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DEMOCRATISATION, DEMOCRACY AND SOCIO-LEGAL ASPECTS OF POLITICAL PARTIES IN NIGERIA

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ABSTRACT

There is a cordial interaction among the three-some regimes of ‘democratization,’ ‘democracy’ and ‘socio-legal’ aspects of political parties in Nigeria. A political party is a legitimate association of free men and women who congregate and agglomerate for the purpose of wrestling power through the ballot box and forming the government in a democratic state. Democratisation as a matter of fact, is the harbinger of democracy which is a form of government. Democracy is about developing the political culture or specific behavioural norms that protect individual and group rights in a political process. Significantly, democracy is that form of government in which the sovereign power resides in and is exercised by the whole body of free citizens directly or indirectly through a system of representation as distinguished from monarchy, aristocracy or oligarchy. Consequent on the foregoing, the authors argued that a political party must exhibit if not all, but some of the three-some regimes of democratisation, democracy and socio-legal ingredients as well as check the dominance of godfathers in order to be viable and command the compliance of members. The paper therefore concluded that certain challenges such as the effect of godfatherism on democratisation as well as internal democracy operated to hamper the smooth running of the socio-legal aspect of good governance in the entirety of the Nigerian political space.

Keywords: political-party, democratisation, democracy, socio-legal, good governance

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1. Introduction

It has been maintained that the concept of democracy presupposes in the first instance, is a widespread participation¹ or limited participation,² by the citizenry in the formation and running of the affairs of government in their locality, community, state or in the wider context, country. This process encompass the formation of a political party, grooming of the party, registration of the party and eventually, the talent-spotting of candidates for elective offices, and nonetheless, the management of the affairs of the party.³ The democratic process of talent-spotting eligible candidates for election takes into consideration the need for fielding candidates with unblemished records as well as outstanding achievers to fly the party flag.⁴

Internal democracy in political parties refers to the degree of participation and influence that members have within the party's decision-making processes. This includes the selection of party leaders, the development of party policies, and the nomination of candidates for elections. Internal democracy significantly extends to accountability of party leadership, procedures for consultation with party members, and transparent candidate selection processes. The legal regulation of internal party organization is also an important feature of party regulation in many countries. This regulation takes the form of specific legal or constitutional requirements on intra-party democracy, which serve as an important tool for shaping the internal functioning of political parties.⁵ Political parties play a key role in the democratic processes of a country, of which the Nigerian state is not left out. There is a growing concern that relates to the role of money in politics as well as godfatherism in

¹ This thinking is premised on Abraham Lincoln's definition of democracy as 'government of the people, by the people, for the people.' I intend to add that this postulation is open ended, accommodating a wide variety of participants.

² Democracy is equally limited in scope considering the small number of participants who have wrestled power from the electorates. E. E. Schattschneider's definition of democracy captures this viewpoint. According to him, 'democracy is a competitive political system in which competing leaders and organisations define the alternatives of public policy in such a way that the public can participate in the decision making process.' See generally, Yemi Osibanjo & Awa Kalu, *Democracy and the Law* (Lagos: Federal Ministry of Justice Pub.) 1991, P. 15

³ It should also be noted that the concept of democracy is equally recognised in both formal and in-formal associations, but for the purpose of building a systematic perspective for this note, democracy is hereby conceived as holistically appertaining to party politics.

⁴ See generally, A. K. Anya & C. E. Anya., 'The Constitutional Practice of Legislative and Executive Impeachment: Continuity Tool for Democracy, Democratization and Good Governance in Nigeria?', *University of Benin Law Journal* (2013) vol. 14 No.1 Pp. 152-164; uploaded in 2022 by author in <scholar.google.com/anyakingsleyanya>; <researchgate.com/anyakingsleyanya>

⁵ <<https://introduction-to-internal-WFFanSAyQy6EIyRzUc22JQ#:~:text=Internal%20democracy%20in%20political,functioning%20of%20political%20parties>>

addition to society's lack of trust in political parties. "Godfatherism" within political parties manifests as a phenomenon where influential individuals, often referred to as "godfathers," wield significant power and influence over party affairs, candidate selection, and decision-making processes. This practice can lead to the concentration of power in the hands of a few elite members, potentially undermining internal democracy and fostering opaque and unaccountable party structures. In Nigeria, for example, the concept of godfatherism has been associated with confusion, tension, and crises within political parties, highlighting the challenges posed by such relationships in the country's political landscape. The influence of godfathers can complicate party dynamics and hinder the democratic functioning of political organizations by centralizing power in the hands of a select few.

Consequent on the foregoing, this paper strives to focus on the intricate but concomitant regime of democratisation, democracy and socio-legal aspect of political parties in Nigeria. This focus will afford us the opportunity of harvesting improved party governance and funding rules as well as enhancing transparency and accountability in the Nigerian socio-legal space. The paper is divided into parts encompassing nature and scope of political parties; democratisation and democracy in political parties in Nigeria; socio-legal regimes of democratisation and democracy in political parties; framework on democratisation and democracy in political parties; challenges and prospects of democratisation democracy and socio-legal aspects of political parties in Nigeria and thereafter the conclusion.

2. Nature and scope of political parties

Political party is a legitimate association of free men and women who congregate and agglomerate for the purpose of wrestling power through the ballot box and forming the government in a democratic state.⁶ It is also obvious that the degree to which a party is able to meaningfully contribute to the political process is related to the existence of several factors: the development and maintenance of strong party organization with the depth and breadth necessary for their operation and the degree of the institutionalization of the party as indicated by its historical roots, longevity, survival and continuing support. Again, the capacity to meet these conditions is a determinant of their potential contribution to the institutionalization of democratic government. In the case of Nigeria, the situation is such that the formation,

⁶ See, Jesse U. Anya, Godfatherism and the impact on Nigerian governance, (unpd. Long essay) University of Benin Faculty of law, 2024, Pp. 3, 5

operational organization and other activities of political parties seemingly serve parochial interests and thereafter redound to inefficiency.⁷

The importance of internal democracy as a cornerstone of the political system explores how democracy within the incumbent party can aid citizens in monitoring the government, examining if internal accountability of party leaders enhances their external accountability as public office holders. Establishing internal democracy as a cornerstone of a political system is crucial as it empowers people to choose their representatives through elections, giving them control over their political leaders. Internal party democracy plays a significant role in maximizing various components of democracy within political parties, shaping organizational structures and power-sharing dynamics. The concept of intra-party democracy (IPD) raises essential questions about whether a party's leadership should determine policies or if decisions should involve mass members. Ultimately, the significance of internal democracy lies in fostering participatory and inclusive processes within political parties, which are fundamental to the broader democratic framework of a society. However, the Nigerian example of what transpires in political parties will afford us the opportunity to appreciate internal democracy in detail.

3. Democratisation and democracy in political parties in Nigeria

Generally speaking, there is a nexus between existence of rights, democracy and democratisation. Democracy is that form of government in which the sovereign power resides in and is exercised by the whole body of free citizens directly or indirectly through a system of representation as distinguished from monarchy, aristocracy or oligarchy.⁸ The concept of democracy envisages wide and varied participation. That is to say, participation of the electorates in the process of electing officials into public offices as well as hazarding means of checking the activities of officials so elected. The process of voting or election of officials is paramount in any democratic system. Election without undue influence is a cardinal principle of the electioneering process. There are certain pre-requisite conditions germane to sustenance of voting culture in a democratic system, and it includes: voters right to have his franchise

⁷ What is discernible in the Nigeria political scenario is the lack of proper organization and apparently, perception of what a political party ought to be in a democracy, which is far from what is obtainable in praxis. The records of inter and intra-party squabbles in Nigeria, both in terms of principles and practices, points at political parties in contributing immensely to the crisis that has endangered the political system in Nigeria as well as attendant rot in the electoral arena where elections, in particular have been controversial, often lacking in credibility.

⁸ *Black 's Law Dictionary*, Henry Campbell M.A, 6th ed. (St. Paul, West Publishing Co.) 1990

recognised through registration; voting without being segregated into categories dividing the electorate and revoking the pleas of popular sovereignty; an expectation that his ballot should be counted accurately even if it goes against the wishes of those in power.⁹

On the other hand, democratisation is not necessarily about democracy as a form of government,¹⁰ but it is about developing a political culture or specific behavioural norms that protect individual and group rights in the political process.¹¹ In other words, democracy is seen as focused on the society through the instrumentality of voting system, while democratisation is inclined towards individual and group rights, in any given political system.

For instance, the World Conference on Human Rights in Vienna 1993 unequivocally emphasised the principle of the indivisibility of human rights and the right to development.¹²

In fact article 8 provides:

Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives. In the context of the above, the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached. The international community should support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world.

Internal democracy denotes various means of carrying along all party members in internal party decision making and other deliberations.¹³ Internal democracy is the pillar behind a proper functioning of democratic system. However, it has been argued that the logic of party competition is what made a vibrant functioning democracy and not internal democracy.¹⁴ Internal democracy is an all-inclusive top to bottom approach party decision making involving party primaries, representation, accountability and fair ground for all members to be

⁹ P. A. O. Oluyede., 'Constitutional Law in Nigeria,' 1st ed. (Ibadan: Evans Brothers Nigeria Publishers Ltd.) 1992.

¹⁰ Hans-Otto Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 HUM RTS. Q. 734, 739 (2000)

¹¹ Ranjan Agarwal, *The Barefoot Lawyers: Prosecuting Child Labour in the Supreme Court of India*, Arizona Journal of International & Comparative Law Vol. 21, No. 2 (2004) p. 1

¹² Vienna Declaration and Programme of Action (U.N. World Conference on Human Rights, U.N. GAOR, U.N. Doc. A/CONF.15/23). June 14-25, 1993.

¹³ S. Scarrow (2005) *Political Parties and Democracy in Theoretical and Practical Perspectives: Implementing Intra-Party Democracy*. Washington: National Democratic Institute. Schumpeter, J. (1942) *Capitalism, Socialism and Democracy*. New York: Harper & Row.

¹⁴ G. Sartori,(1977) *Parties and Party System: A Framework for Analysis*: Cambridge University Press

carried on board by the party internally. Internal democracy or intra-party democracy means parties have an agreement laid down procedure and principles of mutual decision making and avoiding of conflict or managing it in order to prevent arbitrary decision or imposition of candidates as against the majority members wish. Internal democracy is vital for democratic consolidation and representation. It provides a room for proper recruitment of members, socialisation, training, discipline, accountability and transparency. Any party that lacks internal democracy is considered as undemocratic even though no political party can declare itself as undemocratic even if it is so.

Internal democracy involves parties' selection of candidates, consultation, internal principles of party discipline and sanction and promotion of parties' ideology.¹⁵

4. The Socio-legal regimes of democratisation and democracy in political parties

There are two major ways of promoting not only internal democracy but democratisation in the socio-legal space in a state. This includes advocacy and legal/regulatory measures. The advocacy perspective includes selection of party leaders, party representative for election, collective decision making and peaceful negotiation. The second aspect is legal/regulatory means which should consist of party constitution, gentleman agreement on principles and regulations governing representation, minority consideration, negotiation and punishment for members.¹⁶ Internal democracy is the process of consolidating wider democratic principles and the method of instituting party politics and discipline in political parties. It is an avenue where political parties foster the transparent means of party nomination or primaries, ideological underpinnings of members and maintenance of discipline and order. Internal democracy expresses the basic principles of democracy within political parties.¹⁷ Internal democracy is the assumption that transparency, accountability and fair play in terms of equal opportunity should be available and accessible to all party members.¹⁸

In the absence of internal democracy, a great problem ensue which tramples the tenets of democracy and democratic values and this problem is intra-party conflicts, with tendency to portend socio-legal crisis in the state.¹⁹ Intra-party conflicts have many implications on the Nigerian political parties and democratisation processes including cross-carpeting, violence,

¹⁵ A. Awofeso, & P.A Irabor (2016). Party Cross-Carpeting in Nigeria's Fourth Republic: Cases and Causes. *Journal of Public Administration and Governance Macrothink Institute*, 6(3), 31-41.

¹⁶ T, M. Hallberg. (2008). Methods of Promoting Internal Democracy in Political Parties, <URL: etrievedfromfile:///C:/Users/USER/Desktop/ACADEMIC%20FILES/INTERNAL%20DEMOCRACY/Methods%20of%20Promoting%20Internal%20Democracy%20in%20Political%20Parties%20—.html.>

¹⁷ M. A. Jude, & M. G. Ika, (2013). The Implications of Intra-Party Conflicts on Nigeria's Democratisation. *Global Journal of Human Social Science; Political Science*, 13(6), 1-13

¹⁸ I. P. Okhaide, (2012). Quest for Internal Party Democracy in Nigeria: Amendment of Electoral 2010 as an Albatross, *International Journal of Peace and Development Studies*, 3(3) 57- 75.

¹⁹ Intra-party conflict has been known to have taken place in Nigerian democracy and Nigerian political parties since the First Republic (1960-1966). However, its manifestations become more pronounced in the Fourth Republic (1999-Date) perhaps, because of the longer democratisation period ever witnessed in the history of the country.

anti-party activities, instability, poor governance and other obstacles to proper democratisation.²⁰

It is alleged that intra-party conflicts and lack of internal democracy are the two major factors that grounded the former ruling People's Democratic Party (PDP) which has ruled Nigeria for straight sixteen years (1999-2015) and still controlling some states post 2015.²¹

Internal democracy within political parties refers to the level of democratic governance and decision-making processes within the party itself. It involves how party members are involved in the formulation of party policies, the transparency of party operations, the accountability of party leadership, and the mechanisms for selecting candidates and leaders. Some of the indices associated with internal democracy and good governance include the following: transparency and accountability, inclusive decision-making, election of leadership, party structure, legal regulations and voluntary party rules.

Democratisation is a well-prepared agenda and a dedicated attempt to institute enduring democratic principles and values in practice.²² It is often associated in modern times with countries like Nigeria that witnessed intermittent military rule which initiated a setback for democratic rule. Any time such interruption occurred, the countries have to start a fresh process and rebuild democratic institutions. It is a gradual and persistent process of political growth to attain good governance, sustainability and better means of governance. The above disclosed that democratisation is a process of Democratisation has basically three phases. The stages are the fall or demise of the authoritarian regime, consolidation and lasting democracy gradual development of a political system.²³ It was identified that there are "Third Waves of Democratisation" in newly emerging democracies like Nigeria in the late 21st century. It identified the three waves as reforming authoritarian systems; overthrowing authoritarian regimes and negotiating regime changes. It further emphasized that democratization has many characteristics such as compromising and the participation, moderation trade-off, election and

²⁰ A. Awofeso, & P.A Irabor (2016). Party Cross-Carpeting in Nigeria's Fourth Republic: Cases and Causes. *Journal of Public Administration and Governance Macro think Institute*, 6(3), 31-41.

²¹ Inclusive of J. Paden (2015) Midterm Challenges in Nigeria: Elections, Parties and Regional Conflicts. *United States Institute of Peace. Security Analysis and Research. Evolving Security Situation in Advance of Presidential Elections*, 14 February 2015. This is the common opinion of many scholars and The Centre for Public Policy Alternative (2015) that it was what gave the then, opposition All Progressive Congress (APC) an edge in winning the 2015 General Election and toppling the PDP from power.

²² A. K. Anya, supra.

²³ R.P.N Gunther, P.N Diamandourous, & H.J Puhle (1995). *The Politics of Democratic Consolidation: Southern Europe in Comparative Perspective*. Baltimore: The Johns Hopkins University.

low levels of violence. As a result of political order in changing societies like that of Nigeria which are battling to democratize and to shake up military in political offices.²⁴

There are identified five stages of process of democracy and democratization in Nigeria. The first stage is pre-colonial period where states emerged around 11th Century AD with a well-organised state structures and institutions that resembled democracy in terms of decision making most especially in centralized areas of Yoruba Kingdom in the South-western Nigeria of today and the Hausa States in the Northern part of Nigeria today. The second stage is the colonial period where democracy and democratization took a different dimension in which western model political institutions along liberal democracy were introduced. Political parties and contest for elective offices started from 1922 until 1960 when the political independence was finally secured. The third democratization process in Nigeria is the post-colonial period during the First Republic,²⁵ where indigenous democratically elected officers led Nigeria under a Republic before the bloody military coup in 1966 which terminated the democratization process. The fourth stage is the intermittent democratization in the 1970s, 1980s and 1990s with incessant military incursion in-between as in 1984 coup, 1985 coup, interim civilian government of 1992, coup of 1993 and democratization in 1999 under the current Fourth Republic (1999-to date) which is the longest democratic experiment in Nigeria.

Nigerian democracy and democratisation is mostly a transitional process after prolonged excruciating military rule and this is why it is almost enshrouded in problems particularly internal democracy which created intra-party conflicts. The transition is faulty as in most African countries because there are flaws that made the process weak such as military imposition²⁶ and political cleavages such as ethnicity, religion, regionalism and elitism.²⁷ The election that witnessed transition to the present Fourth Republic is faulty and a flawed election with irregularities and malpractices.²⁸ While Nigeria has made a giant effort in its return to democratic rule for sustaining a longest civilian rule in the history of the country so far, the history of the experiences of the democratic rule leave much to be desired as the

²⁴ S. P. Huntington, (1995). *The Third Wave: Democratisation in the Late Twentieth Century*. Oklahoma: University of Oklahoma Press.

²⁵ Between 1960 and 1966

²⁶ V. Nyewusira & K. Nweke (2012) 'An Appraisal of Nigeria's Democratisation in the Fourth Republic (1999-2010). *International Affairs and Global Strategy* 6(1):1-11

²⁷ M. Okolocha. (1992). Prolonged Faltering Democratic Transition in Nigeria" in Oseghea, O. (Ed) *Democratic Transition in Africa*. London: Kraft Publishers.

²⁸ Lucky, supra

transition process to full democratic rule was marred in political quagmires such as ethno-religious factor, absent of true federalism, poverty, corruption, election rigging, politics of godfatherism, security challenges and many other socioeconomic and political obstacles.

5. Legal framework on democratisation and democracy in political parties

The legal framework for internal democracy in Nigeria is primarily governed by the Nigerian Constitution and the Electoral Act, which emphasize the importance of due process, fair play, equity, and good conscience in the conduct of political party affairs.

i. The Constitution of the Federal Republic of Nigeria

Section 228(a) of the Constitution requires political parties to obey their own constitutions and rules of the game.²⁹ The Electoral Act also stipulates that political parties must conduct their internal affairs in accordance with their constitutions and rules. Despite these legal provisions, the practice of internal democracy in Nigeria has been limited, leading to a lack of inclusiveness and a narrow distribution of power within political parties. This has hindered the deepening of democracy in Nigeria. To address these challenges, there have been calls for the reform of relevant sections of the Nigerian Constitution and Electoral Act to support internal party democracy. This includes measures to ensure that party primaries are conducted in a transparent and inclusive manner, with all members given the opportunity to participate in the selection of candidates. The lack of internal democracy in many political parties in Nigeria has created a general loss of confidence in voters toward the electoral process and democratic consolidation. Political party leadership in Nigeria rarely heeds the relevant constitutional provisions and laws on internal party affairs, leading to a lack of confidence in the judiciary's ability to enforce these laws. The erosion of internal democracy has also led to the congestion of the courts' dockets with pre-election disputes. The courts have a crucial role to play in

²⁹ The CFRN 1999

ensuring that political parties obey their own constitutions and the rules of the game. The Supreme Court, under the leadership of the current Chief Justice of Nigeria, has taken steps to ensure that the political oligarchy does not succeed in casting internal democracy into oblivion. The courts have also sanctioned impostors by removing them and restoring illegally gotten dues. The legal framework for internal democracy in Nigeria is in place, but its implementation has been limited. To deepen democracy in Nigeria, there is a need for concerted efforts to reform the legal framework and promote the practice of internal democracy within political parties. The judiciary also has a crucial role to play in enforcing these laws and ensuring that political parties obey their own constitutions and the rules of the game.

ii. Electoral Law in Nigeria

The constitution of the Federal Republic of Nigeria vested the powers to make laws on the legislative arm of the government. Consequently, the legislature makes additional rules and regulations governing the conduct of elections in Nigeria, this guideline are often referred to as electoral act. In line with its constitutional power to make laws for the peace, order and good government of the Federation or any part thereof with respect to item 22 under the Exclusive Legislative List, the National Assembly enacted the Electoral Act.³⁰ The Electoral Act 2010 is not the first of its kind. It was built on the provisions of the Electoral Act 2006, which it repealed. Its provisions made some marginal improvements over and above the 2006 Act, but it was definitely not sufficient enough to bring about an overhaul of the electoral system in the terms recommended by the Uwais panel (Alayinde, 2016). It is against this background that the Electoral Act 2010 (as amended), was passed by the National Assembly, after much deliberation and debate. The key provisions of the Act reflect government's attitude towards the recommendations of the Uwais Committee. Expectedly, the recommendations of the Uwais Committee that were not reflected by the government, including the one on independent candidacy, were not reflected in the Act. Also, some of the seemingly novel provisions of the Act, such as the one on continuous registration, the oath of

³⁰ The Electoral Act 2010

neutrality by election officials, prohibition of double nomination, among others, were merely lifted from the 2006 Act; the provisions of which are same in many material respects as the new Act. There are uniquely novel provisions however. Of note in this regard is the provision of the Electoral Act 2010, which prohibits substitution of candidates by political parties except in cases of death or self-withdrawal. The bulk of the provisions of the Electoral Act 2010 relates to procedural issues that were already covered by the Electoral Act 2006, which was repealed by the new Act. The current Act is arranged in nine parts, with 152 sections and three schedules. The Act repeals both the Electoral Act 2006 and the INEC Act. It re-establishes INEC, an INEC Fund, and guarantees its independence. The functions, powers, revenue base and other matters connected with INEC and its staff remain essentially the same as in the repealed 2006 Act. The provisions of the 2010 Act in respect of the registration of voters, the provisions of registration officials and the creation of offences were more or less repetitions of the 2006 Act with some juggling of figures. As for the procedure for election, the only major change was the prescription of the order of the election in section 25(1) of the 2010 Act. This provision is not only self-seeking as it was designed to serve the interests of the serving members of the National Assembly; it robs INEC of the unfettered power which it had under section 26 of the Electoral Act 2006 to determine the dates of elections. The other novel provision, which is commendable, is the provision of section 33, which bars political parties from substituting candidates after submission.

In flagrant disregard for the recommendations of the Uwais Committee, but in line with the provisions of the 1999 Constitution, the Electoral Act 2010 vests the power to register and regulate the activities of political parties in the electoral commission. This was a consequence of the inability of the government to demonstrate sufficient political will to implement those recommendations of the Electoral reform committee report which it purported to accept as far back as 2009. The same could be said of the refusal to create an Electoral Offences Commission, notwithstanding the creation of several offences in relation to the registration of voters and their conduct of elections. In essence, the Uwais Committee's recommendation for unbundling INEC, which the government accepted, was not implemented, years after the recommendation was made and accepted.

The 2010 Act, like the repealed 2006 Act, stipulates a continuous voters' registration system. In section 10 (2), an applicant for registration under the continuous registration system shall

appear in person at the registration venue with proof of identity, age and nationality. Apart from preventing registration by proxy, the innovation helps to establish the true identity of voters and prevent voting by non-human objects as witnessed in the 2007 elections in Ondo State. Other adjustments to the contents of the repealed Act were designed to prevent frustration associated with litigations arising from the conduct of elections, as well as enforcement of internal democracy in selecting party candidates for election. Essentially, these changes were meant to ensure more credibility and reduce acrimonious intra-party crises often associated with the choice of party's flag bearers. Aside from this, the Act imposes stiffer punishments for culprits engaged in the buying and selling of voters' cards. On the whole, while the Electoral Act 2010 contains a number of provisions that seek to enhance the conduct of free and fair elections, these provisions were mostly cosmetic and are not far-reaching enough to bring about the desired reform of the entire electoral system. The Act merely seeks to make some marginal changes within the limits permissible under the existing constitutional framework. Such changes in the texts of the Constitution that are necessary for tackling the ills of the electoral/political system were not made by the National Assembly. It is therefore not surprising that the maladies of the previous years, which had robbed Nigeria of the needed credibility for democratic consolidation, were repealed in various forms and different degree, before, during and after the 2011 and 2015 elections respectively. However, in the quest to improve the Nigerian electoral system, the 7th and 8th National Assembly made additional constitutional amendments on electoral provisions so as to accommodate an acceptable electoral law that will guarantee free, fair and credible elections in Nigeria.

Nevertheless, the clamour by Nigerians to restore credibility in the electoral process in Nigeria and ensure the conduct of free, fair and credible elections in the country in subsequent elections was further stalled by inability of the president to assent to the amended electoral bill sent to him from the national assembly before the 2019 elections.

It is a factual truth that Godfatherism is a political phenomenon, and as such, there are no specific statutes or provisions that directly regulate it. However, there are laws and constitutional provisions that aim to prevent or mitigate its negative impacts on Nigerian politics and governance.

The laws include:

1. Constitution of the Federal Republic of Nigeria (1999):
 - Section 14(1): Ensures that political power is vested in the people, not a select few.
 - Section 15(3): Promotes national integration and unity.
 - Section 42: Prohibits discrimination based on political opinion.
2. Electoral Act (2010):
 - Section 87(9): Regulates political party primaries and nomination processes.
 - Section 91(2): Limits campaign expenses and political financing.
3. Political Parties and Registration (1998):
 - Section 223(1): Requires political parties to maintain a register of members.
 - Section 224(1): Ensures internal democracy within political parties.
4. Corrupt Practices and Other Related Offences Act (2000):
 - Section 1(1): Prohibits corrupt practices, including bribery and political corruption.
5. Code of Conduct Bureau and Tribunal Act (1989):
 - Section 3(1): Regulates the conduct of public officers, including political office holders.

The above provisions were aimed to promoting transparency, accountability, and democratic governance, which can help mitigate the negative impacts of godfatherism in Nigerian politics

The legal framework for internal democracy in political parties is crucial for ensuring transparency, accountability, and fairness within party structures. Legal regulations may include rules for candidate selection, internal elections for leadership positions, and provisions for women's and minorities' representation in party leadership roles. There is need for regulatory measures in promoting democratic practices within political parties. The legal framework for internal democracy within political parties is a critical aspect that shapes the functioning of these organizations. The internal organizational procedures and structures of political parties have increasingly become subject to external regulation, highlighting the importance of legal mechanisms in ensuring democratic practices within party operations.³¹

Legal regulations play a significant role in shaping intra-party democracy by introducing specific requirements on internal party organization and operations. These regulations can be

³¹ For instance, see *Obi v INEC* (2008) FWLR 34

explicit or implicit, serving as important tools to promote transparency, accountability, and fairness within political parties.

The legal framework for internal democracy is essential for upholding democratic values and preventing the compromise of internal party processes. By establishing clear guidelines and regulations, legal mechanisms can help mitigate the influence of external factors like godfathers, centralization of power, nepotism, and favouritism that may undermine democratic practices within political parties. It is imperative to provide a comprehensive view of internal democracy within political parties, by focusing on case studies to illustrate practical implications and legal frameworks to underscore the importance of regulatory measures in upholding democratic principles.

Party affairs in Nigeria are controlled by the Constitution of the Federal Republic of Nigeria³² and the respective constitutions of the various political parties. The Constitution stipulates that the constitution and rules of political parties shall provide for periodic elections on a democratic basis for the principal officers and members of the executive committee or other governing bodies. Under section 223 of the Constitution, political parties are also to ensure that members of the executive committee or other governing bodies of the party reflect the federal character of Nigeria. The present reality in most political parties in Nigeria reflects clear derogation or contradiction of this constitutional position. For instance, the internal squabble in the major opposition Peoples Democratic Party in Nigeria today is a cumulative effect of what could be best described as a history of lack of internal democracy in the party.³³

Another area where a lack of internal party democracy in political parties in Nigeria is seen is in the conduct of party primaries. For instance, the Independent National Electoral Commission Regulation for conducting 2018 elections stipulates that before any political party can validly conduct a primary election, the party concerned should not later than 21 days before the date for conducting the election, inform or notify the Commission in writing, stating the nature and type of the primaries it intends to conduct, that is, whether direct or indirect primaries, the date, place and time the primaries are to be conducted as well as the

³² [Hereafter, The CFRN 1999]

³³ S.O Ajayi, 2016. "Intra-Party Crisis in PDP.docx."

https://www.academia.edu/29572307/Intra_Party_Crisis_in_PDP_by_AJAYI_STEPHEN_O_docx.

name of the aspirants and members of the panel, party members among others.³⁴ Also, where there is a cancellation, the party, through its executives, is mandated to inform the Commission not less than seven days before the scheduled date of the election, informing the Commission of the rescheduled date, time, and place the primaries are to be conducted.

That notwithstanding, cases of political parties conducting part primaries secretly, shutting out some aspirants and party members abound. For instance, considering the happenings surrounding the ruling All Progressive Congress (APC) party primaries in 2018 and 2022, Senator Shehu Sani said that:

There are three sure ways through which a candidate can emerge under the All Progressive Congress (APC) – either the candidate knows someone in the presidency who can put a call across to the members of the National Working Committee to include the candidate’s name, a candidate can also emerge if he is in the good book of a governor who in turn compels the party chairman to substitute some other person’s name with the intending candidate; or where the intending candidate has enough money to pay his way through.³⁵

The new Act received fierce opposition in section 84 (12) of the Electoral Act. The section provides that “no political appointee at any level shall be a voting delegate or be voted for at the convention or congress at any political party for the nomination of the candidate for any election.” This provision implies that political appointees or persons holding an appointive position, be it at the federal or state level and despite the nature or nomenclature of the appointment, be it a personal assistant or ministerial appointment, shall not act as a delegate, taking part in voting or nominating candidates nor would such appointees be qualified to be nominated or be voted in as a candidate or party flag bearer in party’s convention or congress. The only option for such an appointee aspirant is to resign the appointive position before the party primaries. By section 84 (3) Electoral Act, contravening this provision gives INEC the right to exclude an affected political party’s candidate for the political position he/she is vying for.³⁶

The provision of sections 84 (12) and (13) have been applauded as being a veritable means of strengthening internal party democracy in Nigeria as it is capable of curbing the activities of some political appointees at the federal and state levels who are notorious for contesting

³⁴ L. Saka, M.O. Adebisi, and A.R. Bakare. 2019. “Political Parties and Opposition Politics in Nigeria”’s Fourth Republic.” *Journal of Management and Social Sciences* 8 (1): 537–50.

³⁵ Sunday Tribune 2018 at P. 25

³⁶ See the case of All Progressive Congress & Ors. v. Marafa [2017] LPELR-47024 SC

political positions while holding unto appointments. Their motive usually tilts towards favouring their appointors for the already received favour of appointment or future anticipated favour. However, some contend that the inclusion of this section violates some provisions of the Constitution relating to the period of time within which a public servant is expected to resign his office and position before contesting a political position. According to them, section 84 (12) contravenes certain sections of the Constitution (CFRN 1999), including sections 66 (1) (f), 107 (1) (f), 137 (1) (g), and 182 (1) (g). Combined reading and interpretation of the above provisions of the Constitution suggests that a civil or public servant shall not be eligible to contest and or be elected into an elective position in Nigeria unless he has resigned from his employment and position in the civil or public service not later than 30 days before the day of the election in which he seeks to participate in. The perceived but erroneously construed contravention stems from the fact that while the Constitution in the above sections provides for 30 days, the Electoral Act (2022) in section 84(12) provides that a political party shall submit the name of their candidates not later than 180 days before the scheduled date of the election. To this end, the Electoral Act provides for a longer period, far more than the Constitution stipulates.

Be that as it may, section 318 of the Constitution, an interpretation section, is clear enough as to what it means to be in public service of the federation or any of the component States. The positions and offices stated under the section do not indicate or contemplate appointive positions such as minister, commissioner, and personal assistant. Therefore, political appointees are not and cannot be construed as public servants envisaged in the Constitution. Also, it is a general rule of interpretation that the express provision or mention of one thing implies the exclusion of another.³⁷ Thus, an express provision of who a public servant is in the Constitution depicts an express exclusion of who is not, such as political appointees in the case of *Progressive People's Alliance v Peoples Democratic Party & Ors.* (2009), the Court of Appeal held that the fact that section 318 (1) of the Constitution listed those persons it classified as public servants means that others not listed are not to be regarded as public servants.³⁸ Similarly and more recently, in the case of *Oni v Fayemi*, the Court of

³⁷ This is expressed in the Latin maxim, expression *ius est exclusio alterius*; these maxim has been applied in a number of cases in Nigeria including *Military Governor of Ondo State v. Adewumi* [1988] 3NWLR (Pt. 82) 280, *A.G Bendel State v. Aideyan* [1989] 4 NWLR (Pt. 118) 646.

³⁸ See also the case of *Adamu v. Takori* [2010] ALL FWLR (Pt. 1387) CA. See section 42 of the 1999 Constitution.

Appeal held that a minister is not a public servant under the Constitution and therefore is not bound by the 30 days resignation rule under the Constitution.³⁹

The above-examined judicial decisions have made it clear that a political appointee is not a public servant under the Constitution; as such, the provision of the Electoral Act mandating their resignation before acting as a delegate or before participating as a candidate in a party primary election which connotes their resignation not later than 180 days before a general election in which they seek to participate has not contravened any provision of the Constitution or any other law in operation in Nigeria.

Another ground on which section 84(12) of the Electoral Act has come under attack is that it violates the constitutional and fundamental right of the affected political appointees from discrimination. Under the Constitution, the right to freedom from discrimination is a fundamental right. The Universal Declaration of Human Rights⁴⁰ under Articles 1 and 2 provides that all human beings are born free and equal, and all persons are entitled to all the rights and freedoms outlined in the Declaration. Among the rights provided for in the 1948 Declaration is freedom from discrimination. Article 7 of the UDHR provides that “all human beings are born equal and are entitled without any form of discrimination to equal protection of the law”. In alignment with this perspective, the 1999 Constitution stipulates that no Nigerian citizen should be subjected, either explicitly or through practical implementation, to deprivation, discrimination, or denial of their rights based on factors such as their membership in a particular community, place of origin, sex, religion, or political opinion.⁴¹

6. Challenges to democratisation democracy and socio-legal aspects of political parties in Nigeria

There are some challenges associated with the above. The first is the Influence of Godfatherism on democratisation, democracy and the socio-legal space of political processes in Nigeria.

The influence of Godfatherism on the political parties cannot be over-emphasised, in that it depicts external electoral considerations affecting internal accountability within parties and

³⁹ (2019) FWLR 179

⁴⁰ UDHR 1948

⁴¹ Oni v Fayemi 2019, supra

the trade-offs faced by voters in balancing accountability and capacity. The influence of godfatherism on internal democratic processes, particularly in Nigerian political parties, is significant and often negative. Godfatherism has been observed to impede internal democracy within parties, affecting the overall party system adversely by concentrating power in the hands of a few elites who control resources and key positions, limiting the participation of the masses in politics and decision-making processes. The elite theory, which posits that power circulates among elites who control resources and wield influence, helps explain how political godfathers use their power to block mass involvement in Nigerian politics.

The influence of godfathers usually leads to conflicts, confusion, tension, and crises within political parties, posing significant challenges to the democratic functioning of these organizations. Godfatherism often results in the concentration of power in the hands of a few influential individuals, limiting the autonomy and decision-making capabilities of party members. This interference can undermine internal democracy by impeding fair candidate selection processes, promoting nepotism and favouritism, and compromising the transparency and accountability of party operations. The manifestation of godfather politics is closely linked to the strategic use of resources and the exploitation of political instability to maintain control over party structures. This practice can distort democratic processes, hinder the representation of diverse interests within parties, and perpetuate a system where power is centralized among a select group rather than distributed democratically.

Furthermore, the influence of globalization has been identified as a factor that weakens domestic governance and consequently impacts political parties, potentially compromising their internal democratic mechanisms. This weakening of governance can contribute to challenges in upholding democratic values within parties and may lead to a decline in internal democracy

There is need to address these mechanisms that compromise internal democracy is essential for promoting more inclusive and participatory political systems. By mitigating the influence of external factors like godfathers, enhancing transparency, and fostering a culture of accountability within parties, it is possible to strengthen internal democratic processes and uphold the principles of democracy within political organizations.

There is a relational basis between godfatherism and democratisation, democracy and socio-legal regimes in Nigeria.

Godfatherism in Nigeria Democracy particularly in its current system of administration is distributive. It is historically deeply rooted based on cultural values of the Nigerian society, where it is purely socio-economic in nature and mutually productive for the beneficiaries. The entry of Godfatherism to party politics has affected democracy and would appear to have contributed to the criminalization of politics.⁴² For instance, Hausa and Yoruba have a well-institutionalized and centralized traditional system where the godfather is well known and respected as emir, chief or Oba as the case may be. Godfathers reign across all spheres of the society: academics, legal, and religion environment. Therefore, the clamour for true democracy in Nigeria is to improve the political and socio-economic situation of the country through massive participation in the policy formulation, but reverse is the case as those that attained political corridor in both legislative and executive arms of government manipulate governance to serve the interest and desire of political godfathers. Thus, the political office holders from top to bottom such as the Governors and Legislators, Boards, Secretaries to the various government institutions as well as local governments, hold on to power as a mechanism to influence the allocation of developmental projects into various localities within the state and the centre.⁴³

7. Conclusion

It has been demonstrated the interrelatedness among the three-some requirements for sustenance of good governance as well as virile and smooth operation of political parties in Nigeria. These requirements are the necessary desiderata for political balance of any state. The paper demonstrated the fact that democratisation is the harbinger of 'democracy' which is a form of government. Furthermore, democracy focuses on development of the political

⁴² K., Bello, (2011). God-fatherism in the Politics of Nigeria: Continuity and Change/GOD-FATHERISM DANS LA POLITIQUE DU NIGÉRIA: CONTINUITÉ ET CHANGEMENT. *Canadian Social Science*, 7 (2) 256

⁴³ R.O Oji, O.I Eme, & H. A. Nwoba, (2014), Political Party Funding in Nigeria: A Case of Peoples Democratic Party. *Arabian Journal of Business and Management Review (Nigerian Chapter)*, 2(11), 1-18.

culture or specific behavioural norms that protect individual and group rights in a political process.

The paper further observed that internal democracy in political parties promotes a degree of participation and influence that members have within the party's decision-making processes, which included the selection of party leaders, the development of party policies, and the nomination of candidates for elections, together with democratisation, which is the process of developing a political culture or specific behavioural norms that protect individual and group rights in the political process.⁴⁴ However, it was demonstrated the interruption introduced by the godfatherism phenomena. This phenomenon was demonstrated as an affront to the ideal goals of democracy and democratisation in the political regime. The reality of godfatherism flies in the face of socio-legal order of political parties in Nigeria. Godfatherism affects the social fabric of the party as well as a great challenge to the legal mechanism that regulates and binds the internal democracy and democratisation threshold of political parties in Nigeria.⁴⁵ The legal regulation of internal party organization has also been identified as a very important feature of party regulation in many countries.⁴⁶

⁴⁴ Ranjan, supra note 11 at P. 671

⁴⁵ A. K. Anya, supra, *The Constitutional Practice of Legislative and Executive Impeachment: Continuity Tool for Democracy, Democratization and Good Governance in Nigeria?*, University of Benin Law Journal (2013) vol. 14 No.1 Pp. 152, 164; uploaded in 2022 by author in scholar.google.com/anyakingsleyanya; researchgate.com/anyakingsleyanya

⁴⁶ Political parties without legal regulation will definitely affect the socio-legal space in a country. See specifically, A. K. Anya., 'Law, Authority and the Nigerian experience,' (2006) 1 No. 2, *Abakiliki Bar Journal*, Pp. 131, 140; Uploaded in 2022 by author in scholar.google.com/anyakingsleyanya; researchgate.com/anyakingsleyanya



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