

THE JURISPRUDENCE OF POLITICAL PARTY DEFECTION: ANALYZING THE LEGAL STATUS OF CROSS-CARPETING IN NIGERIAN POLITICS*

Abstract

*The phenomenon, where elected officials abandon the political platform that brought them to power to join a rival party, has become a defining characteristic of the country's Fourth Republic. It raises fundamental questions about political morality, the binding nature of the social contract between the elected and the electorate, and the stability of the constitutional order. This article aims to provide a comprehensive analysis of the legal status of cross-carpeting in Nigeria. It seeks to examine the historical evolution of this practice, dissect the constitutional provisions governing it, and critically evaluate the judicial decisions that have shaped the current legal landscape. The research adopts a doctrinal methodology. It relies on a critical examination of primary legal sources, including the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Electoral Act 2022, and key judicial precedents from the Supreme Court and Court of Appeal. Secondary sources such as legal journals, historical records of the First and Second Republics, and contemporary political commentaries are also utilized to provide context. The study finds a sharp dichotomy in the legal treatment of defectors. For the legislative arm, the Supreme Court decision in *Abegunde v. Ondo State House of Assembly* established a strict test: a lawmaker loses their seat unless there is a paralyzing division in the party at the national level. However, for the executive arm (Governors and President), the courts, relying on the *Atiku Abubakar* and *Umahi* precedents, have largely insulated defectors from removal, citing the exhaustion of removal grounds in the Constitution and the immunity clause. The research also finds that recent political compromises, such as the withdrawal of the suit against the 27 Rivers State lawmakers in February 2025, undermine judicial precedents and weaken the rule of law. To restore sanity to the political system, this article recommends a constitutional amendment to explicitly make defection a ground for the automatic removal of executive officeholders. It further proposes the removal of the 'division' proviso in Section 68(1)(g) to close the loophole used by legislators, adopting the 'zero tolerance' approach seen in India's current anti-defection laws.*

Keywords: Political Party Defection, Cross-Carpeting, Legality, Nigerian Politics

1. Introduction

In the political landscape of Nigeria, few concepts are as pervasive or as contentious as cross-carpeting. It is a term that evokes images of instability, opportunism, and the fluid nature of political alliances that characterize the nation's democracy. For the Nigerian lawyer, political analyst, or observer, understanding the legal status of cross-carpeting, often referred to as defection, party-switching, or floor-crossing is essential to grasping the mechanics of power in the Fourth Republic. This research provides a comprehensive, exhaustive analysis of the jurisprudence governing this practice, tracing its historical roots, examining the constitutional frameworks, and dissecting the pivotal judicial decisions that have shaped the current legal reality.

The term cross-carpeting itself finds its etymological roots in the parliamentary traditions of the Westminster system. In the British House of Commons, members of the ruling party and the opposition sit on rows of benches facing each other, separated by a central aisle covered in carpet.¹ To change one's allegiance from the government to the opposition, or vice versa, a member must physically cross this carpet to sit on the other side. In Nigeria, while the physical architecture of legislative chambers may differ, the metaphorical act of crossing the floor remains a potent symbol of shifting political loyalty.² However, in the Nigerian context, the practice has transcended mere parliamentary procedure to become a defining feature of the political culture. It is not driven primarily by ideological shifts or policy disagreements, as is often the case in established

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¹ Opadere, O. S., & Agbana, J. O. (2014). Cross Carpating in Nigerian Politics: Some Legal and Moral Issues Generated. *Frontiers of Legal Research*, 3(2), 22-39

² *Ibid*

democracies, but by what is colloquially termed ‘stomach infrastructure’ or the ‘food is ready’ politics.³ This describes a system where politicians move to the party that controls the resources, ensuring their access to state patronage and political survival. The lack of distinct ideological boundaries between the major political parties, often described as ‘special purpose vehicles’ for acquiring power, facilitates this seamless transition.⁴ A politician can sleep as a member of a conservative party and wake up as a progressive without any crisis of conscience, because the underlying structures of the parties are fundamentally similar vehicles for elite accumulation.⁵

The legal implications of this fluidity are profound. They touch upon the most sacred aspects of the democratic contract: the relationship between the elected and the electorate, the supremacy of the political party, and the fundamental human rights of association⁶. The courts have been called upon repeatedly to adjudicate this tension. On one side stands Section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which guarantees the right to freedom of association.⁷ On the other side stand Sections 68(1)(g) and 109(1)(g), which prescribe the forfeiture of legislative seats for members who defect without a valid cause.⁸ The judiciary's attempt to balance these competing imperatives has produced a rich, albeit sometimes conflicting, body of case law that forms the subject of this inquiry.

2. Historical Development of Political Party Defection in Nigeria

The 1951 Western Region Crisis

To understand the present legal quagmire, one must look back to the foundational moment of cross-carpeting in Nigerian history. The event that introduced this phenomenon occurred in 1951, long before the current republic, yet its ripples are still felt today. The setting was the election into the Western Region House of Assembly in 1951. At this time, political parties were forming along regional and ethnic lines, but the landscape was still fluid. The National Council of Nigeria and the Cameroons (NCNC), led by Dr. Nnamdi Azikiwe, contended against the Action Group (AG), led by Chief Obafemi Awolowo. The Ibadan Peoples Party (IPP), a local party established on June 15, 1951, by eminent Ibadan indigenes, also contested the election.⁹ When the elections were concluded in November 1951, the results were not decisive for a single party to claim an absolute majority immediately. The Action Group had won 38 out of the 80 contested seats. The NCNC had secured 25 seats. Crucially, the Ibadan Peoples Party (IPP) had won all six seats in Ibadan, and there were several other independent candidates who had been part of the inauguration of the Action Group (Egbe Afenifere) but ran as independents.¹⁰ The balance of power lay with these smaller parties and independents. In what would become the first major act of cross-carpeting, the Action Group successfully lobbied these members. Although Chief Anthony Enahoro had previously been a member of the NCNC, he declared for the Action Group. But the decisive moment came when five of the six elected members of the Ibadan Peoples Party (IPP) chose to cross over to the Action Group. These members included A.M.A. Akinloye, Chief D.T. Akinbiyi (who later became the Olubadan of Ibadan), Chief S.O. Lanlehin, Moyosore Aboderin, and S.A. Akinyemi. Only one IPP member,

³ *Ibid*

⁴ Olu Awofeso and Paul A. Irabor, ‘Party Cross-carpeting in Nigeria’s Fourth Republic: Cases and Causes’ (2016) 6(3) *Journal of Public Administration and Governance*. 31- 40

⁵ *Ibid*

⁶ SC Oygbo, ‘How to Enforce Yours Rights’ (Ambassadors & Advocates Assembly (AAA) Inc., 2020) 112

⁷ A Ejekwonyilo, ‘Court reschedules judgement on Ayade’s defection over latest appeal court decision’ (Premium Times, April 6, 2022) < <https://www.premiumtimesng.com/news/top-news/522187-court-reschedules-judgement-on-ayades-defection-over-latest-appeal-court-decision.html?tztc=1>> accessed 20th December, 2025

⁸ O Adeyemi, ‘A Review of Abegunde v Ondo State House of Assembly (2015) 61 (PT. 3) *NSCQR* 1857 — Proper Parties; The Position of a Cross-Appellant who Fails to File a Brief at The Supreme Court; and the Division in APC AND PDP.’ < <https://aolulaw17.medium.com/a-review-of-abegunde-v-4d442d1bef1a>> accessed 20th December, 2025

⁹ R Adekoya, ‘The 1951 elections: How Awolowo forced Azikiwe out of western Nigeria’ (*Business Day NG*, 5th September, 2019) < <https://businessday.ng/columnist/article/the-1951-elections-how-awolowo-forced-azikiwe-out-of-western-nigeria/>> accessed 21st December, 2025

¹⁰ *Ibid*

Adegoke Adelabu, remained and joined the NCNC.¹¹ This mass defection on the floor of the house shifted the majority to the Action Group, allowing Chief Obafemi Awolowo to form the government and become the Leader of Government Business (and later Premier) of the Western Region.¹² This maneuver effectively blocked Dr. Nnamdi Azikiwe, an Igbo man who led the NCNC, from becoming the Premier of the Yoruba-dominated Western Region. Consequently, Azikiwe resigned from the Western House and returned to the Eastern Region, where he eventually displaced Eyo Ita to become Premier.¹³ This event is frequently cited by political historians and legal scholars as the moment ethnicity was weaponized in Nigerian politics through the instrument of defection.

It is pertinent to note, however, that historical records from the Action Group perspective suggest that many of independents were actually AG sympathizers who had not run on the official ticket for strategic reasons, and their ‘defection’ was merely a formalization of their allegiance. Regardless of the interpretation, the 1951 episode established the precedent that legislative majorities could be manufactured post-election through the inducement of members to switch sides.

The First Republic (1960–1966)

The First Republic witnessed cross-carpeting that was not just about securing a majority but about fundamental ideological and personality clashes that threatened the unity of the country. The crisis in the Action Group in 1962 is a prime example. Chief Ladoke Akintola, the Premier of the Western Region, engaged in a bitter feud with the party leader, Chief Obafemi Awolowo.¹⁴ This conflict was rooted in Akintola's desire to align the Western Region with the Northern-controlled federal government, contrary to Awolowo's stance of maintaining a strong opposition. This disagreement led to Akintola defecting from the Action Group to form the United People's Party (UPP), which later merged with elements of the NCNC to form the Nigerian National Democratic Party (NNDP). This defection fractured the Western Region, leading to a constitutional crisis, a state of emergency, and violent unrest known as ‘Wetie,’ which precipitated the first military coup of January 1966.¹⁵ Similarly, in the Eastern Region, Dr. Kingsley Mbadiwe fell out with Dr. Nnamdi Azikiwe and defected from the NCNC to form the Democratic Party of Nigerian Citizens (DPNC). These defections were characterized by a lack of legal restraint; the 1960 and 1963 Constitutions did not contain the strict anti-defection clauses present in the 1999 Constitution, allowing politicians to move freely, albeit at a great cost to political stability.¹⁶

The Second Republic (1979–1983)

The return to civil rule in 1979 under a presidential constitution brought the issue of defection back to the fore, this time with judicial intervention. The political landscape was dominated by the National Party of Nigeria (NPN), the Unity Party of Nigeria (UPN), the Nigerian Peoples Party (NPP), the Great Nigeria Peoples Party (GNPP), and the People's Redemption Party (PRP). A landmark event in this era was the split within the Great Nigeria Peoples Party (GNPP). The party fractured into two factions: one led by Alhaji Waziri Ibrahim and another by Dr. Shettima Mustapha. This internal crisis became the subject of the famous case of *FEDECO v Goni*¹⁷, which set the initial judicial standard for defection.¹⁸

¹¹ *Ibid*

¹² MM Olukayode & G Matthew: Revisiting the Jurisprudence of Political Defection in Nigeria: The Case of PDP v INEC & 3 Ors Suit No: FHC/ABJ/CS/920/2021 in *Perspectives African Journal of Law, Ethics, & Education* [AJLEE] Vol. 8, No. 3 (2025)

¹³ *Ibid*

¹⁴ Olu Awofeso and Paul A. Irabor, ‘Party Cross-carpeting in Nigeria’s Fourth Republic: Cases and Causes’ (2016) 6(3) *Journal of Public Administration and Governance*. 31- 40

¹⁵ *Ibid*

¹⁶ Opadere, O. S., & Agbana, J. O. (2014). Cross Carpeting in Nigerian Politics: Some Legal and Moral Issues Generated. *Frontiers of Legal Research*, 3(2), 22-39

¹⁷ (1983) CLR 10(f) (SC)

¹⁸ Enebeli, Victor. (2025). A Legal Analysis of the Implications of Political Defections in Nigeria's Constitutional Jurisprudence. vol.10.no4.2025. *Journal of Law and Global Policy*. 10. 1-10

Alhaji Mohammed Goni, the Governor of Borno State elected on the GNPP Platform, defected to the Unity Party of Nigeria (UPN). The Federal Electoral Commission (FEDECO) sought to declare his seat vacant. However, the court ruled in favor of Goni, establishing the principle that a division within a political party justifies defection. The court found that the GNPP had split into factions (the Waziri faction and the Shettima Mustapha faction) to such an extent that the party could no longer function as a single entity. This 'division' provided a legal shield for Goni's defection.¹⁹ Another significant defection was that of Chief Akin Omoboriowo in Ondo State. Serving as Deputy Governor under the UPN, he defected to the NPN to contest the governorship against his former boss, Chief Michael Ajasin. The subsequent election, which declared Omoboriowo the winner, was marred by massive rigging and violence, further illustrating how defection in Nigeria is often a precursor to electoral malpractice and instability.²⁰

3. Relevant Legal Framework

Constitution of the Federal Republic of Nigeria

The 1999 Constitution (as amended) is the *grundnorm*²¹ governing the current dispensation. It attempts to cure the mischief of the past by inserting specific provisions regarding defection, though these provisions are applied unevenly between the legislature and the executive. Section 1(1) of the Constitution asserts its supremacy over all other laws.²² Section 40 guarantees the right to peaceful assembly and association, stating 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...'.²³ This section is the primary defence used by defectors. They argue that the right to belong to a party implies the right to leave it. However, the courts have held that constitutional rights are not absolute and can be derogated from in the interest of order and morality²⁴, especially when one holds a public trust conditioned on that association. The Constitution is explicit regarding members of the legislative houses. Section 68(1)(g) applies to the National Assembly (Senate and House of Representatives):

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.²⁵

Section 109(1)(g)²⁶ applies identical provisions to the State Houses of Assembly. These sections establish a general rule: You defect, you lose your seat. However, the proviso (exception) creates a loophole: Unless there is a division or a merger. This 'division' clause has become the most litigated word in Nigerian election law. In contrast, the Constitution is silent on the defection of the President and Governors. The grounds for their removal are strictly limited to impeachment for gross misconduct²⁷ or permanent incapacity.²⁸ Defection is not listed as a disqualifying factor. This silence has created a 'jurisprudence of impunity' where executive officeholders defect at will, protected by the immunity clause in Section 308.

¹⁹ *FEDECO v Goni* (1983) CLR 10(f) (SC)

²⁰ Opadere, O. S., & Agbana, J. O. (2014). Cross Carpeting in Nigerian Politics: Some Legal and Moral Issues Generated. *Frontiers of Legal Research*, 3(2), 22-39

²¹ SC Oyigbo, 'This Book of the Law' (Ambassadors & Advocates Assembly (AAA) Inc., 2021) 48

²² Constitution of the Federal Republic of Nigeria, s. 1(1)

²³ *Ibid*, s. 40

²⁴ SC Oyigbo, 'Your Rights Under the Law' (Ambassadors & Advocates Assembly (AAA) Inc., 2020) 91

²⁵ *Ibid*, s. 68(1)(g)

²⁶ *Ibid*, s. 109(1)(g)

²⁷ CFRN, Ss. 143 & 188

²⁸ *Ibid*, ss. 144 & 189

Case Law

***Hon. Ifedayo Sunday Abegunde v. The Ondo State House of Assembly*²⁹**

The interpretation of the ‘division’ proviso in Section 68(1)(g) was definitively settled by the Supreme Court in the case of *Hon. Ifedayo Sunday Abegunde v. The Ondo State House of Assembly*. Hon. Ifedayo Abegunde was a member of the House of Representatives representing Akure North/South Federal Constituency. He was elected on the platform of the Labour Party (LP). He defected to the Action Congress of Nigeria (ACN), claiming that there was a division within the Labour Party. Specifically, he cited a leadership crisis at the Ondo State chapter of the party as the justification for his move. The Appellant (Abegunde) argued that ‘any division’ in the party, including at the state level, was sufficient to trigger the proviso in Section 68(1)(g). He relied on the liberal interpretation from the Second Republic era. The Respondents (Ondo State House of Assembly) argued that the Labour Party was intact at the national level and that a local dispute did not constitute a ‘division’ affecting the party’s corporate existence. In a unanimous decision delivered on April 17, 2015, with the lead judgment by Mahmud Mohammed, CJN, the Supreme Court dismissed the appeal. The Court laid down the following principles (Ratio Decidendi): The Court held that a ‘division’ within a political party, as envisaged by the Constitution, must be a division at the National Level. A crisis in a state chapter or a local government branch is insufficient. The division must affect the central command structure of the party. The division must be such that it makes it impossible or impracticable for the party to function. The Court used the analogy of a company: a disagreement in a branch office does not mean the company itself is divided if the Board of Directors remains intact. The Court explicitly rejected the notion that ‘factionalization’ at the state level justifies defection. Since the Labour Party under the national chairmanship of Dan Nwanyanwu was not split, Abegunde’s defection was invalid. This judgment effectively closed the floodgates for legislators who used minor local squabbles as a pretext to cross-carpent. It established a high threshold: unless the party is broken at the center (as the PDP was in 2013 with the Baraje vs. Tukur factions), a legislator defects at the peril of his seat.

The Atiku Abubakar Precedent (2007)

The legal status of executive defection has traversed a more volatile path, witnessing a recent attempt at judicial revolution that was ultimately quelled by the appellate courts. The foundational case for executive defection is *Attorney-General of the Federation v. Atiku Abubakar*³⁰. Vice President Atiku Abubakar defected from the Peoples Democratic Party (PDP) to the Action Congress (AC) following a bitter feud with President Olusegun Obasanjo. The President sought to declare the VP’s seat vacant, arguing that by leaving the sponsoring party, the VP had constructively resigned. The Supreme Court held that the Vice President could not be removed on the grounds of defection. The Court reasoned that: The Vice President has a fundamental right to associate with any party of his choice. The grounds for removal (Sections 143/144) are exhaustive. The Constitution does not list defection as a ground for removal of the President or Vice President. Although they run on a single ticket, the VP’s loyalty is to the Constitution, not to the President. This decision cemented the view that executive defectors are untouchable.

David Umahi (2022)

In a stunning departure from the *Atiku* principle, the Federal High Court, Abuja, presided over by Justice Inyang Ekwo, delivered a judgment on March 8, 2022, in the case of *PDP v. INEC & Ors.*³¹ Governor David Umahi of Ebonyi State and his Deputy, Dr. Kelechi Igwe, defected from the PDP to the All Progressives Congress (APC). The PDP sued, asking the court to declare their seats vacant. Justice Ekwo ruled that Umahi and his deputy must vacate their offices. He based this radical decision on Section 221 of the Constitution, which states that only a political party can canvass for votes. Relying on the Supreme Court’s decision in *Amaechi v. INEC (2008)*, Justice Ekwo held that:

1. In Nigeria, votes cast in an election belong to the political party, not the candidate.
2. A candidate cannot transfer the votes given to the PDP to the APC. By defecting, Umahi had abandoned the mandate given to the PDP.

²⁹ *Abegunde v The Ondo State House of Assembly* (2015) LPELR-24588(SC).

³⁰ 10 NWLR (Pt. 1041) 1

³¹ (Suit No: FHC/ABJ/CS/920/2021).

3. It would be constitutionally absurd to allow a person to hold a mandate won by one party while serving another.

This judgment was the first of its kind to sack a sitting Governor for defection, relying on the ‘Amaechi principle’ to bypass the silence of Sections 180/188. The victory for anti-defection advocates was short-lived. The Court of Appeal, Enugu Division, and later the Abuja Division, overturned Justice Ekwo's decision in *Umahi v. PDP*³² and similar cases involving Governor Ben Ayade (Cross River) and Bello Matawalle (Zamfara). The Court of Appeal's Rationale includes:

Supremacy of the Constitution's Text: The appellate court held that the trial court engaged in ‘judicial legislation.’ Since the Constitution explicitly provides for the removal of governors (impeachment), the court cannot add defection as a new ground.

Distinction from Amaechi: The court distinguished the *Amaechi*'s case, noting it was a pre-election matter regarding substitution of candidates, not a post-election tenure matter. The ‘votes belong to the party’ principle could not override the specific tenure protection of an elected governor.

Immunity: The court reaffirmed that Section 308 protects the Governor from such civil proceedings seeking his removal outside the impeachment process.³³

Consequently, the legal *status quo* returned to the *Atiku* position: Governors are free to defect without losing their seats, unless the legislature impeaches them, a rare occurrence given that legislators often defect along with the Governor.

4. Contemporary Crisis: The Rivers State Assembly (2023–2025)

The most recent and complex manifestation of the defection crisis is currently unfolding in Rivers State. This situation presents a unique test of the *Abegunde* principle in the context of political bargaining. Following a political fallout between the incumbent Governor Siminalayi Fubara and his predecessor, Nyesom Wike (now Minister of the FCT), the Rivers State House of Assembly fractured. In December 2023, 27 members of the House, led by Speaker Martin Amaewhule and loyal to Wike, defected from the PDP to the APC. Governor Fubara, relying on the *Abegunde* precedent, declared that their seats were vacant because there was no division in the PDP at the national level. A faction of four lawmakers loyal to the Governor, led by Edison Ehie, attempted to take control and passed the state budget.³⁴ The 27 lawmakers filed a suit³⁵ at the Federal High Court Abuja to protect their seats. Justice James Omotosho ruled in their favor, nullifying the actions of the 4-member faction and restraining the Governor from interfering with the Amaewhule-led Assembly. Governor Fubara initially challenged this and sought to have the seats declared vacant at the Supreme Court. However, following a political intervention by President Bola Tinubu, Fubara's legal team, led by Yusuf Ali SAN, formally withdrew the appeal. On February 10, 2025, the Supreme Court panel led by Justice Musa Uwani-Aba-Aji struck out the suit filed by Fubara (and a related one by the Labour Party) following its withdrawal. The Court awarded N4 million in costs against the Governor.³⁶

This outcome highlights a critical weakness in the law. While the *Abegunde* precedent suggests the 27 lawmakers *should* have lost their seats (as there was no national PDP division), the law requires a plaintiff to

³² (Suit No: FHC/ABJ/CS/920/2021).

³³ AM Atoyebi and T Adeagbo, ‘Dissecting the Constitutionality or Otherwise of the Judgement of the Federal High Court in *PDP v. INEC & Ors* (FHC/ABJ/CS/920/2021)’ <<https://omaplex.com.ng/dissecting-the-constitutionality-or-otherwise-of-the-judgement-of-the-federal-high-court-in-pdp-v-inec-ors-fhc-abj-cs-920-2021/>> accessed 24th December, 2025

³⁴ B Olabimtan, ‘Court Rules Fubara can Conduct Official Business with Three Rivers Lawmakers’ (The Cable, January 6, 2025) <<https://www.thecable.ng/court-rules-fubara-can-transact-business-with-three-rivers-lawmakers/>> accessed 24th December, 2025

³⁵ (FHC/ABJ/CS/1613/2023)

³⁶ L Patrick-Okwori, ‘Supreme Court Upholds 27 Rivers Lawmakers’ Positions, Rejects Fubara’s Suit’ (Business Day ng, February 10, 2025) <<https://businessday.ng/news/article/supreme-court-upholds-27-rivers-lawmakers-positions-rejects-fubaras-suit/>> accessed 24th December, 2025

actively prosecute the case. By withdrawing the suit for political expediency, the ‘illegality’ of the defection was allowed to stand. The Supreme Court did not rule on the *merit* of the defection in the 2025 decision; it simply struck out the case. This leaves the 27 lawmakers in office, not by constitutional validation, but by procedural default and political compromise.³⁷

5. Comparative Analysis: Lessons from India

To appreciate the deficiencies in the Nigerian framework, a comparison with India is instructive. India shares a similar common law heritage and a history of defection (known as ‘Aya Ram Gaya Ram’ politics). The Indian Tenth Schedule: India enacted the 52nd Amendment in 1985, adding the Tenth Schedule to the Constitution, specifically to ban defection. Initially, the law allowed a split (if one-third of members defected) to be a defence, similar to Nigeria’s ‘division’ proviso.³⁸ However, politicians exploited this by engineering mass defections. Recognizing this loophole, India passed the 91st Amendment Act (2003), which removed the split provision entirely. Currently, under Indian law, a defector is disqualified regardless of whether they leave alone or in a group. The only exception is a ‘merger’ involving two-thirds of the party members.³⁹ Nigeria is currently at the stage India was before 2003. Section 68(1)(g) still retains the ‘division’ proviso. This allows Nigerian legislators to manufacture artificial crises or latch onto minor disagreements to justify defection. Until Nigeria adopts the Indian approach of deleting the ‘division’ defence, the courts will continue to be inundated with cases determining the validity of party squabbles.

6. Conclusion

The jurisprudence of defection in Nigeria reveals a legal system struggling to contain a political culture that views parties as disposable vehicles. The courts have established a strict standard for legislators in *Abegunde*, demanding proof of a paralyzing national division to justify defection. Yet, the effectiveness of this standard is undermined by the immunity accorded to the executive in *Atiku* and *Umahi* (Appeal), and by the willingness of political actors to compromise legal principles for peace, as seen in the Rivers State saga. The current legal status can be summarized thus:

Legislators: Can be sacked for defection if it is proven there is no national division in their party (*Abegunde*). However, enforcement relies on the political will of the party or the Speaker to declare the seat vacant.

Governors/President: Cannot be sacked for defection by a court (*Umahi’s Appeal*). The only remedy is impeachment, which is politically difficult.

Votes: While *Amaechi* held that votes belong to the party, this principle has not been successfully applied to unseat a sitting executive defector.

For the Nigerian lawyer and the public, it is clear that while the law frowns on cross-carpeting, the constitutional architecture still leaves ample room for the practice to thrive. A definitive solution requires a constitutional amendment to explicitly penalize executive defection and to remove the ‘division’ loophole for legislators.

³⁷E Agbo, ‘Supreme Court dismisses Fubara’s suit against 27 pro-Wike Rivers lawmakers’ <<https://www.premiumtimesng.com/regional/south-south-regional/773299-supreme-court-dismisses-fubaras-suit-against-27-pro-wike-rivers-lawmakers.html>> accessed December 25th 2025

³⁸ Surbhi Dubela, et al (2023), ‘Balancing Act: Evaluating the Impact of Anti-Defection Laws on Democratic Governance in India’, *Educational Administration: Theory and Practice*, 29(4), 1634-1641

³⁹ *Ibid*