Article

The Regulatory Framework of Political Parties in Nigeria

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Abstract

Political parties are indispensable for the effective functioning of democracy. However, developing the proper regulatory framework for its functioning and development in order to drive democracy is equally important. These frameworks can be found in Nigerian constitution, INEC, EFCC, courts and other related bodies that have oversight functions over political parties in Nigeria. This study examines the problems of the growing trend associated with parties and the regulatory agencies. Three interrelated strand of analysis are employed. First, we argued that there are missing gaps in the regulatory frameworks of political parties particularly the 1999 constitution, INEC, etc. Second, we posited that the deregulation of political parties in Nigeria has undermined the internal democracy of parties. Finally, we argued that the foregoing have serious implications on candidates and their external behaviour. We concluded that the regulatory framework nurtures an interplay of primordial political loyalties and centrifugal forces and as such, illiberal in nature. Individuals within the party are empowered who, through financial control and other means wield enormous powers in how parties function. While formal party structures such as conventions, party primaries etc have responsibility for controlling the party, its policy formulation; however, have slipped into the hands of godfathers whose desires and aspirations are reflected by such controls and policies so implemented.

Keywords: Political Party, Regulatory Framework, Deregulation of Parties, Internal Party Democracy

Introduction

Political parties are indispensable for the efficient and effective functioning of democracy. Discovering the proper conditions for better internal functioning and external activities as well as effective legal regulation of political parties is also of key importance not only in Nigeria but in other democratic states across the world. Regulatory framework of political parties is laws and regulations that outline the legal requirements to be met by political parties. These regulatory frameworks may be complemented by

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guidelines, policies, directives and standards set out by the agencies regulating the activities of political parties. These agen :ies legally have supervisory oversight over political parties.
There is a growing trend in Nigeria to attempt to shape the party system by regulating the way parties are formed, organized, function and behave. The aim of this paper is to examine the growing trend of this regulation and why these frameworks are ineffective in maintaining internal party democracy as well as its development.

Regulatory Agencies and Political Parties In Nigeria

Political parties in Nigeria are subjected to a wide range of legal regulations, including the constitution, Independent National Electoral Commission (INEC), the Electoral Act, Courts, Economic and Financial Crimes Commission (EFCC) and other relevant legal frameworks. These agencies are empowered in different ways in controlling both internal and external activities of political parties. One of the controversial regulatory agencies in contemporary Nigeria is the EFCC.
In fact the EFCC recently issued a list of politicians who it said had graft cases pending against them in courts both in Nigeria and Europe. The list contained the names of ex-public officeholders including former governors. Some of them are known to have vied for high public offices in the 2011 general elections. The list was sent to various political parties, including the INEC advising them not to field those in the list as candidate in the elections. Great debate followed the release of the list. Some commentators argue the EFCC lack the jurisdiction to stop anyone not found guilty of a crime or corrupt practice by a court from vying for elective office, yet it is generally accepted that corruption is the cankerworm eating deep into virtually every aspect of Nigeria's public life. It is seen as the bane of the nation's development compared with its abundant human and material resources. Public officeholders in their quest for capital accumulation have made state power a means of production.

It is from this perspective that EFCC issued the list. Although the list by the EFCC is said to be advisory, however, it is useful because it places the onus on the political parties to commit to the fight against corruption by fielding only candidates who have no moral burden to run for public offices. This advisory note from the EFCC is a departure from the previous actions of the agency under Obasanjo's administration in which it was used to cow and cajole political opponents or adversaries of Obasanjo. For instance, in 2006, the anti-graft agency released the names of 135 politicians it alleged were too corrupt to run in the country's elections in 2007. Most prominent was the former Vice President Atiku Abubakar who defected from Peoples Democratic Party (PDF) to run as an opposition presidential candidate. The list was considered to contain the names of those who opposed Obasanjo's tenure elongation, i.e. his bid for third term in office. However, Atiku because of his indictment went to challenge EFCC which had earlier indicted him of corruption in the disbursement of the Petroleum Technology Development Fund (PTDF).

Generally, it was believed that the ultimate aim of Obasanjo was to stop the presidential ambition of Atiku using the EFCC under Ribadu to execute the project through phony indictment. According to section 13 7 (1) (i) of the 1999 constitution:

> A person shall not be qualified for election to the office of President if he has been indicted for embezzlement or fraud by a judicial commission of inquiry or an administrative panel of inquiry or a tribunal set up under the tribunal of inquiry act, a tribunals of inquiry law or any other law by the Federal or state government which indictment has been accepted by the Federal or state government respective (Federal Republic of Nigeria, 1999:56).

It was based on the foregoing that Obasanjo wanted to stop Atiku from running for the 2007 general elections. In the same manner, Obasanjo threatened Dr. Olusegun Miniko (former Housing Minister, now governor of Ondo state) with EFCC arrest for refusing his entreaties to support governor Agagu for second term. The EFCC under Obasanjo was, therefore, a willing instrument in the hands of President Obasanjo.

To be sure, INEC following the list as released by EFCC nullified the candidature of some candidate on the bases of the indictment list that was submitted to them by the EFCC. However, the Supreme Court ruled that indictment does not mean conviction and the constitution itself states that you cannot be said to be guilty of an offence until there is a pronouncement of a court to that effect, thus it was void because it did not followed provision of 137(l)(i) of the 1999 constitution.

However, there is remarkable departure from what EFCC was under Obasanjo and what it is under Jonathan. There is no part of the provisions or law establishing EFCC that allows it to pronounce on the fitness of any candidate for public office. A person may be disqualified if indicted by any of the panels enumerated in sections. 137(1) (i) of the 1999 constitution. The recent list of corrupt politicians sent to INEC by EFCC suggests tension between political parties and the location of democratic consolidation. Although EFCC said it is an advisory list, the free operation of political parties and the current regulatory framework seem to lack equilibrium. Three level of analysis will form our point of departure, regulation of political parties, level of deregulation and finally the level of candidates and their external behavour.

Regulation of Political Parties In Nigeria

Constitutionalization of Political Parties

Political parties in Nigeria have a somewhat ambivalent status. The Nigerian system of presidential variant of democracy is based on the party system. Political parties in Nigeria are voluntary organizations, of course, subject to the general law. Increasingly, however, they are subject to specific legal regulation. Both the 1979 and 1999 constitutions established regulatory system controlling the registration, donations, constitution and rules, aims and objectives, powers of the National Assembly with respect to political parties and their expenditure.

During the colonial and post-colonial period in Nigeria, politics was dominated by the conflict arising from the parochial ethnic and private interests other than national interest, and political parties were than characterized by the interplay of primordial political loyalties and centrifugal forces. It was to prevent this attachment to ethnic and primordial sentiments that the 1979 constitution provided for the formation of political parties based on national outlook. This means that each political party must have its headquarters in the Federal capital of the Federation. In fact Section 202(a-f) of the 1979 constitution states:

> No association by whatever name called shall function as a political party, unless (a) the names and addresses of its national offices are registered with the Federal Electoral Commission I b) the membership of the association is open to every citizen of Nigeria irrespective of his place of origin, sex, religion or ethnic grouping (:) a copy of its constitution is registered in the principal office of the commission in such form as may be prescribed by the commission (d) any alteration in its registered constitution is also registered in the principal office of the commission within 30 days of the making of such alteration; (e) the name of the association, its emblem or motto does not contain any ethnic or religious connotation or give the appearance that the activities of the association are

> confined to a part only of the geographical area of Nigeria, and (f) the headquarters of the association is situated in the capital of the federation (Federal Republic of Nigeria, 1979:75).

After independence in 1960, it became obvious that the democratic constitution and the activities of political parties were undermining the stability of the nation. This was because the events of the federal elections of 1964/65 and the Western Region election of 1965 had left negative imprints on the democratic process in Nigeria. Due to the fact that the political parties were ethnically based and ethnically formed, no political party was prepared to face the prospect of losing elections, and because of this, suppression of the opposition by Regional Governments became a familiar pattern in the Nigerian democratic process. It was in this explosive situation that the army intervened in Nigerian politics on 15 January 1966 to restore peace. It was equally on this basis of avoiding the calamities of the First Republic that political parties in the Second Republic became highly regulated types. It was based on this provision that Unity Party of Nigeria (UPN), Nigeria Peoples Party (NPP), National Party of Nigeria, Peoples Redemption Party (PRP) and Great Nigeria Peoples Party (GNPP) were formed.

It was equally in the foregoing spirit that Babangida introduced unilaterally, a two - party system in Nigeria in 1991 - the Social Democratic Party (SDP) and the National Republic Convention (NRC) with a cliche "a little to the left and a little to the right". However, political parties are never imposition of the power of existing government. They involve as a matter of course by attracting people of the same ideological political persuasion.

In the same vein, the 1999 constitution, sections 221 to 229 give conditions for the formation of political parties, constitution and rules of political parties, aims and objectives, finances of political parties, annual report on finances, powers of the National Assembly with respect to political parties among others. Sections 221 and 222 (a-f) explains prohibition of political activities by certain associations and restrictions on formation of political parties in Nigeria. These sections do not depart markedly from sections 201-209 of the 1979 constitution, particularly, section 222(a-f) of the 1999 constitution.

One important concern in regulating political parties as expressed by the 1999 constitution is that INEC is an important regulatory agency. This is because several references are made by the constitution to the INEC and its roles in regulating the activities of political parties in Nigeria. Sections 222(a), (c), (d), 225(1), (2), (4), (5), (6), 226(1), (2), (3)(a-b) and 228(c), (d) give wide range of powers to INEC concerning control of political parties. These sections gave enormous powers to the INEC regarding restriction on formation, constitution and rules; finances and powers of the National Assembly with respect to political parties in Nigeria. In the same vein, the 1979 also gave enormous powers to the electoral body known then as Federal Electoral Commission (FEDECO) (See sections 202,205(1-5), 206(1-3), and 208)

The Electoral Act of 2010 as amended, sections 78 - 105 explain the various functions assigned to INEC for the regulation of political parties in Nigeria. Section 78(3) deals with the powers of the INEC to register political parties. For instance, section 78(1) states that:

> Any political association which complies with the provision of the constitution and this Act for the purposes of registration shall be registered as a political party provided, however, that such application for registration as a political party shall be duly submitted

> to the commission not later than 6 months before a general election (Federal Republic of Nigeria, 2010:19).

Some of the powers given to INEC include:

Regulation on Monitoring Political Parties

Party primaries are the internal affairs of all registered political parties in Nigeria. However, both the 1999 constitution and the Electoral Act of (2002, 2006 and 2010) empowered the INEC to monitor and keep records of activities of all registered political parties. To ensure internal democracy of all parties, section 85(1-4) gives INEC the power to monitor party convention, congress, conference or meeting convened for the purpose of electing members of its executive committees, other governing bodies or nominating candidates for any of the elective offices specific under the Electoral Act of 2010. Section 85(2) states:

> The commission may with or without prior notice to the political party monitor and attend any convention, congress, conference or meeting which is convened by a political party for the purpose of; (a) electing members of its executive committees or other governing bodies; (b) nominating candidates for an election at any level; (c) approving a merger with any other registered political party (Federal Republic of Nigeria, 2010:22).

To be sure, punishments or fines for breaching the provisions of the Electoral Act is related to monitoring of political parties and is provided in section 86(4). It states that a political party which fails to provide the required information or clarification under subsection (2) of this section or carry out any lawful directive given by the Commission in conformity with the provisions of this section is guilty of an offence and liable on conviction to a fine of not less than N500,000.00 (Federal Republic of Nigeria, 2010:22)

The provisions of these sections and the powers given to INEC are to ensure internal democracy which is very important in the democratization process in ensuring that there is a credible electoral process in place. This is because many political parties do not take the issue of internal party democracy with the seriousness that it deserves. It is important parties respect their constitutions and the provisions of the Electoral Act.

In monitoring political parties, section 86(1-4) of the 2010 Electoral Act states that:

- The commission shall monitor and keep records of the activities of all the registered political parties.
- The commission may seek information or clarification from any registered political party in connection with any activities of the political parties which may be contrary to the provisions of the constitution or any other law, guidelines, rules or regulations made pursuant to an Act of the National Assembly.
- The commission may direct its enquiry under subsection (2) of this section to the Chairman or Secretary of the political party at the National, State, Local Government or Area Council or Ward level, as the case may be.
- A political party which fails to provide the required information or clarification under subsection (2) of this section or carry out any lawful directive given by the commission in conformity with the provisions of this section is guilty of an offence and is liable on conviction to a fine of not less than NSOO.OOO.OO (Federal Republic of Nigeria, 2010:22-23).

Regulation of Finances of Political Parties

Political finance is influenced by and influences relations between political parties, politicians, party membership and the electorate (Walecki, 2003:1). Money matters for democracy because much of democratic political activity simply could not occur without it. There are three motives for providing political funds: (a) idealistic or ideological, (b) social aiming at social honours or access, and (c) financial, striving for material benefits (Walecki, 2003). The latter comes as no surprise, but it can have major political consequences. It was because of the consequences that EFCC was established in 2004. It was equally because of this that the EFCC published the names of politicians who have been indicted in financial crimes and suggested that they should not be allowed to contest in the 2011 general elections or hold public offices.

Indeed, problems of party finance are at the heart of the debate on political corruption as indicated by the EFCC. Under section 225 of the 1999 Nigeria constitution, party expenditure is regulated. In the 2010 Electoral Act, INEC is given powers for the regulation of party finance. It limits the amount of money to a political party and amount on election expenses. These categories include amount of expenditure for National Assembly elections, presidential elections, State Assembly election, and Local Government elections. However, section 88(1) (a-b) of the 2010 Electoral Act explains offences in relation to finances of a political party. It states that

- Any political party that holds or possess any fund outside Nigeria in contravention of section 91(3)(a) of this Act commits an offence and shall forfeit the funds or assets purchased with such funds to the commission and on conviction shall be liable to a fine of not less than N500,000.00.
- Retains any fund or other asset remitted to it from outside Nigeria in contravention of section 91(3)(b) of this Act is guilty of an offence and shall forfeit the funds or assets to the commission and on conviction shall be liable to a fine of not less than N500,000.00

The Act sets the punishment or fines if contravened by candidates. Election expenses incurred by political parties for the conduct of an election are determined by the INEC in consultation with the political parties. (See section a3, a2,(2), (3), (4) and 5. These subsections give the INEC enormous roles in controlling party finances.

The above mentioned provisions of both the constitution and the Electoral Act are significant because generally, corrupt political party finance involves behaviour on the part of a candidate or a party, in which they improperly or unlawfully conduct financial operations for the gain of a political party, interest group or an individual. Most often, political corruption involves the use of public office for unauthorized private gain. It was to accommodate high positions within political parties that section 228(c) of the 1999 constitution becomes imperative. This section tries to prevent illegal political party finance which refers to contributions or use of money that contravene existing laws on party financing. The irregular political finance system refers to legal contributions from disreputable sources or acceptance of money in return for favours. The restriction imposed on political parties by funding regulations; however, often times create loopholes allowing for irregular party finance in Nigeria. This is because the party system are fragmented and non-institutionalized and therefore encourages big business especially machine politics (godfatherism). The effect is that Nigerian politics is tied to business projects administered by powerful political machines that enjoy political immunity which use the state power as means of production (wealth, capital etc).

It was from the foregoing that EFCC was established in 2004. Part II, section 5 sets out the functions of the commission. Section 5(1) (1 -b) states that:

- The commission shall be responsibly for the enforcement and the due administration of the provisions of this Act;
- The investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal change transfers, futures markets fraud, fraudulent encashment of negotiated instrument, computer credit card fraud, contract scam, etc.
- The co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority (Federal Republic of Nigeria, 2004:2-3).

The commission is also charged with the responsibility of enforcing the provisions of the money laundering Act of 1995 and other miscellaneous offences Act and any other law or regulations relating to economic and financial crimes in Nigeria. Its function and power to investigate the financial activities of political parties is that political parties in Nigeria are partly funded by the state.

The regulatory framework requires that political parties prepare regular audited financial reports. Most party funds, though come through party financiers and the full information of the amount of money donated or given to the party rarely enter the formal process of party accounts. Indeed, the role of money in recent times in Nigerian politics is so overwhelming that it tends to supersede other considerations, that the regulatory agencies such as EFCC have become inevitable.

Parliamentary Rules and Political Parties

The National Assembly procedures in Nigeria come from various sources, including practice, standing orders and Acts of parliament. The National Assembly may by law provide for the punishment of any person involved in the management or control of any political party found after due inquiry to have contravened any of the provisions of sections 221,225(3) and 227 of the 1999 constitution. It is empowered with respect to political parties to provide for the disqualification of any person from holding public office on the ground that him knowingly and or abets a political party in contravening section 225(3) of the 1999 constitution. It may also by law provide for an annual grant to the INEC for disbursement to political party on a fair and equitable basis to assist them in the discharge of their functions and for the conferment on the INEC of other powers as may appear to the National Assembly to be necessary for the purpose of enabling the INEC more effectively to ensure that political parties observe the provisions of the part of the 1999 constitution (See sections 221 -229).

Accordingly, the National Assembly approved a N600 million budget for the 30 registered political parties in the April 2003 general elections. The INEC disbursed N18 0 million to all political parties with N6 million each in line with section 80(2)(a) of the Electoral Act 2002 stating "30% of the grant shall be shared among the political parties participation in respect of a general election for the grant has been made"(Okoye,2009:15).

The Nigerian National Assembly is organized around the representation of political parties. Political parties have been an integral part of the body since 1922 when party politics was first introduced in Nigeria as a parliamentary practice. By convention, its membership is based on election.

Deregulation of Political Parties in Nigeria

The second level of analysis is deregulation of political parties in Nigeria. At this level of deregulating political parties' activities, the activities of all political parties in Nigeria have become a free for all programme. This has implication for internal democracy of political parties; for many of them lack internal democratic order, due essentially to the dominance of machine politics (godfathers) in the functioning of these parties. This is particularly rampant in the conduct of parry primaries which show absence of civility within the parties and their campaigns.

The deregulation of political parties became obvious when in 2002 the Human Right Lawyer Gani Fawehinmi sued INEC to court, arguing that it has no right to refuse associations to contest the 2003 general elections. No sooner had the 1999 elections held that politicians from all divides, who were either not comfortable with the arrangement within the three existing parties then Alliance for Democracy, (AD) the AH Peoples Party (APP) and the Peoples Democratic Party (PDP)) in running the affairs of these parties, began a struggle to have their associations registered as political parties. Secondly, they were equally attracted by the grants given to each of the political parties to run their affairs. Though the INEC was hesitant or refused registering new political parties after the 1999 elections, but in June 2002 it registered other parties. It registered only three out of 30 that had earlier applied to it for registration. However, the registration of only three additional political parties at that time did not go down well with some people, particularly, chief Gani Fawehinmi, who had been at the forefront of the fight for the democratization of the nation's political space to accommodate some other political parties, including his own National Conscience Party (NCP). Irked by INEC's insistence that it would not register any other party Fawehinmi headed for the courts to compel the INEC to register his party.

After a protracted legal battle, the Appeal Court finally decided the case in July 26Ih, 2002. The court invalidated the grounds on which the electoral body denied applications of the 27 groups for registration as political parties. The court said the commission's registration guidelines and aspects of the Electoral Act of 2001 on which they were based were contrary to the provisions of 1999 constitutions and restrained INEC from basing the registration of political parties on the aforesaid offending provisions of the guidelines and the Electoral Act (Okohue, 2009:1).

With this verdict, formation of political parties following regulations from INEC was lost and they became thus deregulated types. Specifically, the court's verdict played prominent roles in this process of deregulation of parties in Nigeria. One important aspect is that INEC should scrap the registration fee of N100, 000 payable by each of the parties before they are registered. The other requirements voided by the court of Appeal were that political parties set up offices in two-thirds of Nigeria's 36 states; submit their bank statements to INEC and mention the names and addresses of the members of their executive organs. After the appeal from the Appeal Court to the Supreme Court, its verdict on Friday, November 8,2002 did not depart from the rulings of the Appeal Court of July 26th, 2002 and dismissed INEC's appeal against the Court of Appeal judgment which had declared as illegal and unconstitutional the guidelines used by INEC for the registration of political parties in Nigeria. Thus, registration of political parties became liberalized.

The judgment was no doubt a big victory for Gani Fawehinmi and his National Conscience Party (NCP) as well as the other political parties which jointly instituted the court case. Following that judicial victory, 22 of the political parties that contested the INEC's decision not to register them in court were registered on December 3, 2002, in addition to the above six brining the members of registered political parties to a total of 28 towards the 2003 general elections (Okohue, 2009:3). Since then more parties have been

added bringing the list of political parties in Nigeria presently to 64, from the original three. However, despite the outcry in some quarters for the National Assembly to streamline the number of political parties in Nigeria in order to create room for viable opposition in our democratic process through constitutional amendment the number continues to grow and it is not certain when the counting will end. This is because even the 1999 constitution on which the court ruling was based itself contains much undemocratic, pro-rich conditionality. Those include the requirements that political parties must have their national headquarters at the Federal Capital Territory and that the members of their national executive committee must come from at least two-thirds of the states in Nigeria. These are some conditions which can only be met by money bag politicians and groups (see section 222 of the 1999 constitution). The above guideline gave rise to a situation in which political "godfathers" play a major role in internal party politics. Even though political parties have formal procedures for the election of their leaders, but these procedures are often disregarded; when they are adhered to, the godfathers have means of determining the outcome.

Political Parties, Candidates and their External Behaviour

The third level of our analysis lays emphasis on political parties, candidates and their external behaviour. Essentially, their external behaviour of candidates is propelled by the internal dynamics of political parties. Although political p arties are indispensable for the efficient functioning of democracy, however, finding the proper conditions for better internal functioning and external activities has become difficult. Even though, many societal problems have defied solution in Nigeria, but the most persistent and prominent is the issue of corruption, a phenomenon which has been part of our national life for decades. Two regulatory agencies are important here, the EFCC and the law courts. Their roles are recognized because they have played significant functions in determining the fate of candidates concerning party primaries and their external behaviour in terms of use of public funds while holding public office. For instance, the role the Supreme Court played in restoring Rotimi Amechi as the rightful candidate for PDF primaries and the subsequent installation as the Governor of Rivers state becomes illustrative. Secondly, the prosecution of many politicians deemed to have corruptly enriched themselves by EFCC is another instance and these two will.form our part of departure in this section.

Judiciary and Political Parties

The judiciary in Nigeria since the return to democracy in 1999 is playing high profile roles in the resolution of electoral disputes, disputes between and within political parties. These roles are more manifest in decision concerning the eligibility of candidates to contest elections, the parameters and roles of political parties in the selection and nomination of candidates to contest elections, the question of whether a candidate declared as the winner scored a majority of lawful votes at the election and whether the candidate was eligible in the first place to contest the election (Okoye, 2009:127). There are many levels at which the judiciary regulates the actions and behaviours of political parties and politicians. The State and Federal High Courts, the Election Tribunals, the Court of Appeal and the Supreme Court are playing important roles in resolving some electoral disputes. Those who drafted the 1999 constitution created and empowered the courts at different levels to adjudicate on matters involving electoral disputes prior to, during and after elections.

Selection of candidates for an election is basically a party affair in Nigeria; however, cases arise from time to time regarding individuals challenging the procedures for the selection of a party's candidates for election to public office in law courts. The 1999 Nigerian constitution provides that the judiciary shall take decisions in any civil or criminal proceedings based on questions of interpretation or application of

the provisions of the constitution. Therefore, for effective administration of justice in a democracy, courts have definitive and decisive roles to play.

In the same vein the Electoral Act of 2010, under section 133 and 138(1) and (2) empowers the tribunals or courts to determine questions/petitions arising from election including questions of candidate's qualification for election, the question of whether a candidate is duly elected or not. Furthermore, the judiciary plays vital role in determining whether the INEC has the power to screen, disqualify or verify claims of the part flag bearers, thereby giving the judiciary the jurisdiction to review the actions of the electoral body on issues that go contrary to the dictates of the constitution.

The history of the nascent democracy in Nigeria is characterized by blatant disregard to the practice of rule of law. Many acts such as illegal and unconstitutional submission of candidates at will by godfathers at all level of governance were rampant, all to the flagrant disregard of the rules of political parties. The effect of the disregard of party rules and electoral rules by political parties in essence led to the intervention of the judiciary in the electoral processes. It is from the foregoing that the godfathers abuse party constitutions, and made political parties weak and flawed. See Ugwu V Ararume, 2007) 31 WRNI; Rotimi Amechi V INEC, Omehia and PDF (Sc. 252/2007).

In the case of Rotimi Amaechi V INEC, Omehia and PDP, issues of emergence, removal and replacement of party candidates formed the bulk of post election litigations in the 2007 elections. The PDP's gubernatorial election primaries in Rivers state in 2007 saw the emergence of Hon. Rotimi Amaechi as the gubernatorial candidate of the PDF. His name was submitted to the INEC as duly elected by the party to contest for the governorship race in the state in accordance with section 32(1) of the Electoral Act. This section states that every political party shall not later than 120 days before the date appointed for a general election under the provisions of the Act submit to the commission in the prescribed forms the list of the candidates the party proposes to sponsor at the elections.

However, on February 2,2007 PDF forwarded the name of Celestine Omehia to INEC as substitute for Amaechi, without any cogent or verifiable reason, a gross violation of section 34(2) of the Electoral Act. It is instructive to note that Omehia did not participate in the party's governorship primaries in the state. Amaechi went to court. Ruling on the case in the Federal High Court, Justice Binta Murtala Nyako nullified the purported candidacy of Omehia by setting aside the substitution of Amaechi with Omehia by INEC. She described the substitution as reprimandable while the case is sub judice (http://onelga.com/AmaechLOmehia.htm). Amaechi immediately went to the court of Appeal in Abuja to declare him the substantive PDF gubernatorial candidate for Rivers State, following the High Court ruling that nullified Omehia's purported candidacy. Omehia cross-appealed, praying the appellate court to set aside the judgment, that set aside his candidacy.

During the process, PDF expelled Amaechi from the party, thereby committing another illegality. Yet, the Court of Appeal went ahead to strike out Amaechi's substantive appeal to be declared as the substantive PDF candidate in Rivers state for the governorship polls, a few days to the elections. The court said it lacked jurisdiction to adjudicate upon the appeal due to the purported expulsion of Amaechi from the PDF The Supreme Court, in its ruling on May 11,2007, remitted the case back to the Court of Appeal for retrial on the grounds that the Appellate Court was in error to have declined jurisdiction in the appeal. However, the Court of Appeal referred the matter back to Supreme Court for clarification. In

July 20, 2007, the Appeal Court finally ruled that PDF complied with the Electoral Act in replacing Amaechi.

Based on this ruling of the Appeal Court, Amaechi went to the Supreme Court on the ground that the Appeal Court erred in law by failing to follow the path of Ugwu V Ararume case in SC/63/07, in which the Supreme Court ruled that PDP's substitution of Ararume with Ugwu was not in order. He then sought its interpretation and removal of Omehia as the governor of Rivers State.

In November 2007 Amaechi won the case as the governor of Rivers state and therefore declared the appellant Rotimi Amaechi the one entitled to be the Governor of Rivers state since he was the lawful candidate of PDF. The court ordered that Celestine Omehia vacates the seat immediately and Amaechi be immediately sworn in as the Governor of Rivers state. The activist role of the judiciary in the nullification of election results and disregard to party internal democracy makes it to transcend its minimal role of interpretation of electoral laws to determining who won the contested election based on evidence before it.

The Missing Gaps

The development of political parties and its regulatory framework must be understood against the wider context of how the political system has developed since 1999. The regulatory framework has been modified since 1999 due to deficiencies of the 2003 and 2007 general elections. The 2011 elections were also regulated by the 2010 Electoral Act as amended. The inadequacies of the electoral Act contributed to the problems of the electoral process with impact on party behaviour and development. These inadequacies include, first, it was not passed with sufficient time for the regulatory framework to be in place for the 2007 and 2011 elections. Second, there was dissatisfaction among key stakeholders regarding the failure of the law to ensure sufficient levels of impartiality and independence of the INEC from executive power of the government.

The 1999 constitution mandated INEC to be in-charge of managing the federal and state elections in Nigeria. It is expected that INEC will be fair and impartial in carrying out its responsibilities in ensuring probity of the electoral process and monitoring the conduct of the political parties. However, the constitution allows the president to appoint the leadership of the INEC. This power of appointment of INEC leadership has attracted criticisms because it seems as the in power that produced the president controls the INEC and its leadership. The fact of dominant party rule means that it is perceived to be strongly biased in favour of the interests of the incumbent ruling party. This is why ever since the conduct of the 2003 and 2007 elections, INEC was criticized as lacking credibility and political impartiality. The credibility and capacity of INEC to regulate party behaviour or conduct was seen by other political parties as key element undermining political party development in Nigeria.

Due to the deregulated character of our parties, they exhibit a range of pathologies. They are poorly institutionalized with weak policy capacity and shifting basis of support. They are formed around narrow personal interest and have little in the way of coherent ideology. As a result, parties in Nigeria are unable to ensure discipline within them.

This is why Nigeria retains very illiberal regulatory framework for the regulation • and function of political parties. Section 222 of the 1999 constitution restricts the definition of a political party to organizations registered by INEC, under the stringent conditions stipulated by section 221-229. Section 299 defines a political party as "any association whose activities include canvassing for votes in support

of a candidate for election to the office of President, Vice President, and Governor, Deputy Governor or membership of a legislative house or of a local government council (Federal Republic of Nigeria, 1999:88). This definition of a political party is very narrow because it reduces the essence of political parties to canvassing for votes during elections

Other stringent conditions include the requirement for parties to register with the electoral management body; have headquarters situated in Abuja; and have names, symbols that do not have religious or ethnic connotations (see section 222 (a-f) of the 1999 constitution). The consequences of the section are that parties that emerged must be very big, very rich and have the capacity to bring together money-bags from different parts of the country. Consequently, ideology is not made a priority in the formation of political parties and as such party formation encourages establishment of ethnic coalitions led by godfathers with strong financial backing. In effect party formation is not the aggregation of people with similar ideological interests, but, the establishment of ethnic coalitions and godfathers. This gives rise to a situation in which political machines play a major role in internal party politics.

Conclusion

Nigerian political parties were conceived to be cohesive, national in outlook. Nonetheless, the aim or political project of most Nigerian parties has been the development of a national system for sharing out the "national cake" as a system of patronage. This is why the political parties are established as coalitions of various factions of regional and economic rent-seekers. Most party leaders see their political party activity as a means to further their business interests and disregard the regulatory mechanisms for its control.

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