minds to avoid changing their party. Some people change their party to avoid changing their mind.’ Whenever a party changes its position on major issues, legislators have a moral obligation to take a principled stand and demand changes. If the party refuses to change, a division exists in the party and a legislator who so chooses can switch parties without vacating his or her seat. If ideological differences do not count as a division in the party, standing up for what one believes in could lead to career-ending terminal disaster for legislators who prefer to change their parties rather than change their views. Penalizing a legislator who leaves a party because of changes in the party’s ideology or platform could lead to an unfair outcome. Legislators must have the freedom to take and maintain principled stand on issues of concern to the society. Constitutional democracy and the welfare of constituents are more adequately and better served when legislators show courageous commitment to principle. Moreover, legislators garner public respect and support when they continually resolved to stand up for what they believe to be right and to defend and push their ideas and ideals with conviction and consistency. Failure to

The inefficiency of the law is further broadened when it vests the power to declare vacant the seat of any defecting member on the principal officers⁶⁰ of the respective chambers. These officers might ceremoniously proclaim the law on any defecting member, especially when leaving the officer's party. However, it is foolhardy to expect our cunning politicians to do the same on themselves. In other words, the principal officers, as were the case with Saraki, Tambuwal and Maidaji would not be expected to declare their personal seats vacant when they defected. More so, they would clearly decline to operate the law on any ordinary member who either crosses along with them or into their political party. In the long run, the law must be seen to be deficient in as much as it fails to achieve the desired social control as an element of coercion.⁶¹ The wording of the twin provisions is another conundrum that added to the turmoil around the recurrent cases of cross carpeting in Nigeria. The phrase 'shall vacate his seat' as contained in the sections does not only call for legal tussles towards the construction of the word 'shall' which has variously been held as capable of bearing many meanings,⁶² directory in some cases⁶³ and obligatory in some others,⁶⁴ but also favours serial litigation on each and every case of defection for the operation of the law.⁶⁵ Unlike the constitutional provision in Nigeria, the law in India provides that 'A member of a House belonging to any political party shall be disqualified from being a member of that House if he has voluntarily given up his membership of such political party'.⁶⁶ The Indian Supreme Court has interpreted the above provision in *Ravi S. Naik v. Union of India*⁶⁷ giving effect to the phrase 'voluntarily given up his membership of such political party' to include formal resignation by the defecting member. This entails that a legislator is required to formally tender his/her resignation in default of which the presiding officer will invoke his power⁶⁸ to excommunicate the erring member. Therefore, the laid down procedure is that a defector will honourably resign, and the presiding officer will consider the resignation letter and detach him as a member if satisfied with the content or decline, which decision may be challenged in Court.⁶⁹ Although the two countries appear to have identical provisions against political defection, the Indian law seems to offer a broader connotation and a more effective, more accessible and faster application in juxtaposition to the litigious provision in Nigeria. The inadequacy of the Nigerian law on defection is no less than what Malhotra aptly described when he opined that, 'The various issues of political defection are yet to be fully addressed and politically and legally tested.'⁷⁰ Consequently, it will not be out of place to conclude that the rudimentary position of the law on defection substantially accounts for the recurring cases of 'floor crossing', which also stagnates the consolidation of democracy in Nigeria.

6. Socio-Political Implications of Political Party Defection

The spate of political defection in the country is not without some indelible prints on Nigeria's fledgling democracy. This political dissonance in whatever guise possible is fast attaining normative status in the country's political culture. The mammoth cloud of defection that covers all political parties across the country has serious effects on the structure of the country's democracy.⁷¹ Cross carpeting from one political party to the other may seem graceful to those who are doing it, but it is rather harmful to their integrity but maybe profitable to their vices and personal aggrandizement which contaminates the future of democracy. In a civilized democracy like England, France, Germany, even USA where Nigeria borrowed her dispensation on governance, party defection is frequently not common. Even, in some African countries like Ghana, Liberia, Guinea such tendency is on a very low threshold, not even advertised or promoted as is ceremoniously being done in Nigeria.⁷² Apart from daunting the democratic sustainability, party defection also affects the political progress and stand of the decamped politician. What happens to the hierarchy and

treat ideological differences as a division will deprive legislators the sense of safety and protection they need to stand up for what they believe in. Such a narrow reading of the law will provide perverse incentives for legislators to emphasize compliance at the expense of principles or even sacrifice principles and convictions to expediency. Legislators haunted by the gnawing fear that taking principled positions on issues will expose them to the wrath of their party leaders are hardly candidates for robust debate and deliberations in the legislature. Political parties advance their views and beliefs through their elected officials. Elected officials advance and defend the party's position chiefly because they agree with their party. An elected official whose views are out of sync with his party's stand can hardly be an effective advocate for his party. In such a case, allowing him to leave the party seems to be the best option for both the party and the dissatisfied member. See *ibid*, pp. 28 – 29.

⁶⁰ 1999 Constitution of the Federal Republic of Nigeria, ss. 68(2) & 109(2).

⁶¹ AO Sanni, Introduction to Nigerian Legal Method (Ile-Ife: Kuntel Publishing House, 1999), cited in KI Nuhu, *op. cit.*, p. 257.

⁶² *Vibelko (Nig) Ltd v. NDIC* (2006)12 NWLR (Pt. 994) 280.

⁶³ *AT Ltd v. ADH* (2007)15 NWLR (Pt. 1056) 118.

⁶⁴ *Olowokere v. African Newspaper* (1993)5 NWLR (Pt. 295) 583.

⁶⁵ KI Nuhu, *op. cit.*, p. 257.

⁶⁶ 1949 Constitution of India, Tenth Schedule.

⁶⁷ (1994) AIR 1558.

⁶⁸ 1949 Constitution of Constitution, Art. 190(3).

⁶⁹ *Kihoto Hollohan v. Zachillin & Ors* (1992) SCR (1) 686.

⁷⁰ GC Malhotra, *Anti-Defection Law in India and the Commonwealth* (New Delhi: Lok Sabha Secretariat, 2005), cited in KI Nuhu, *op. cit.*, p. 258.

⁷¹ KI Nuhu, *op. cit.*, p. 254.

⁷² MB Aleyomi, *op. cit.*, pp. 88 – 89.

structure of the party within which membership and status should be determined by the individual party member's standing as a criterion? It is rather impossible for a politician to join a political party today becoming a member number 15,001 for instance and move straight away to the top echelon bypassing all those ardent members who have worked hard to preserve the party's integrity.⁷³ An individual who moves from one party to another engages in political prostitution because he is not different from a man who moves from one woman to the other always leaving them in pain and sorrow, as well as women who do the same.⁷⁴ It is common sense to note that individuals or people who changes friends all the time cannot be trusted because it ends up in betrayal. Politicians indulging in party switching are just betraying their conscience and the integrity of our democracy.⁷⁵

Cross-carpeting by politicians no doubt poses a threat to the stability of the multi-party system; it is arguably as a result of the malaise in our democratic system, evidenced by the bankruptcy of political belief, policies and ideals in the ruling and opposition parties. Unwarranted situations caused by plethora of party defection have impacted negatively on the process of consolidating democracy. Most politicians believe in their 'hanky-panky' traits. This trend tends to make caricature of democracy and belittles the spirit of opposition parties and democratic consolidation in Nigeria. Political party defection is sufficient enough to lead to outright political instability if not checked.⁷⁶ The archive of defection in Nigeria is glaringly overwhelmed with the records of defection into a ruling party.⁷⁷ Consequently, the strength of the opposition parties would spontaneously be drained in staging a much desired competitive democracy.⁷⁸ This becomes manifest in the inevitable loss of the spirits of opposition⁷⁹ suffered by the abandoned parties. The ruling party ended up with a monopoly of politics and governance devoid of reasonable criticisms.⁸⁰

Moreover, the staggering posture of the defecting politicians further compounded the polity in vertigo that usually bewildered the electorates in the political realm. The voters hardly decide which political bloc to align themselves as the parties now differ only in names against the politics of like-mindedness, which compelled the impression that political parties 'operating in Nigeria are nothing but an organization managed by opportunists'.⁸¹ It also results in the anguish palpably vented out by some aggrieved electorates. A voter lamented when condemning the defection of some party members that 'The decision he (Honourable Satty Gogwim) took and the reason he gave for changing his political party, in my opinion actually portrayed him as an unprincipled politician. That is a politician that lacks focus, a politician without vision, a politician without a programme.'⁸² Similarly, another round of display by an electorate aptly summarized the predicament in the following words: 'Cross Carpeting is a sign of cowardice. It is also a sign of insincerity and the absence of principle.'⁸³ From the preceding, one can safely come to terms with the notorious fact that if defecting to another political platform continues to enjoy impunity, then the polity may not augur well with the attending repercussions.⁸⁴

7. Conclusion

As a weaning child of Great Britain, Nigeria received, among other things, the British Parliament's system of 'crossing the red carpet' to cast a vote in support of ideas to reach a decision. In the Nigerian parlance, it connotes switching political alliances not only by the member of the parliament but also elected executives.⁸⁵ The golden days of politicians who politic on politics based on issues, ideology and principles no longer exist in the present democratic dispensation in Nigeria. The driving force is how to capture state power for private gains. In search of this is the great movement of politicians from one party to the other. This trend of cross carpeting shows that Nigerian politicians possess no democratic values, credentials and our political system is awash with professional politicians and 'entrepreneurs' who are devoid of modern political ideology and issue driven politics.⁸⁶ Party defection and ideological confusion in the present republic constitute a major problem to democratic stability. This trend among Nigerian politicians makes mockery of Nigerian democracy, negates the values of opposition parties in democratic

⁷³ *Ibid.*

⁷⁴ F Odum, 'Decamping and the Fruit of Fair Weather Politics', available online at <http://www.nigerdeltapeoplesworldcongress.org/articles/decamping_and_the_f.pdf> Last accessed on 22/04/2022.

⁷⁵ SJ Smith, 'Politics of Cross Carpeting from one Political Party to Another is in whose Interest – Self or Country?', available online at <<http://www.sierraleoneview.com/salone.html>> Last accessed on 22/04/2022.

⁷⁶ MB Aleyomi, *op. cit.*, pp. 88 – 89.

⁷⁷ O Awofeso and PA Irabor, *op. cit.*, pp. 31 – 40.

⁷⁸ J Nwanegbo, *et al.*, 'Party Defection and Sustenance of Nigerian Democracy',

⁷⁹ O Awofeso and PA Irabor, *op. cit.*, pp. 31 – 40.

⁸⁰ KI Nuhu, *op. cit.*, p. 255.

⁸¹ LI Edet, *op. cit.*, pp. 1 – 6.

⁸² I Abdulsalami, 'Defection of ANPP Member Raises Dust in Jos,' *The Guardian*, 2010, cited in KI Nuhu, *op. cit.*, p. 255.

⁸³ YA Nasidi, 'Party Cross-Carpeting, Sign of Cowardice', *Daily Trust*, November 22, 2009, available online at <<https://allafrica.com/stories/200911230312.html>> Last accessed on 22/04/2022.

⁸⁴ KI Nuhu, *op. cit.*, p. 255.

⁸⁵ *Ibid.*, p. 258.

⁸⁶ OI Eme & A Ogbochie, *op. cit.*, p. 33.

system, invalidate opposing views and reduce the efficacy of alternative democratic choices.⁸⁷ Towards checking the malaise of party defection in Nigeria, the Constitution in Sections 68(1)(g) and 109(1)(g) incorporated anti-defection provisions. Sadly, the said provisions only apply to the legislature and do not extend to the executive. This invariably explains the impunity enjoyed by the defecting elected executives, which political harlotry has not only been legalized by the Courts but also embellished as an exercise of a right to assemble and associate freely without penalty. This is the core reason why the judgment of the Federal High Court in removing the Ebonyi State Governor, Engr. David Umahi and his Deputy, Eric Kelechi Igwe, though in tandem with the yearnings of the masses against indiscriminate party defection, may not stand. Though the Courts were quick to excoriate the practice by the executive as questionable and morally reprehensible,⁸⁸ until such deprecation acquires the force of law, the immoral practice of defection among the executive will continue to enjoy a high degree of accolades in the Nigerian Courts. The implication is that the Courts as the *custos morum*⁸⁹ of the people will be made to acquaint with the consequences of divorcing law from morality⁹⁰ on the country's fledgling democracy. Hence, the call for a new clause to be implanted after paragraph (c) of Sections 135 and 180⁹¹ of the Constitution to decisively address defection by the executives⁹² becomes sacrosanct.⁹³ The porosity of the existing law on defection in Nigeria ought to have been thing of the past in cognizance of the index case of defection in Nigeria. However, it is logical to understand that reformation of the law might be tantamount to 'shooting oneself on foot' when the extant law with its attending porosity favours the same body responsible for the task.

Be that as it may, a robust reform of the laws will go a long way in making the necessary changes towards protecting the interests of the traumatized electorates, thereby strengthening the threatened democracy.⁹⁴ The Constitution should be amended to couch its provisions in a way that would mandate a defecting legislator and within the shortest timeframe to tender his resignation after decamping to another political party honourably. This will be feasible, primarily when the amendment covers the degree of division and kind of merger that can call for defection from any interested member.⁹⁵ The power conferred on the presiding officers of legislative chambers as envisaged in Sections 68(2) and 109(2) of the Constitution should be amended to provide for the time frame within which a verdict on the resignation, if any, tendered by a defecting legislator must be delivered upholding resignation of the member or otherwise. It should also be couched to empower the head of legislative chambers further to proceed and determine the resignation of the defecting member with or without the resignation notice but after the expiration of the allotted time frame. The Constitution should be amended to provide for the power to declare vacant the seat of the presiding officers of the legislative chambers, the President and the Governor of a state in the event of defection by these officers. Alternatively, a Constitutional Court may be established, or a constitutional bench introduced in the Federal High Court with investigative and prosecutorial power on its Chief Registrar to enforce among other Constitutional issues all or any of the above suggestions expeditiously.⁹⁶ Party defection if not checked, could move Nigeria into a system without viable opposition to serve as watchdog to the ruling party.⁹⁷ In a country where the opposition is very strong and acceptable, there would not be need for cross carpeting because it will build up the trust one has in his/her party. Not only that, when all the political parties are credible with strong internal democracy, party defection will be discouraged and atypical.⁹⁸

Another prerequisite to combat the negative impact of party defection and underpin the future of Nigeria's democracy is the need for strong civil society. Healthy associational activity can act as a powerful independent counter-force to prevent the state from monopolizing the political process. The corporation with and challenge the government in a multiparty democracy is an essential role of civil society. This will ensure that the public interest is paramount and that governments continue to respect the rules of the democratic process. Another related point to strong civil society is that, government should make all elective and political positions less attractive. This will discourage unhealthy competitions among the party members that might warrant party switching.⁹⁹ It is sincerely believed that the above recommendations, if conscientiously pursued would help stem the tide of party defection and deepen democracy in Nigeria.

⁸⁷ LI Edet, *op. cit.*, p. 5.

⁸⁸ S Aliyu, 'Court Dismisses Suit against Shinkafi', Daily Trust Newspaper, 2009, cited in KI Nuhu, *op. cit.*, p. 258.

⁸⁹ Literally means 'keepers of morals'.

⁹⁰ *R v. Dudley and Stevens* (1889)14 QBD 287.

⁹¹ E Aziken, 'Cross Carpeting: A Threat to Our Democracy', Vanguard, July 4, 2009, available online at <<https://www.vanguardngr.com/2009/07/cross-carpeting-a-threat-to-our-democracy/>> Last accessed on 22/04/2022.

⁹² President and the Vice-President, as well as States' Governors and their Deputies.

⁹³ KI Nuhu, *op. cit.*, p. 258.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ LI Edet, *op. cit.*, p. 5.

⁹⁸ MB Aleyomi, *op. cit.*, p. 91.

⁹⁹ *Ibid.*