

## Cross Carpeting in Nigerian Politics: Some Legal and Moral Issues Generated

Olaolu S. Opadere<sup>[a],\*</sup>; Julius O. Agbana<sup>[b]</sup>

<sup>[a]</sup>Ph.D., Lecturer, Department of International Law, Faculty of Law, Obafemi Awolowo University, Ile-Ife, Osun State, Nigeria.

<sup>[b]</sup>Lecturer, Department of Jurisprudence and Private Law, Obafemi Awolowo University, Ile-Ife, Osun State, Nigeria.

\*Corresponding author.

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### Abstract

Nigerian democracy has witnessed series of indiscriminate political defections, with politicians crisscrossing from one political party to another. This discourse ascertained that there is nothing wrong with cross carpeting, simpliciter, if predicated upon well articulated principles and unimpeachable political ideology. In fact, cross carpeting—within certain precincts—is a fundamental and constitutional right. Nevertheless, with the current trend of cross carpeting being enacted in the Nigerian political landscape, principles, scruples, ideology, and the like, have all been jettisoned for greed, self interest, and opportunism. The study established that though the legality of the current Nigerian species of cross carpeting may be entrenched, the morality is not. Consequently, the study avers that the current spate of cross carpeting, that has become commonplace, contradicts the sanctity of religious propositions; whittles down the respected concept of trust; reveals the abject dearth of political ideology; and impinges the youth, posterity, and entire society negatively. This subject is considered important because when morality is lost, in a society like Nigeria, then the fabrics of the law and its enforceability are grossly weakened.

**Key words:** Cross-carpeting; Nigerian Politics; Legal; Moral issues

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## INTRODUCTION

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In recent years, Nigerian democracy has witnessed series of political defections with politicians decamping from one political party to the other. This development, which is generally referred to as cross carpeting, party-switching, floor-crossing, party-hopping, canoe-jumping, decamping, party-jumping, etc., are employed to mean the same thing as defection.<sup>1</sup> This has become a permanent feature of the Nigerian nascent democracy; although not an exclusive preserve for Nigeria. Defection or party-switching occurs when every elected party representative within a legislative structure such as a parliament, embraces a different political or policy perspective that is incompatible with that of the party he or she represents (Hoeane, 2008; Aleyomi, 2013)<sup>2</sup>. Basically, the individual decamping feels discontent with his/her former party from where he/she decamps, without the defection necessarily reflecting any ideological leaning. However, defection is a common phenomenon in both the developed and developing democracies. Scholars and commentators see defection resulting from personality clash, power tussles, divergent views on the operations of a political party's philosophy, crisis or division within a given party, disagreement on party's position on an issue, realization of one's personal political ambition, and party leaders reneging on agreed issues of the political party—probably on power sharing formula, and so on.<sup>3</sup> For instance, defectors from All Nigerian Peoples' Party (ANPP) to Peoples' Democratic Party (PDP) hinged their decision to dump ANPP on the dwindling fortunes of the party, occasioned by its leadership crisis. The usually adduced reason that underpins cross carpeting is

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<sup>1</sup> See also Kingtappa, K. (2015). Cross carpeting or political defections: How big a deal is it in Sierra Leone? Retrieved from [http://www.academia.edu/8867981/cross\\_carpeting\\_or\\_political\\_defections\\_how\\_big\\_a\\_deal\\_is\\_it\\_in\\_sierra\\_leone](http://www.academia.edu/8867981/cross_carpeting_or_political_defections_how_big_a_deal_is_it_in_sierra_leone) (accessed on 27 March 2015), where the author attempted a distinction between the terms: cross carpeting and defection, within Sierra Leone context. Essentially, both concepts connote a departure from one political party to another; while the distinction is informed by who does, when, and why the departure is embarked upon. Cross carpeting, in the author's view, is embarked upon by a member of parliament while still in office, to enable him make social, political, and developmental impact. Defection, on the other hand, is embarked upon by politicians of influence, for the sole aim of influencing other people and goodwill to the party they migrated to. See also Kamara, K. (2014). The cross carpeting phenomenon: A threat to the Sierra Leone Multi-Party Democracy? Retrieved from <http://sierraleone365.com/feature-stories/sierra-leone-democracy> (accessed on 4 November 2014). However, the Nigerian Constitution does not make such distinction as suggested of the Sierra Leonian situation. This shall be considered later in greater detail within this discourse.

<sup>2</sup> Hoeane, T. (2008). Floor-crossing in South Africa: Entrenching or undermining democracy? *South African Journal for Political Science and Public Administration*, 27(2). See also Aleyomi, M. B. (2013). Election and politics of party defection in Nigeria: A clue from kogi state. *Covenant University Journal of Politics and International Affairs* (CUJPIA), 1(1), 72-73.

<sup>3</sup> Ibid. See Araba, S. (2015). *Cross carpeting: The malady of Nigerian politicians*. Retrieved from <http://www.thecapital.ng/index.php/politics/1029-cross-carpeting-the-malady-of-nigerian-politicians> (accessed on 28 January 2015); which gives a chronicle of some recent cases of cross carpeting and the rationale behind each defection.

that given the dynamic nature of politics, public representatives should be allowed to change their political view points to align them with what they perceive as changing political circumstances.<sup>4</sup> However, this general view or reason for cross carpeting is not entirely wrong. As a result it needs to be properly addressed in order to better deal with the contending problems of cross carpeting. Our primary aim in this discourse, therefore, is to critically analyze some legal and moral issues generated by the pattern of defection currently taking place on the Nigerian political landscape, and the influence and consequential effect on both youths and adults at present, as well as posterity.

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## 1. OUTSET OF CROSS CARPETING IN NIGERIA

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Cross carpeting in Nigeria pre-dates her independence on 1<sup>st</sup> October 1960. In 1951 the first celebrated cross carpeting episode occurred in Nigeria; which consequently robbed Dr. Nnamdi Azikiwe the chance to lead the government's business of Western Nigeria.<sup>5</sup> This happens to be the most celebrated cross carpet episode in Nigeria. Yoruba members of the National Council for Nigerian and the Cameroon (NCNC) were lobbied to cross over to the Action Group (AG) to stop Dr. Nnamdi Azikiwe, an Igbo man, from becoming the premier of Western Region.<sup>6</sup> This heralded the massive cross over to the AG. As the leader of the NCNC, Azikiwe was to be the Premier of Western Nigeria following the elections of 1951 with Chief Obafemi Awolowo, a Yoruba man and the leader of Action Group, as the leader of the opposition in the Regional House of Assembly. The NCNC won 42 seats out of 80, but within 24 hours 20 of them had cross carpeted to AG. It was Awolowo that persuaded a number of Yoruba elected members on the NCNC platform to cross the carpet in the House and join the AG, in order to deny Azikiwe the premiership, in favour of Awolowo.<sup>7</sup> As a result of this apparent injection of ethnic rivalry into Nigerian politics, Azikiwe was compelled to "return home" to the East where he became the premier of the government (Natufe, 1999). This dangerous precedent set the pace for the development of Nigerian politics built around ethnic and regional rivalry, as well as crisis and instability that followed later. These conditions gave birth to an increase in the number of ethnic based political parties in the country till today. That was essentially how, in practical terms, the expression. "cross carpeting" came into the political lexicon of Nigeria and has remained till today, thereby reducing politics in Nigeria to abysmal tribal level. These ethnic groups are

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<sup>4</sup> Ibid.

<sup>5</sup> See Mbah, op.cit., note 1.

<sup>6</sup> Ibid.

<sup>7</sup> See Adewale, A. (2009). The history and law of political carpet crossing in Nigeria. Retrieved from <http://squibguest.blogspot.com/2009/11/history-and-law-of-political-carpet.html> (accessed on 4 November 2014).

entangled in perpetual conflict, such as the current issue of zoning.<sup>8</sup> At that time, to be a member of House of Representatives, one had to be an elected member of the Regional House of Assembly.

In the First Republic (1960-1966), the former Premier of the defunct Western Region of Nigeria, Chief Ladoke Akintola left the then Action Group based on personality clash between him and Awolowo; and on personal principle, necessitated by the perceived need to move the Yoruba people into Nigeria's mainstream politics. In the same way as it happened between Akintola and Awolowo; Azikiwe of the NCNC and Dr. Kingsley Mbadiwe had an occasion to fall apart in their political relationship, which led to Mbadiwe's formation of the Democratic Party of Nigerian Citizens (DPNC), which sought a working relationship with the AG at the Federal Elections in 1959. While in the Second Republic (1979-1983), the repackaged offshoot of Action Group, the Unity Party of Nigeria (UPN) and Awolowo's loyalists, such as Adisa Oladosu Akintola, Anthony Enahoro, Richard Akinjide, and S.G. Ikoku reconsidered their loyalty to the party. However, a number of them defected to National Party of Nigeria (NPN), which was the leading political party of that era. An interesting episode of the cross-carpeting of the Second Republic was the decamping of Chief Akin Omoboriowo from UPN to NPN, as the Ondo state gubernatorial candidate. In the same manner, Alhaji Abubakar Rimi, who was elected under the ticket of the Peoples Redemption Party (PRP), later decamped to the Nigeria Peoples Party (NPP), on which platform he sought re-election in 1983. Many politicians from the opposition parties decamped to join him during this period.<sup>9</sup>

Since the re-inauguration of democratic governance in 1999, the catalogue of decamping has been redefined, consciously or otherwise: from smaller parties to bigger and stronger ones; and from a losing party to the ruling one (Odum, 2015). This suggests that the rationale for defection has been altered from that of purely political ideology as obtained previously, to other factors, which we shall consider shortly. In the current political setting, only the Old Alliance for Democracy (AD) 1999-2003) had a close appearance in ideology to the parent UPN; a party whose

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<sup>8</sup> Zoning is derived from the federal character principle requirement of reflecting the federal character of Nigeria—in other words, the ethnic and geographical configuration—in issue of appointment, and other things, as entrenched in section 14(3) & (4) of the Constitution, in order to promote national unity, and to command national loyalty; by ensuring there is no predominance of persons from a few States or from a few ethnic or other sectional groups by others. It is further to this inclination that Nigeria was divided into six geo-political zones in October 1997, namely: North Central, North East, North West, South East, South South, and South West. See Federal Character Commission (Establishment, Etc.) Act, Cap F7, Laws of the Federation of Nigeria, 2004: Guiding Principles and Formulae for the Distribution of all Cadres of Posts—Part I, Paragraph 8. By this, it is required that each State of the Federation and the Federal Capital Territory shall be equitably represented in all national institutions and in public enterprises and organisations.

<sup>9</sup> Mbah, *op.cit.*, note 1; and Aleyomi, *op.cit.*, note 2.

stronghold remained in the South- west of Nigeria. Other Parties did not have any significant identity of the parties of old. The series and rate of decamping explain the emphasis on private interest, as no politician wants to remain in a losing party. It also explains the fact that political parties in Nigeria lack ideological base. Essentially, if politicians stick together on ideological understanding, it makes for better strength and cohesion in the party.

In 1999, Chief Evan Enwerem, having lost the gubernatorial primaries in the All Peoples Party (APP) in Imo State decamped and joined the Peoples Democratic Party (PDP) on whose ticket he won a senatorial seat. His cross carpeting was rewarded as he was elected the Senate President (Ibid.). In Plateau State, Alhaji Alhassan Shaibu decamped from the APP and joined the PDP in 1999; as a result, he became a leading member of the Northern Nigeria Development Company (NNDC) (Ibid.). Before the recent merger of some political parties to form the now popular All Progressives' Congress (APC) party, the direction of defection was one-sided, into the PDP. Only a few percentage were defecting from PDP to other parties or to form new political parties. In fact and Law, there is nothing wrong in people cross carpeting, if they do not find the programmes of their party in consonance with their ideals. This proposition is buttressed by the constitutional right of peaceful assembly and association, which provides that "Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests..."<sup>10</sup> However, when it comes to the issue of cross carpeting, it seems this self explanatory provision must be read in conjunction with that of section 68(1)(g), which states thus:

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:... being a person whose election to the House was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected:

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....<sup>11</sup>

The implication of the foregoing constitutional provision is that, a Member of Parliament automatically loses his seat as a result of defection, except:

- a) The defection is a result of division in his previous political party; or
- b) The defection is a result of merger between his previous political party and another.

Thus, ordinarily and implicitly, even the Constitution frowns at the immorality and unjustifiability of inordinate defection. Essentially, it becomes dubious and

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<sup>10</sup> Constitution of the Federal Republic of Nigeria (CFRN), 1999 (as amended), s.40

<sup>11</sup> Ibid., s.68(1)(g).

arouses curiosity when politicians begin to mortgage their conscience, as well as seek to pursue their private and selfish interests in the name of cross carpeting, with utter disregard for the electorate. This may have stemmed from the fact that politicians are ‘poor’,<sup>12</sup> and desperate to hold public office as a means of accumulating wealth, and personal aggrandizement. In advanced democracies, cross carpeting is done on principle, rather than on selfish and personal interest. What obtains presently in Nigeria’s political landscape is best described as political prostitution; which lacks morality and decorum. This was captured by a columnist, thus:

The recent spate of defections by some Nigerian politicians from one party to another is a shameful phenomenon that graphically retells the odious rat race, ideological vacuity, and mundane craving that typify Nigerian Political life.<sup>13</sup>

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## 2. DIFFERENTIATING MERGER FROM CROSS CARPETING

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As already shown above, cross carpeting in simple terms is the crossing over from one political party to another by politicians, of whatever designation; while the merger is the joining together of two or more organizations,<sup>14</sup> in this case political parties.<sup>15</sup> In effect, “by the merger, two bodies unite to form one, usually bigger, stronger and hybrid; but by cross-carpeting an individual leaves a particular body and joins another, subscribing to and under that other. Usually, there are no pacts/agreement in cross-carpeting unlike as it was in merger cases.”<sup>16</sup> It appears however, that the recent cases of cross carpeting witnessed in the evolving Nigerian political scenario contradict the usual position of no pact/agreement in cross carpeting, as suggested by Nwaiwu. This is buttressed by the obvious cases of certain prominent politicians who cross carpeted on the basis of pacts with and/or negotiations. As a

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<sup>12</sup> The poverty in this circumstance may be actual, or psychological.

<sup>13</sup> See Olukotun, A. (2014, September 12). Another look at party defections. *The PUNCH*, 38(20),748, p.80. See also Lergo, T. (2015). Vulture politics: Nigerian politicians and cross-carpeting. Retrieved from <http://nigeriaworld.com/articles/2014/feb/031.html> (accessed on 24 March 2015); where Dr. Lergo very well captures the obnoxious political posture in Nigeria as “vulture politics”. However, the substance of his postulation in the article which discredits and invalidates the ACP has been debunked by the outcome of the March 28, 2015 Nigerian presidential election, on at least two counts: i) That the votes of the Nigerian voters are beginning to count, massively; and ii) The endorsement of Nigerians is not for the perceived “vultures that are belly-full”; but for the perceived “gaunt and hungry vultures”.

<sup>14</sup> *Oxford Advanced Learner’s Dictionary* (ODLD) (2000), 6<sup>th</sup> Edition (Oxford University Press), p.738

<sup>15</sup> See Nwaiwu, SAN, “Nigeria: Merger... or Cross-Carpeting?” in *THIS DAY LIVE*, Retrieved from <http://allafrica.com/stories/201312040087.html> (accessed on 4 November 2014).

<sup>16</sup> *Ibid.*

result of which they did not only join and subscribe to an existing political party, but as a fact, negotiated their way to the top of the party, based on the strength and political clout they had acquired in their previous political party.<sup>17</sup> Merger, however, could be likened to the concept of novation in the Law of Contract,<sup>18</sup> whereby an existing contract is overwritten by a fresh one, on fresh terms, supported by fresh consideration. Furthermore, merger has constitutional backing, as contained in section 40 of the Constitution<sup>19</sup> which enshrines the right to peaceful assembly and association. Also, Section 68(1)(g) protects a member of Parliament who's reason for defecting from his party for another is occasioned by the merger.<sup>20</sup> Otherwise, such defector would be deemed to have vacated his seat on account of leaving the party on whose platform he was elected; as a result of which such Member of Parliament is required to vacate his seat in the parliament. Therefore, as a result of the merger of some political parties to form the APC, which turned out to be the major opposition, it has become possible for the APC to win the just concluded presidential election.<sup>21</sup>

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### 3. SOME RECENT CASES OF CROSS CARPETING

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The Nigerian political landscape is inundated with recent cases of cross carpeting (than could be considered within this discourse, without being distracted); but just a few would be mentioned for the purpose of buttressing our context. One is that of former Vice President, Atiku Abubakar. He was a founding member of the PDP, and defected to the Action Congress (AC) after a running battle with his boss, former President Olusegun Obasanjo. In 2007 he contested the presidential elections on the platform of AC but lost to the late President Umaru Yar'Adua. A few months later, Atiku went back to the PDP. Before Atiku's defection, Ondo and Edo States witnessed cross-carpeting of members of the opposition parties to the party of the incumbent governors. Edo State witnessed a large defection of members of the PDP

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<sup>17</sup> Examples abound in the case of Rotimi Amaechi, governor of Rivers State, who dumped his party, PDP, to join the APC, and instantly became a chieftain in his new party. Also, Bukola Saraki, former governor of Kwara State, presently a senator, who also left the PDP to APC, and instantly became the APC leader in his state. As a result, a number of the previous APC leaders in the state vacated the party because of him, to join the PDP, which Saraki left. This thereby suggests comic and/or ridiculous political scenario.

<sup>18</sup> Sagay, I. E. (2000). *Nigerian law of contract* (2<sup>nd</sup> ed., pp.516-517). Spectrum Books Limited, Ibadan. —“Novation is a transaction by which, with the consent of all the parties concerned, a new contract is substituted for one that has already been made, usually because a third party is brought in place of one of the original parties and the latter enjoys all the rights, and suffers the liabilities of his predecessor.... The effect of novation is not to assign or transfer a right or liability, but rather to extinguish the original contracts and replace it with another.”

<sup>19</sup> CFRN 1999, op.cit., note 10.

<sup>20</sup> Ibid.

<sup>21</sup> Held on 28 March 2015.

to the AC, which was the Governor's party (Agina, 2010) In Ondo state, it was mass cross carpeting of PDP members to the Labour Party (LP), to which the governor belonged. In both cases, the cross carpeting was the aftermath of political battles and in-fighting.<sup>22</sup>

There again came the defection of state governors to the PDP. The first was that of incumbent governor of Bauchi State, Isa Yuguda who had won the governorship election on the platform of the All Nigerian Peoples Party (ANPP), but defected to the PDP with a large number of his supporters. Others include the former governor of Imo state, Ikedi Ohakim, who won the governorship election on the platform of the Peoples Progressive Alliance (PPA) but defected to the PDP. Also, Aliyu Shinkafi of Zamfara State (ANPP) and Saminu Turaki of Jigawa state (ANPP) both defected to the PDP. In this recent spate of defections, legislators also are not left out. To this extent, cross carpeting in the legislature has repeatedly caused a "shifting swing", that oscillates the majority and minority distribution of members from time to time.

It appears that the current trend of cross carpeting was influenced by colonialism, and sustained by the structures of post-colonial state. It was colonialism that set the pace for modernization and economic development in Nigeria, while dramatically changing the existing patterns of social, political and economic interactions among peoples and groups. Colonialism had far reaching impact on the development of the Nigerian ruling class, their character and behavior. While writing on the decadence and discreditable performance of the ruling class since independence, Nwabueze aptly described this scenario (though lengthy, but worth repeating) thus:

The fact that the incipient national consciousness of the anti-colonial struggle did not, after independence, crystallize into a strong force unifying all the various peoples into one nation has also been accounted as "the result of the intellectual laziness of the national middle-class, of its spiritual penury, and of the profoundly cosmopolitan mould that its mind is set in", in that, after taking over power at the end of the colonial regime, it showed itself unable to rationalize the popular resistance movement in terms of the cardinal need for national unity. Isolating itself in the capital city of the state, and cut off from contact with the masses in the rural areas, the ruling class occupied itself in racketeering and profiteering at the expense of the people it was supposed to serve, and to the detriment of its true function of rationalizing and canalizing the popular anti-colonial sentiment into a mass feeling of national unity. As a ruling class, it had proved itself to be a decadent middle class, unimaginative, bereft of creative ideas and lacking the kind of initiative, intellectual energy and revolutionary ardour needed to propel and galvanise the masses into a nation.... Now that the much-longed for independence has come, the high expectations on the part of the ordinary man

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<sup>22</sup> See Ukande, S. (2015, March 24). God father and godson battle in Abia. *The PUNCH*, 39(20), 885, p.19 U; where the author gives insight into series of defections, with impunity, by Orji Uzor Kalu and Theodore Orji, both successive executive governors of Abia State, Nigeria.

of the good things it would bring proved to be largely an illusion. His lot, far from improving, has deteriorated. He sees many of the nation's wealth going into the hands of the rulers and their associates, while he himself sinks deeper and deeper in poverty. Independence has enabled the rulers and their associates to establish themselves in the place of the colonialists as agents of exploitation, oppression and alienation. Lacking concern for the public welfare, the government remains in the eyes of the masses simply a system of restraints to facilitate the exploitation of the people just as in the colonial days. (Nwabueze, 2004)

The foregoing quote carefully captures the mindset behind the current spate of defection being experienced in Nigerian politics. It is simply a deterioration of the existing mindset observed by Nwabueze post Nigeria's independence, which rather than abate, has taken a mortal turn for the worse.

Nonetheless, there are two well recognized ways the defections occur. First, there is great movement of politicians from different political parties into the ruling party towards the time of the general election; the idea is to participate in party primaries of the ruling party. The second movement starts after the party primaries. At this point, those who lost in the party primaries move to their former parties or to new ones or even to form a new party under which they intend to contest the coming elections. The third category is now emerging comprises those flocking from their respective parties on the platform of which they either contested and lost, or did not even contest at all, to the winning party; either at the federal or state levels.

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#### **4. RATIONALE FOR CROSS-CARPETING AND THE LEGAL IMPACT**

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As earlier alluded to, Nigerian politicians cross carpet for a number of reasons:<sup>23</sup>

- To have better access to power and the spoils of office.
- To escape political oppression and/or persecution.
- As a result of a breakdown in the aims and objectives amongst the founding members of a party.
- As a tactical and strategic political retreat to re-launch a political agenda on another platform.
- For ideological reasons, when the initial platform has derailed from the ideals which inspired like minds to join the party and bring to bear these lofty ideals in the service of the people. Defections based on this idea are few and far between in Nigeria.

The Nigerian situation is in sharp contrast to the practice in the more established democracies. In the USA, generations of families vote and/or belong to one party; whereby it is seen as political apostasy for a member of a party to carpet-cross to

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<sup>23</sup> See Adewale, *op.cit.*, note 7.

another party. For instance, it is unimaginable for a member of the Kennedy family to become a Republican; or a member of the Bush family becoming a Democrat; or a Clinton becoming a Republican; that will cause political earthquake. The same attitude prevails in Britain: imagine a Labour Member of Parliament (MP) defecting to the Conservative (Tory) party or Vice versa. Consequently, the consistent attitude of leaders is replicated amongst voters. It is commonplace for a man and his family to vote a particular party for years; as such, voting for an opposing party occurs only in extreme circumstances. Even whole cities and States follow the same pattern. In the US Presidential race that brought the current leadership into power, it took a candidate like Barrack Obama for many US states like Florida, Texas and California who vote mainly Republican to vote for a Democratic Party candidate.

It is clear therefore, that ideological consistency is not yet entrenched in the Nigerian political space. Nigerian politicians change parties at will, according to their immediate needs and fancy. Some prominent politicians under the present dispensation have changed parties about 3 times, or more, in less than 10 years.<sup>24</sup> A number of reasons have been adduced for this fair weather attitude to politics; the most outstanding of which is the lack of ideological base for most Nigerian political parties.<sup>25</sup> Consequently, the lack of ideology/principle has led to massive loss of morality/ethics in the modus operandi of virtually all the political parties.

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## 5. LEGALITY OF CROSS CARPETING

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In fact, the immorality of some patterns of cross carpeting is implicitly recognized by the Nigerian Constitution.<sup>26</sup> However, the proviso of the constitutional provision equally provides a leeway for culprits of cross carpeting to escape from the consequences. This provision is replicated concerning members of the states House of Assembly.<sup>27</sup> However, in respect of members of the Executive at both Federal and State levels, that is, the president, vice president, governor and deputy governors, the Constitution is totally silent. The legality of cross carpeting at both arms of government, that is, the Legislative and Executive arms of government was determined by the Supreme Court in the case of *A.G. of the Federation v.*

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<sup>24</sup> Examples being governor of Bauchi State, Isa Yuguda; former vice president Atiku Abubakar; Fani-Kayode, governor of Abia State, Theodor Orji; former governor of Kwara State, Bukola Saraki; among others.

<sup>25</sup> It has been rumoured that this lack of ideological difference is due to the fact that the 3 initial parties: AD, PDP and ANPP, which kicked off the 3rd Republic had their manifestoes prepared by the one and same person, the late Chief Bola Ige SAN, the former Attorney-General of the Federation. Even if this were true, then it is baffling that none of these parties, and others that sprang up thereafter, could develop an ideological base of its own in over fifteen years.

<sup>26</sup> CFRN 1999, op.cit., ss.68(1)(g) and 109(1)(g).

<sup>27</sup> Ibid.

*Atiku Abubakar*,<sup>28</sup> which case, among other things, determined the legality of the defection of Atiku Abubakar the former Vice President. He defected from the PDP, under which he was elected, to the Action Congress (AC) in the thick of his battle for political survival against his former boss, erstwhile President Olusegun Obasanjo. Obasanjo and the PDP opposed Abubakar for standing against Obasanjo's 3rd term bid.<sup>29</sup> The Presidency had in fact conjured allegations of corruption (the truth of which is uncertain), to be used to remove Abubakar from office. Abubakar's decision to defect from the PDP to the then newly formed AC only provided the basis for the PDP to 'nail' him. However, the attempt to use the Constitution to declare the office of the Vice President vacant failed woefully. The Supreme Court held that the legislators have made it manifest that if any of these elective members after winning an election on the platform of a political party, later on being a member of the senate or of the House of Representatives (and by extension the House of Assembly) defects to another political party, he is deemed in law to have automatically vacated his seat in the House of which he is a member.<sup>30</sup> However, the apex court affirmed that there is no such provision concerning the president or the vice president.<sup>31</sup> This equally applies to the governor and deputy governor of the States.

The Supreme Court was very mindful of the lacuna in the Constitution concerning defections from one party to another by members of the Executive, the president, vice president, governor and deputy governor and the evils associated with same. The Court remarked thus:

Although defection or cross-carpeting to another party or dumping the original party that sponsored one for election to a particular office which is created by the Constitution; or in the same vein, condemning or criticizing that party or its members who by virtue of the same election hold some offices created by the Constitution, is painful, unconscionable and immoral; it is however not illegal.<sup>32</sup> (Emphasis added).

Yet the Court in line with the settled philosophy of the law that the duty of the court is *Jus dicere non Jus dare*—to declare the law and not make law.<sup>33</sup> Thus, the Court held that law making, in the strict sense of that term, is not the function of the judiciary. Following the doctrine of separation of powers, the Court further held that

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<sup>28</sup> (2007) 4SC, PT.11, p.62

<sup>29</sup> There was controversy and heated agitation on whether or not then President Obasanjo was surreptitiously manipulating the polity and the legislature, via the Constitution amendment process, to elongate his tenure. There were strenuous allegations that the stipulated maximum of two terms (four-year tenure each) for the President was to be increased to three terms, instead. In the end, the alleged elongation bid never materialized.

<sup>30</sup> CFRN 1999, *op.cit.*, s.68(1)(g) & 109(1)(g)

<sup>31</sup> *Ibid.*

<sup>32</sup> *A.G. Fed. v. Abubakar; op.cit.*, p.211

<sup>33</sup> *Black's Law Dictionary 8<sup>th</sup> Edition* (2004), (Bryan A. Garner, ed.-in-chief), (Thomson West Publishers), p.877.

incursion by one arm of the government into another will be an invidious trespass.<sup>34</sup> Thus, from this the following proposition of law could be distilled:

- a) There is no sanction or restriction on members of the Executive i.e. president/vice president, governor/deputy governor. Such members of the Executive can defect or cross carpet at will.<sup>35</sup>
- b) In the case of such members of the Executive, even where their defection is painful, unconscionable and immoral, it is neither illegal nor unconstitutional.
- c) Cross carpeting by any member of the Legislature at both Federal and State levels automatically makes the seat of such member vacant, except where such persons come within the exceptions provided.<sup>36</sup> The reality however is that since the recent tide of cross carpeting began, no member of parliament has vacated his seat; as they are quick to predicate their defection on the escape route created by the proviso to section 68(1)(g), even when such excuse is unfounded and is bereft of luster.<sup>37</sup>

Without much ado, the position on the legality of cross carpeting is clear. Interestingly too, so far, no defection of members of parliament, whether at the federal or state level, has earned anyone the vacation of the parliamentary seat; since it has become so convenient to hide under the proviso of both sections 68(1)(g) and 109(1)(g), and be shielded thereby from the wrath of vacating office. Nevertheless, the legality is one thing; but the lawfulness of an act does not necessarily confer on it the required and overriding expediency.<sup>38</sup> Therefore, the issue of cross carpeting, as it currently stands in Nigerian politics, rouses curiosity on its morality. The legality of it has remained controversial, and repeatedly debated to suit the whims and caprices of the politicians, who remain the sole beneficiary thereof (Oluwole, 2014). However, the morality of it raises questions that cannot be glossed over; and

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<sup>34</sup> *A.G. Fed. v. Abubakar, op.cit.*, p.245

<sup>35</sup> See Oluwole, J. (2015, March 27). Ondo deputy Gov defects, mimiko wishes him well. *The PUNCH*, 39(20), 888, p.7. In this account, all that the defecting deputy governor had to say, without more was: "I have taken this decision at this critical time, in the best interest of peace, stability and good governance of our dear state and for the overall development of the Southwest and the nation." The deputy governor did not explain what he meant by this near-nebulous statement! In addition to this, a similar scenario occurred in River State, Nigeria, at about the same time.

<sup>36</sup> CFRN 1999, *op.cit.*, s.68(1)(g) & 109(1)(g)

<sup>37</sup> See THIS DAY LIVE, "Tambuwal Defects to APC". Retrieved from <http://www.thisdaylive.com/articles/tambuwal-defects-to-apc/192510/> (accessed on 10 April 2015). Aminu Tambuwal, as the seating Speaker of the House of Representative, defected on the ground, as stated by him: "In pursuit of the provisions of the 1999 Constitution and in view of the political developments in my state, I wish to formally inform you of my membership of the APC. This is in continuity of the great sacrifice and also the need to ensure development of constitutional democracy." Obviously, this excuse is tenuous and baseless.

<sup>38</sup> See Paul of Tarsus, "The 1<sup>st</sup> Epistle of Paul to the Corinthians", in *Authorized King James Version of the Holy Bible* (International Bible Association, Dallas Texas, 1974), chapter 6 verse 12, p.1160.

some of which shall be discussed in this constricted space, shortly.

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## **6. MORALITY OF THE CURRENT DEFECTION TREND**

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Viewed against the moral background, cross carpeting, particularly when not based on sound issue of ideology or principle, is immoral; and shows the politician concerned as being more interested in his personal gains than service to the people he is elected to represent and serve. Therefore, the moral implication of cross carpeting in Nigeria in its present form is insidious. Its current, and particularly future implications, are so broad and only best imagined. This implication impinges all ramifications of Nigeria's national existence, but just a few shall be considered here, including: religion; perception of trust; precedent for the youth population and posterity in general; and political ideology.

### **6.1 Desecration of Religion**

Nigeria, being a very religious country, makes it inchoate to consider the morality of cross carpeting without looking at its religious dimension.<sup>39</sup> Consistency is regarded as a virtue of someone professing religion. Thus, where a religious person exhibits multiple or unstable allegiance when the occasion demands a firm, unequivocal stance; then such profession of religion may well be regarded as lacking in substance. As a fact, majority of Nigerian politicians are known to belong to one religion or another. The subtle implication of this is that, if politicians cannot be obliged to their oath or political allegiance, at the prompting of the flimsiest of reasons, then the polity would be mistaking to expect much from politicians in terms of performance.<sup>40</sup> Therefore, except the reason(s) for cross carpeting is properly and honestly situated within the purview of sections 68(1)(g) and 109(1)(g), it would amount to religious desecration for a Politian who professes religion to defect to another party, without regard for the feelings or pulse of the polity. Contrary to being pious, therefore, the present scenario clearly reveals the Nigerian politicians as merely using religion as a platform to achieve their selfish goals; rather than being committed to service and motivated or guided by religion to an altruistic end.

### **6.2 Effect on Perception of Trust**

Political office holders may well be described as trustees of the electorate, who conferred them with the mandate, in trust. Implicitly, section 49 of the Constitution

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<sup>39</sup> See CFRN 1999, s.38, where the Constitution guarantees right to freedom of thought, conscience, and religion; and to the fullest, Nigerians do take advantage of these fundamental rights.

<sup>40</sup> See David Jesse, "Psalms" in New International Version of the Holy Bible (International Bible Society, NJ, 1984), chapter 15 verse 4. Here, it is expected that Christians, politicians or otherwise, would keep their oath, even when it turns out to be unfavourable and hurts. See also chapter 24 verses 3-4.

creates ‘trustees’ in the representatives of the people. It states thus:

Subject to the provision of this Constitution, the House of Representatives shall consist of three hundred and sixty members representing constituencies of nearly equal population as far as possible, provided that no constituency shall fall within more than one state.<sup>41</sup>

Thus, the “representative capacity” conferred on the representatives automatically imports the trust concept into the realm of politics. This implicit trust concept is also contained in the fundamental objectives and directive principles of state policy,<sup>42</sup> which unfortunately has been rendered non-justiciable.<sup>43</sup> Trust has been defined as:

an equitable obligation binding a person (who is called a trustee) to deal with property over which he has control (which is called trust property) for the benefit of persons (who are called the beneficiaries or cestui que trust), of whom he may himself be one. (Adigun, 1987)

Thus, looking at the purport of trust, and the implication of the provision of section 49 of the Constitution, with regards to members representing constituencies; it must be safely concluded that huge responsibility lies on elected office holders. As a fact, this is not limited to only members of the parliament, but also those in the executive arm. The phrase “members representing constituencies” by extension covers all elected political office holders, including the president, vice president, governors, and deputy governors; who are all representatives of one constituency or the other.<sup>44</sup> Therefore, realizing that these various representatives of constituencies hold office in trust for their constituents, having been elected on platforms of respective political parties, owe an obligation to maintain the status quo on which their elections were predicated. On the contrary, what is rampant presently is a spate of indiscriminate crisscrossing, in the name of cross carpeting, without regard for the interest or feeling of the constituents; as long as the selfish interest of the representative is served.<sup>45</sup> Thus, it is not overreaching to add that political officers, who fail to understand the import and/or purport of this concept of trust, do not deserve the position he/she is elected into. Apparently, Nigerian politicians do not seem to understand what trust or its breach is all about. A deeply disappointed and frustrated member of the electorate recently lamented on the defection of a politician, thus:

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<sup>41</sup> CFRN 1999, s.49 (emphasis added).

<sup>42</sup> Ibid. chapter II, ss.13-24.

<sup>43</sup> Ibid. s.6(6)(c).

<sup>44</sup> See CFRN 1999, s.132(4), to the effect that: “for the purpose of an election to the office of president, the whole of the Federation shall be regarded as one constituency.”

<sup>45</sup> See Oluwole, *op.cit.*, note 35, p.24; in which the mindset guiding defection was aptly captured, thus: “We are going to embark on registration of new members and we promise that everyone who comes in will find a level-playing field with which to actualize their dreams.” In other words, it is all about the politicians’ dreams, not about the electorates.

This past week was however a very sad one for me. The news that Nuhu Ribadu, a former chairman of the Economic and Financial Crimes Commission, has decided to contest the governorship of Adamawa State under the ruling Peoples' Democratic Party left me in shock. As the week went by, I looked out for a retraction of the story and there was none. Wow!... With everything going on, is it that there is no Nigerian that you trust that will not let you down? Is the Ribadu I stuck out my neck for different from the rest?... I am waiting for Ribadu to explain to me and the other millions who thought him worthy to be our president why he took this decision that has kept me down cast for days. I may not have a vote in Adamawa, but someone please tell Nuhu Ribadu that he owes me an apology (Okoroji, 2014; Fabiyi (2014)

Okoroji's lamentation may just be one of many, as a result of the inner hurt created by the selfishly motivated defections taking place in the Nigerian political circle. Of course, many may not be as privileged as Okoroji to cry out publicly and loud enough. As a result, a cleric was pungently apt on this score, when he stated thus:

Political parties should not sponsor unfaithful politicians, especially defectors, as their candidates in elections, because confidence in an unfaithful man in time of trouble is like trying to chew with a loose tooth or walk with a crippled foot. The electorate should not vote for politicians who are unfaithful or lack integrity and accountability, especially if they defected with the mandate from another party, because they are driven by self interest and unpatriotic spirit which makes them unreliable.<sup>46</sup>

Perhaps this was one of the reasons why Gen. Buhari, Nigeria's president-elect, was reported as saying last-minute defectors would not be given appointments by his government (Akinkuotu, 2015).

The point here is that in a society where faithfulness to an avowed cause, trustworthiness—even when it hurts, and such other virtues are spited; then the youth population and entire posterity are set on the wrong pedestal. Furthermore, the example of Alao-Akala comes to mind, as one bound to mislead the youth and posterity: because he lost in the governorship primaries of the PDP in Oyo State, he instantly defected to the Labour Party in hope of a better chance (Atoyebi, 2014). Of course, the subliminal message in this unfortunate precedent is clear to the youth population and all.<sup>47</sup> The same lack of integrity, faithfulness, and patriotism was manifested in the defection of Maku (Adetayo, 2015). The sad implication of this incidence and trend of cross carpeting, particularly on the youth population is that beyond the hurt of disappointment, they may equally adopt being untrustworthy or unfaithful, as the way to go.

### 6.3 Dearth of Political Ideology

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<sup>46</sup> Akinkuotu, E. (2015, March 4). Don't Vote Defectors, Cleric Tells Nigerians. *The PUNCH*, 39(20),871, p.22, in which the author quoted one Pastor Barnabas Otoibhi.

<sup>47</sup> In other words, this could be interpreted to mean: "you get what you want at all cost—at the expense of honour, integrity, or whatever."

Ideology is regarded as a system of social beliefs or a meaningful belief system. It is further described as a closely organized system of beliefs, values and ideas forming the basis of a social, economic, or political philosophy or program. In other words, it is a set of beliefs, values, and opinions that shape the way a person or a group such as a social class thinks, acts, and understands the world.<sup>48</sup> Ideology may be broken into about three specific categories: beliefs, values, and ideals (Bodley, 2008). Thus, people's beliefs give them an understanding of how the world works and how they should respond to the actions of others and their environments. It however seems that political ideology vanished, to a great extent, with the first political dispensation in Nigeria—1960 to 1966. A measure of it was retained in the 2<sup>nd</sup> republic, 1979 to 1983; whilst not much has been seen of political ideology in Nigeria, thereafter. What is seen in the Nigerian political space today is much of money politics, not the politics of ideology. It must be realized that money does not confer direction; where the requisite ideology is lacking, money would be abused. However, where possession of money is predicated upon ideology, then good ends and purposed would be well served. Distilling from the entirety of the foregoing, it is not overreaching to surmise that Nigerian politics has been reduced to lust for power and money, only; and achieving this is pursued by all means. In fact, scruples and caution are jettisoned in this pursuit, while defection has become an easy tool employed without a modicum of restraint. Sadly too, many politicians cannot aptly and/or convincingly verbalize what their political organisations stand for; worse still, what they themselves as politicians represent the political space. Consequently, cross carpeting is the order of the day; and because political parties and politicians, alike, do not really stand for anything—in terms of ideology and/or well articulated guiding principle, they are readily falling for anything and everything.

#### **6.4 Effect on Youth Population**

The foregoing culminates in foisting a warped outlook (in respect of standards, values, and/or ethics) upon the youth population. By a survey conducted in 2012/2013, the youth population in Nigeria (age-bracket 15 to 35 years) was estimated to be about 64 million.<sup>49</sup> The youth population in Nigeria is dynamic and apparently on the increase, more so that Nigeria is endowed with numerical increase. It is trite that the youth is impressionable, regardless of whether what is making the impression is positive or negative. However, the truism of an old saying

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<sup>48</sup> ODL, *op.cit.*, note 14, p.593.

<sup>49</sup> See National Bureau of Statistics and Federal Ministry of Youth Development, *2012 National Baseline Youth Survey*, (National Bureau of Statistics, 2013), p.8. See also Ruth Kunz, Judith Moeller, et.al, "Mobilizing Referenda: The Effects of Direct Democracy on Youth Political Participation" (National Centre of Competence in Research (NCCR) Challenges to Democracy in the 21<sup>st</sup> Century, Working Paper No.56, March 2013). Retrieved from [http://www.nccr-democracy.uzh.ch/publications/workingpaper/pdf/wp\\_56.pdf](http://www.nccr-democracy.uzh.ch/publications/workingpaper/pdf/wp_56.pdf) (accessed on April 8, 2015).

remains to this day, that negative behaviours easily impact, than positives.<sup>50</sup> This holds very true for the youth, because of their easy impressionability. Therefore, with the level of display of dearth of character, ideology, and other crucial virtues in Nigeria's political space, the negative impact on the youth population is expectedly enormous. Perhaps the worst of this is the subtle impression being communicated, to the effect that all that matters is to satisfy the insatiable lust for power and lucre by any means possible; to the jeopardy of truth, integrity, honesty, and all worthy virtues. Such impression is detrimental to both the present generation, as well as posterity.

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## CONCLUSION

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As already articulated above, cross carpeting is as old as democracy itself, worldwide. Nevertheless, the current trend of cross carpeting in Nigeria has aroused cause for concern, due to the unquantifiable risk it portends to the morality and integrity of the present and future generations. The legality of the current trend may be justifiable, howbeit not absolute; but the morality cannot, at any rate. It is not enough that the politician satiates his/her lust for power, money, and recognition; while mortgaging the values and virtues that, indeed, uphold and give meaning to the society vis-à-vis human existence. It is therefore our expectation and call, that politics vis-à-vis defection be executed in such a way that religion, trust, integrity, ideology, etc., all of which impact the youth and posterity heavily, be accorded their exalted place of honour and/or sanctity.

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<sup>50</sup> Haggai, "The Book of Haggai" in *The Amplified Bible* (Zondervan Publishing House, USA, 1987), chapter 2 verses 12-13, pp.828-829. See also "Corruption Affecting Nigerian Youths—Sanusi." Retrieved from <http://www.nigerianbestforum.com/generaltopics/corruption-affecting-nigerian-youths-%E2%80%94sanusi/> (accessed on April 8, 2015).

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