

# Chapter 8 Party Constitutionalisation and Political Patrimonialism in Nigeria

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## 1. Introduction

The biggest challenge to Nigeria's democratic development, it has been argued, is its political party system.<sup>1</sup> While there are different ways of looking at it, the country's party system is perhaps best understood by means of the concept of political patrimonialism. According to Ukana Ikpe, for example, this term describes a system of government based on personal rule in which state officers dispense resources and privileges to subordinates in exchange for loyalty and services. Some of its key features include the control of political power by a godfather or party baron; the practice of treating political offices as personal rewards and benefits for their incumbents; utilising public authority to serve godfathers or party barons; and the deployment of a system of patron-client networks and relationships.<sup>2</sup>

In Nigeria, political patrimonialism is pervasive at both the federal and state levels, where political godfathers or party barons wield significant influence, often leveraging ethno-religious agendas to solidify their dominance within political parties. This raises fundamental questions about the effectiveness of the regulation of political parties and its implications for constitutionalism in Nigeria.

This chapter critically examines the constitutionalisation of political parties and assesses its role in combatting patrimonial politics in Nigeria. It argues that despite constitutional provisions and successive reforms of the regulatory framework governing political parties, undemocratic conduct by political parties is prevalent and often linked to patrimonial politics. Indeed, many of the crises and court cases regarding political parties in

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1 See, for example, J Ibrahim, "Democratic Regression, Political Parties, and the Negation of the Popularity Principle", in W Adebaniwa (ed.), *Democracy and Nigeria's Fourth Republic: Governance, Political Economy, and Party Politics 1999–2023*, Woodbridge, James Currey (2023), pp 107–128, 107.

2 UB Ikpe, "The Patrimonial State and Inter-Ethnic Conflicts in Nigeria", 32 (2009) *Ethnic and Racial Studies*, pp 679–697.

Nigeria are connected in one way or another to attempts by godfathers or party barons (that is powerful figures who control political parties, influence candidate selection, and shape electoral outcomes, often behind the scenes) to subvert democratic processes for their personal ends and to resist pushback against such actions. This, in turn, has increased inter-party migration, eliminating issue-based politics. Wale Adebawu aptly notes that “there is little or no ideological implication for victory or success in electoral politics. What is often at stake, particularly for the elite, is access to resources.”<sup>3</sup>

The chapter consists of five sections. Section 2 traces the evolution of party politics and multiparty democracy in Nigeria from the period of colonisation until today. Section 3 analyses the nature and scope of political party constitutionalisation in Nigeria, considering the current constitutional and statutory framework regulating political parties. This is followed in section 4 by an analysis of recent trends that significantly undermine political party constitutionalism in Nigeria. Section 5 concludes with a number of critical reflections on the prospects for political party constitutionalism in the country and proposes some ideas for reforms that could enhance the role that Nigerian parties play as essential agents of multiparty democracy.

## 2. The evolution of political parties in Nigeria: The road to patrimonialism

The historical evolution of Nigerian political parties can be divided into three main periods, each characterised by the prevailing circumstances of the time: the colonial period leading up to independence; military rule; and democratisation and multipartyism.<sup>4</sup>

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3 W Adebawu, “Nigeria’s Fourth Republic: An Introduction”, in W Adebawu (ed.), *Democracy and Nigeria’s Fourth Republic: Governance, Political Economy, and Party Politics 1999–2023*, Woodbridge, James Currey (2023), pp 1–32, 20.

4 Multipartyism was first instituted in 1960 but lasted only until the military took power in 1966. It was reintroduced in 1979, only to be abolished again by the military in 1983. For an alternative periodisation, one distinguishing four periods, see A Agbaje, “A Republic of Dashed Hopes? Party Politics and the Travails of Democracy in Nigeria’s Fourth Republic”, in W Adebawu (ed.), *Democracy and Nigeria’s Fourth Republic: Governance, Political Economy, and Party Politics 1999–2023*, Woodbridge, James Currey (2023), pp 129–48. See also N Danjibo and K Ashindorbe, “The Evolution and Pattern of Political Party Formation and the Search for National Integration in Nigeria”, 5 (2018) *Brazilian Journal of African Studies*, pp 85–100.

## 2.1 From the colonial period to independence

Although the earliest Nigerian political associations can be traced to the turn of the twentieth century, the first genuine parties were formed only after the British colonial administration adopted a new constitution in 1922 that granted a limited Nigerian electorate the right to elect representatives in the legislative council.<sup>5</sup> The Nigerian National Democratic Party, founded in 1923, is often recognised as the first political party in the country. However, its influence was confined primarily to Lagos, where it focused on local issues and represented the interests of the Lagos elite. The first party with a broader reach was the National Youth Movement, founded in 1934, which established branches in other urban centres across Nigeria. This expansion signalled a shift towards a more inclusive and nationwide form of political organisation, thereby laying the groundwork for future political movements that sought to unify the country across regional and ethnic divides.<sup>6</sup>

From the 1940s onwards, a three-party system gradually emerged, with each party representing a particular region and ethnic group.<sup>7</sup> While the Action Group (AG) represented the interests of the Yoruba in the South, the Northern People's Congress (NPC) represented those of the Hausa and Fulani in the North; as for the National Council of Nigerians and the Cameroons (NCNC), it eventually came to represent the interests of the Igbo and the people of the League of Nations Mandate territories of Southern Cameroons.

Aside from this tripartite ethnic and regional division, what is important to note is that these pre-independence parties were structured around, and dominated by, strong individuals who eventually came to be considered the founding fathers of Nigerian independence: Obafemi Awolowo (AG), Ahmadu Bello and Abubakar Tafawa Balewa (NPC), and Nnamdi Azikiwe (NCNC). Moreover, as will be shown further below, some of the party practices that persist to this day may be traced to this early period. For instance, in 1953, the NCNC, under the leadership of Azikiwe, expelled members of the Eastern regional government from the party and success-

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5 For detailed histories, see RL Sklar, *Nigerian Political Parties: Power in an Emergent African Nation*, Princeton, Princeton University Press (1963); U Udoma, *History and the Law of the Constitution of Nigeria*, Lagos, Malthouse Press (1994), pp 111–41.

6 Agbaje, *supra* n. 4, p 135; Sklar, *supra* n. 5, pp 46–7; Udoma, *supra* n. 5, p 111.

7 Sklar, *supra* n. 5, pp 87; Udoma, *supra* n. 5, pp 111.

fully brought a motion of no confidence against them in the regional parliament.<sup>8</sup> Remarkably, the motion against the ministers was not based on accusations of having committed any offence or acted against the NCNC constitution. “The only accusation was that they had refused to toe the party line,” Udo Udoma recalls in *History and Law of the Constitution of Nigeria*, describing Azikiwe’s role as the NCNC leader in this episode as “an extreme kind of dictatorship”.<sup>9</sup>

## 2.2 Military rule

Only six years following independence in 1960 and three years after the adoption of a republican constitution in 1963, Nigeria’s First Republic came to an abrupt end when a coup d’état ushered in a first period of military rule (1966–1979). For more than a decade, all political parties were banned; new parties were formed only after a transition process was initiated in 1978 by the military regime led by Olusegun Obasanjo (who would eventually return to power as Nigeria’s first president under the 1999 Constitution).

Two important features of political party regulation in Nigeria emerged during this period: the idea that parties should be “Pan-Nigerian”, and strict requirements for their registration to compete in elections.<sup>10</sup> As such, despite the initial announcement that 150 parties intended to compete in the upcoming elections to form the first parliament of Nigeria’s Second Republic (1979–1983), only 18 felt confident that they could meet the registration requirements: in the end, the military government recognised only five.<sup>11</sup> Of these, the National Party of Nigeria (NPN) emerged as predominant. Although it had its roots in the North and comprised many former NPC members, the NPN made efforts to expand beyond its regional base. It is here that the so-called zoning principle for the election of party officials was tested for the first time.<sup>12</sup>

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8 *Ibid*, pp 123–28.

9 *Ibid*, pp 126, 128.

10 Ibrahim, *supra* n. 1, pp 108–109.

11 *Ibid*, p 109.

12 See “Zoning” in N Cheeseman, E Bertrand, and S Husaini, *Oxford Dictionary of African Politics*, Oxford, Oxford University Press (2019), <https://www.oxfordreference.com/display/10.1093/acref/9780191828836.001.0001/acref-9780191828836-e-367> (accessed 18 June 2024). On the continuing relevance of the principle, see section 4.1 below.

During Nigeria's second period of military rule (1983–1999), political parties were again initially prohibited until the ban was lifted in 1989. New political parties were soon formed, but were banned again by the military when a two-party system was imposed, with the Social Democratic Party “slightly to the left” and the National Republican Convention “slightly to the right”.<sup>13</sup> According to Eghosa Osaghae, in hindsight the “manufacturing” of these two parties can be seen as the creation of a new political class consisting of “cronies and protégés of powerful military leaders ... who became the godfathers and strongmen of post-1999 civilian politicians”.<sup>14</sup> In contrast, it has also been suggested that the state-dictated creation of this two-party system came the closest to achieving truly national parties in Nigeria because stringent control on registration and funding of parties reduced ethnic and region-based politics.<sup>15</sup>

In any case, following a failed transition to civilian government in 1993, the two parties were banned again, with political pluralism reaching its low point in the ensuing period of military rule under Sani Abacha (1993–1998). The most drastic example is that of KenSaro-Wiwa, the leader of an organisation representing the indigenous Ogoni people, who was tried by a military tribunal and executed for allegedly masterminding the murder of Ogoni traditional leaders in 1995. The execution resulted in Nigeria's suspension from the Commonwealth and led to an important finding by the African Commission of Human and Peoples' Rights, holding that the right to freedom of association guaranteed in the African Charter on Human and Peoples' Rights (ACHPR) protects criticism of state action and that liability shall not be imputed from associations to individuals or vice versa.<sup>16</sup>

### 2.3 Democratisation and multipartyism

Shortly after Abacha's death in 1998, the current Constitution of 1999 was adopted. Initially, the Independent National Electoral Commission (INEC)

13 Ibrahim, *supra* n. 1, p 110.

14 EE Osaghae, “The Long Shadow of Nigeria's Military Epochs, 1966–79 and 1983–99”, in A Carl LeVan and P Ukata (eds.), *The Oxford Handbook of Nigerian Politics*, Oxford, Oxford University Press (2018), pp 171–88, 183–84.

15 Danjibo and Ashindorbe, *supra* n. 4, p 91.

16 African Commission of Human and Peoples' Rights, *International Pen and Others (on behalf of Ken Saro-Wiwa) v Nigeria*, Communication Nos. 137/94, 139/94, 154/96 and 161/97, 1998.

recognised only three parties – the Peoples Democratic Party (PDP), the All-People’s Party, and the Alliance for Democracy – with the PDP’s candidate, Obasanjo, becoming Nigeria’s first president under the new Constitution.<sup>17</sup> However, in the lead-up to the 2003 elections, the Nigerian Supreme Court stepped in and declared the INEC’s guidelines for the registration of political parties as unconstitutional insofar as they imposed additional conditions for registration not provided for in the Constitution.<sup>18</sup> The decision removed undue barriers to registration for parties and marked a pivotal moment in broadening Nigeria’s political landscape.

Although several further parties emerged thereafter, the PDP continued to dominate Nigerian politics, with Obasanjo (until 2007), Umaru Musa Yar’Adua (2007–2010) and Goodluck Jonathan (2010–2015) as presidents. This only changed in 2013 when several opposition parties merged and formed the All-Progressive Congress (APC),<sup>19</sup> eventually replacing the PDP as the ruling party in the 2015 elections. Although the APC has been in power since then, with Muhammadu Buhari (2015–23) and Bola Tinubu (since 2023) as presidents, the PDP remains highly influential and has provided relatively strong opposition, especially at the state level. In addition, the 2023 elections witnessed the emergence of a third major party, the Labour Party, which also made a good showing at the federal level and in some states.

### 3. The constitutional and legal framework regulating political parties

Nigeria’s constitutional and legal framework regulating political parties is shaped by international, regional, and national instruments. Apart from its obligations under international human rights law guaranteeing the right to freedom of association,<sup>20</sup> Nigeria is one of only two countries in Africa to have domesticated the ACHPR,<sup>21</sup> thereby arguably making the relevant

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17 Agbaje, *supra* n. 4, p 139.

18 Supreme Court of Nigeria, *INEC v Musa & Others*, 3 NWLR (Pt. 806), 2003.

19 See Agbaje, *supra* n. 4, p 147.

20 On international standards, see J Socher, “Constitutionalisation of Political Parties: International Standards and the Experience of Continental Europe”, in this volume.

21 The other African country to have domesticated the ACHPR is Benin. In Nigeria, it was incorporated in domestic law through the African Charter on Human and Peoples’ Rights (Enforcement and Ratification) Act, Ch. A9, Laws of the Federation of Nigeria 1990.

case law in relation to the regulation of political parties binding.<sup>22</sup> Moreover, in *Abacha v Fawehinmi*, the Nigerian Supreme Court made it clear that if there is a conflict between the ACHPR and national legislation, the provisions of the former prevail over domestic statutes.<sup>23</sup> That being said, the following section focuses on the national framework regulating Nigerian political parties – namely, the Constitution as amended in 2023,<sup>24</sup> complemented by the recently revised Electoral Act.<sup>25</sup>

### 3.1 Scope and limitations of political party regulation

Nigeria’s Constitution provides a definition of political parties which is clearly centred around elections. According to section 299, the term “political party” includes “any association whose activities include canvassing for votes in support of a candidate for election to the office of President, Vice-President, Governor, Deputy Governor or membership of a legislative house or of a local government council”. The right to form or belong to a political party is guaranteed in section 40 of the Constitution as a particular form of the right to freedom of association. In *Alhaji Abubakar Rimi v Peoples Redemption Party*, the High Court held that section 40 applies to “individuals, corporate and incorporate bodies, and enables them to come together voluntarily under a political banner or leave the association as they please”.<sup>26</sup> Therefore, a law that prohibits public or civil service members from being eligible to be registered members of political parties was found to be contrary to the Constitution.<sup>27</sup> Conversely, in *AG Federation v Abubakar*, the Nigerian Supreme Court held that it is unconstitutional to

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22 On regional standards for the regulation of political parties in Africa, see CM Fombad and J Socher, “Regional Standards for Regulating Political Parties in Africa”, in this volume.

23 Supreme Court of Nigeria, *Abacha v Fawehinmi*, 6 NWLR (Pt. 660) 228, 2000.

24 Constitution of the Federal Republic of Nigeria, 1999, as amended in 2023, <https://placng.org/i/wp-content/uploads/2023/05/Constitution-of-the-Federal-Republic-of-Nigeria-2023.pdf> (accessed 16 April 2024).

25 Electoral Act 61 of 2022, <https://placng.org/i/wp-content/uploads/2022/02/Electoral-Act-2022.pdf> (accessed 9 March 2024).

26 High Court of Nigeria, *Alhaji Abubakar Rimi v Peoples Redemption Party* 2 NCLR 734 HC, 1981.

27 *Ibid.*

refuse or deny a citizen the right to leave or not to belong to a political party.<sup>28</sup>

The right to form and belong to a political party is not unlimited, however. While individual membership is open to every Nigerian citizen “irrespective of his place of origin, circumstance of birth, sex, religion or ethnic grouping”,<sup>29</sup> the Constitution explicitly prohibits ethnic, religious, or regional political parties.<sup>30</sup> Moreover, parties must have their headquarters in Nigeria’s capital, Abuja, and members of their governing bodies must “reflect the federal character of Nigeria”.<sup>31</sup> The latter requirement is given further detail in a separate provision, which states that political parties fulfil it “only if members thereof belong to different States not being less in number than two-thirds of all the States of the Federation and the Federal Capital Territory, Abuja” (the so-called federal-character principle).<sup>32</sup>

### 3.2 Intra-Party democracy and promotion of democratic values

Nigeria’s Constitution requires political parties to have statutes with rules providing for periodic elections on a democratic basis of the principal officers and members of the executive committee.<sup>33</sup> Elections of these officers and members must take place at regular intervals not exceeding four years.<sup>34</sup> In addition, the Electoral Act sets certain guidelines and rules to

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28 Supreme Court of Nigeria, *AG Federation v Abubakar* 10 NWLR (Pt 1041), 2007. The case arose when Atiku Abubakar, while serving as Vice President from 1999 until 2007, resigned from the PDP and joined another party, the Action Congress (AC). In response, President Obasanjo declared the Vice President’s office vacant. Abubakar challenged this decision, arguing that his term as Vice President was not affected by his decision to leave the PDP and join the AC. The Nigerian Supreme Court agreed, holding that the President did not have the authority to declare the Vice President’s office vacant based on a change in party affiliation. The Court emphasised that the Constitution did not grant the President such power and that the Vice President’s term of office was protected under the Constitution.

29 Section 222(b) of the Constitution.

30 Section 222(e) of the Constitution. For more detail on this prohibition, see M Bogaards, “Ethnic Party Bans and Institutional Engineering in Nigeria”, 17 (2010) *Democratisation*, pp 730–749.

31 Sections 222(f) and 223(b) of the Constitution.

32 Section 223(2)(b) of the Constitution.

33 Section 223(1) of the Constitution.

34 Section 223(2)(a) of the Constitution.

ensure intra-party democracy, in particular by providing procedures for the conduct of party primaries, party congresses, and party conventions.<sup>35</sup>

Political parties, furthermore, shall promote democratic values and principles that enhance free and fair competition. The Constitution explicitly provides that the programmes and the aims and objects of political parties have to conform with the provisions in Chapter II of the Constitution, which contain the so-called fundamental objectives and directive principles of state policy.<sup>36</sup> These include several core democratic values such as social justice, equality, and non-discrimination. Although generally non-justiciable,<sup>37</sup> Chapter II of the Constitution is crucial in defining the basis of democracy in Nigeria.<sup>38</sup> It embodies aspirational values and standards which govern all branches of government entrusted with the exercise of political powers. Therefore, through this explicit link to Chapter II, the Constitution arguably defines Nigerian political parties as public institutions to be guided by these values and standards.<sup>39</sup>

### 3.3 Party financing

Nigeria's Constitution also regulates certain aspects of party financing.<sup>40</sup> In particular, its section 225 requires political parties to publish their assets and liabilities and submit a detailed annual statement and analysis of their sources of funds and other assets to the INEC, together with a statement of expenditure.<sup>41</sup> Moreover, a political party is constitutionally prohibited

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35 See, for example, section 84 of the Electoral Act 2022, outlining detailed provisions for the conduct of party primaries.

36 Section 224 of the Constitution.

37 See section 6(6)(c) of the Constitution.

38 See BO Okere, "Fundamental Objectives and Directive Principles of State Policy under the Nigerian Constitution", 32 (1983) *International and Comparative Law Quarterly*, pp 214–228.

39 ES Nwauche, "Political Parties, the 1999 Constitution and the 2011 General Elections", 46 (2013) *Verfassung und Recht in Übersee/Law and Politics in Africa, Asia and Latin America*, pp 407–429.

40 For more detail on the regulation of party financing in Nigeria, see B Sule, *Political Party Financing and Electoral Politics in Nigeria's Fourth Republic*, Lanham, Lexington Books (2023), pp 145–166.

41 Section 225(1) and (2) of the Constitution.

from holding or possessing funds or assets outside Nigeria, or retaining funds or assets remitted or sent to it from outside the country.<sup>42</sup>

The Electoral Act complements these provisions and establishes electoral offences if political parties fail to comply with them.<sup>43</sup> In addition, the Act sets maximum election expenses, that is, “expenses incurred by a political party within the period from the date notice is given by the Commission to conduct an election up to and including, the polling day in respect of the particular election”.<sup>44</sup> Since the adoption of the first Electoral Act in 2010, public funding is not available anymore, and parties finance themselves exclusively through private sources, which contributes to the numerous challenges that are discussed in detail below.

### 3.4 INEC registration and oversight

The formation of political parties is dependent on formal registration with the INEC.<sup>45</sup> Once registered, they need to continue to comply with all the registration requirements or else risk being de-registered by the INEC. An explicit provision in that regard was constitutionalised in 2017, with section 225A of the Constitution now providing that the INEC has the power to deregister a political party for

- (a) breach of any of the requirements for registration;
- (b) failure to win at least twenty-five percent of votes cast in (i) one State of the Federation in a Presidential election, or (ii) one Local Government of the State in a Governorship election;
- (c) failure to win at least (i) one ward in the Chairmanship election, (ii) one seat in the National or State House of Assembly election, or (iii) one seat in the Councillorship election.

Nigerian political parties are regularly de-registered ahead of elections in high numbers. For example, prior to the 2023 general elections, the INEC de-registered more than 70 parties for not fulfilling the geographical representation requirement.<sup>46</sup>

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42 Section 225(3) of the Constitution.

43 Sections 85 and 86 of the Electoral Act 2022.

44 Sections 88 and 89(1) of the Electoral Act 2022.

45 Section 222(a) of the Constitution.

46 See “Supreme Court Upholds INEC’s Deregistration of 22 Political Parties”, *Premium Times*, 25 March 2022, <https://www.premiumtimesng.com/news/headlines/519559-s>

Apart from being responsible for registration and de-registration, the INEC has a number of oversight functions in regard to political parties.<sup>47</sup> In particular, it is tasked with monitoring their organisation and operations – including their conventions, congresses and primaries, and political campaigns – and establishing rules and regulations for governing party activities.<sup>48</sup> The INEC also examines and audits the funds and accounts of political parties annually and submits a report on this examination to Parliament.<sup>49</sup> These constitutional provisions are complemented, and elaborated upon, by the Electoral Act. For example, the Act requires that the application for registration as a political party must be submitted to the INEC at least one year before the next general election<sup>50</sup>

#### 4. Party constitutionalism and patrimonialism: Key challenges

As was posited at the outset, the concept of political patrimonialism arguably provides the best means of understanding the Nigerian party system. One of the system's most striking features is the phenomenon of godfathers and party barons controlling political parties.<sup>51</sup> For example, Abubakar Momoh has argued that the “influence and power of godfathers have continued to shape and reshape the nature of internal democracy within political parties and this continues to play a significant role in understanding the crises in political parties in Nigeria”.<sup>52</sup> Focusing on developments surrounding the most recent elections in 2023 and also drawing on the experiences of the two preceding elections in 2015 and 2019, this section shows how political patrimonialism has been able to corrupt and

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upreme-court-upholds-inecs-deregistration-of-22-political-parties.html (accessed 13 September 2023).

47 See R Suberu, “Nigeria in Search of a Credible Electoral Administration: Recent Reforms and Persistent Challenges”, in CM Fombad and N Steytler (eds.), *Democracy, Elections, and Constitutionalism in Africa*, Oxford, Oxford University Press (2021), pp 331–360.

48 Third Schedule, item F, section 15(c) and (f) of the Constitution.

49 Section 226(1) of the Constitution.

50 Section 75(1) of the Electoral Act 2022.

51 See, for example, O Fasan, “Nigeria’s Patrimonial Politics and Different Presidents”, *Business Day*, 9 March 2015, <https://businessday.ng/columnist/article/nigerias-patrimonial-politics-and-diffident-presidents/> (accessed 6 June 2024).

52 A Momoh, “Party System and Democracy in Nigeria”, in O Obafemi, S Egwu, O Ibeanu and J Ibrahim (eds.), *Political Parties and Democracy in Nigeria*, Kuru, National Institute of Policy and Strategic Studies (2014), p 91.

compromise the ostensibly robust normative framework governing political parties in Nigeria.

#### 4.1 Undemocratic selection of party candidates

A first issue in which the influence of godfathers and party barons plays a hand concerns the undemocratic processes that are often followed in the selection of candidates for electoral offices. Pursuant to section 84 of the Electoral Act, political parties may determine aspirants and candidates for political offices through direct primaries, indirect primaries, or consensus. While parties are free to choose between these three systems, the Electoral Act sets detailed rules for each of them.<sup>53</sup> In practice, party primaries are seldom conducted in compliance with these provisions, as candidates are usually chosen informally and later endorsed by consensus.<sup>54</sup> Against this background, influential voices, such as the director of the INEC Electoral Institute, have argued that the persistent practice for selecting candidates and party executives “continues to render delegates and party members irrelevant”.<sup>55</sup>

The problem is often exacerbated by ethno-religious considerations such as the inconsistently applied rule of “zoning”, that is, the largely informal policy in which political parties agree to split their presidential and vice-presidential candidates between the North (predominantly Muslim) and South (predominantly Christian) of the country.<sup>56</sup> For instance, Goodluck Jonathan’s presidential candidacy for the PDP in the 2015 elections was criticised as being against zoning, but was eventually confirmed unopposed in the party primaries despite an explicit provision in the PDP party statutes establishing a “policy of rotation and zoning of party and public elective offices”.<sup>57</sup> The issue came up again ahead of the 2023 elections, when a major controversy arose over the prospect of another northern Muslim assuming the presidency after Buhari. In the end, however, al-

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53 See sections 84(4) (direct primaries), 84(5) (indirect primaries), and 84(5) (consensus) of the Electoral Act 2022.

54 Ibrahim, *supra* n. 1, pp 121–122.

55 Quoted in *ibid*.

56 See Cheeseman, Bertrand, and Husaini, *supra* n. 12.

57 Section 7(3)(c) of the Constitution of the Peoples Democratic Party 2012, as amended, <http://www.politicalpartydb.org/wp-content/uploads/2021/01/PDP-CONSTITUTION-2012-AMENDMENT1.pdf> (accessed 21 November 2024).

though some PDP candidates opposed Atiku Abubakar's candidacy in the party primaries, citing his northern Muslim background, the PDP's zoning policy was in effect again ignored and Atiku nominated as the PDP's presidential candidate.<sup>58</sup>

By contrast, APC's candidate for the 2023 elections, Bola Tinubu, a Muslim but from the South of Nigeria, insisted that it was his region's turn to field the party's presidential candidate. Using the common Yoruba slogan *awa l'okan* ("it is our turn"), Tinubu was eventually able to secure the APC's ticket. Taking the slogan one step further, he altered it to *emi l'okan* ("it is my turn"), reflecting a sense of personal entitlement to the presidency after having been a political "kingmaker" for many years.<sup>59</sup> Tinubu's usage, and alteration of, the slogan had drawn wide criticism as an open acknowledgement of the institutionalisation of patrimonialism in Nigeria. For example, former president Obasanjo, in an open letter, stated: "Let me say straight away that 'Emi Lokan' (My turn) and 'I have paid my dues' are one and the same thing and are [a] wrong attitude and mentality for the leadership of Nigeria now."<sup>60</sup>

At the state level, godfathers and party barons often influence selection processes to such an extent that they make nonsense of intra-party democracy. As two recent examples show, this phenomenon is again not limited to a particular party. The first example is from Rivers State, where the previous governor, Nyesom Wike, paid for the PDP party nomination forms of all candidates contesting in the 2023 elections, from the governor candidates and state parliament members to the local government chairpersons.<sup>61</sup> Indeed, Wike boasted about this on various occasions, stating that no candidate in his party themselves paid for the nomination form and

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58 See Q Iroanusi, "PDP Dumps Zoning, Throws Presidential Ticket Open", *Premium Times*, 11 May 2022, <https://www.premiumtimesng.com/news/headlines/529158-breaking-pdp-dumps-zoning-throws-presidential-ticket-open.html> (accessed 18 June 2024).

59 On Tinubu as political kingmaker, see, for example, T Akinboyo, "Bola Tinubu: Kingmaker Who is Now King", *Premium Times*, 2 March 2023, <https://www.premiumtimesng.com/features-and-interviews/585655-analysis-bola-tinubu-kingmaker-who-is-now-king.html> (accessed 21 November 2024).

60 See T Oke, "Emi L'Okan: Tinubu's Turn to Do What", *Punch*, 13 September 2022, <https://punchng.com/emi-lokan-tinubus-turn-to-do-what/> (accessed 3 March 2024).

61 See S Opejobi, "Rivers: No Regrets Making Fubara Governor, I Bought His Nomination Forms – Wike", *Daily Post*, 8 January 2024, <https://dailypost.ng/2024/01/08/rivers-no-regrets-making-fubara-governor-i-bought-his-nomination-forms-wike/> (accessed 11 July 2024).

that he had ensured that all his sponsored candidates won the election.<sup>62</sup> The second example occurred in Kogi State, where the previous governor, Yahaya Bello, handpicked his cousin Usman Ododo as his successor from within the APC. Although Ododo was officially elected as the APC's gubernatorial candidate in direct party primaries, his election became a formality after his two main competitors withdrew from the race a day ahead of the primaries following a "stakeholder meeting" hosted by Bello.<sup>63</sup>

The relationship between patrimonial leaders and their chosen successors often becomes fraught with tension and conflict. When successors resist control, political godfathers can mobilise their networks to oust their appointed candidates from office, triggering widespread violence between their supporters and those of the incumbents.<sup>64</sup> In the example of Rivers State, Wike tried to mobilise his supporters to impeach his successor, who sought to resist control after assuming office.<sup>65</sup> This sparked a severe political crisis in the state, culminating in arson against its parliament building. Similarly, in Kogi State, a crisis reportedly emerged between Ododo and his political godfather, Bello.<sup>66</sup>

## 4.2 Political nomadism

In Nigerian politics, intra-party conflict regularly leads to inter-party migration. This phenomenon underscores the depth of what Wale Adebawu has described as the "trivialization of party politics", where contestations are predominantly driven by the self-serving interests of elites rather than

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62 See D Daniel, "I Bought Nomination Forms – Wike Defends Backing Fubara as Governor", *Politics Nigeria*, 8 January 2024, <https://politicsnigeria.com/i-bought-his-nomination-forms-wike-defends-backing-fubara-as-governor/> (accessed 11 July 2024).

63 I Oyewale, "Kogi APC Primary: Onoja, Others Withdraw as Bello Endorses Ododo", *This Day*, 14 April 2023, <https://www.thisdaylive.com/index.php/2023/04/14/kogi-apc-primary-onoja-others-withdraw-as-bello-endorses-ododo/> (accessed 22 November 2024).

64 UB Ikpe, *supra* n. 2, p 692.

65 M Lawal, "Rivers Political Crisis and Unending Debate over Presidential 'Peace' Pact", *Punch*, 20 January 2024, <https://punchng.com/rivers-political-crisis-and-unending-debate-over-presidential-peace-pact/> (accessed 4 March 2024).

66 "Crisis Brews Between Kogi Governor Ododo, Predecessor Yahaya Bello over Sacking of Loyalist, Sharing of 1200 Bags of Rice", *Sahara Reporters*, 28 February 2024, <https://saharareporters.com/2024/02/28/crisis-brews-between-kogi-governor-ododo-predecessor-yahaya-bello-over-sacking-loyalist> (accessed 3 March 2024).

ideological principles.<sup>67</sup> Abubakar Momoh and others have aptly labelled this behaviour as “political nomadism”:

Political nomadism [refers to] the defection(s) or arbitrary movement of politicians from one political party to another, or their formation of completely new party, after dumping their original party of membership. What makes the defection nomadic? This is because first they turn political parties into grazing grounds and second because the rate of defections is so high, arbitrary and sometimes inexplicable ... [As] is the case with any grazing ground, nomads will return to it or abandon it depending on whether the land is vegetated or barren. Hence political nomads do not mind returning to their initial party of origin, if their interest is best served. Interest rather than principle is the driving force.<sup>68</sup>

Political nomadism is legally sanctioned in Nigeria insofar as the Constitution states that Members of Parliament (MPs) have to vacate their seats after migrating from one political party to another if their election was sponsored by that first party.<sup>69</sup> The Constitution provides for an exception, however, if the membership in the new party is “a result of a division in the political party of which he [the MP] was previously a member”.<sup>70</sup> As various scholars have noted, this exception has been used by many parliamentarians as a loophole for migrating from one party to another without losing their seats.<sup>71</sup> No similar prohibition exists for other electoral offices such as state governors. Calls for reforms proscribing “party switching” more strictly have not been heeded so far.<sup>72</sup>

Although not limited to election periods, in the past political nomadism on a large scale could be observed in particular ahead of elections. In

67 Adebani, *supra*, n. 3, p 20.

68 A Momoh, *supra* n. 52, p 92. See also U Ikechukwu, “Political Nomadism and Its Implications on Political Development in Nigeria: A Critical Analysis”, 9 (2015) *International Journal of African and Asian Studies*, pp 75–86.

69 Sections 68(1)(g) and 109(1) of the Constitution.

70 *Ibid.*

71 V Agboga, “Waka Waka Politician: What are the Drivers of Party Switching in Nigeria”, 93 (2023) *Africa*, pp 615–633, 623. See also Y Fashagba, “Party Switching in the Senate under Nigeria’s Fourth Republic”, 20 (2014) *Journal of Legislative Studies*, pp 516–541; Ikechukwu, *supra* n. 68.

72 See, for example, I Oweh, “Proscribe Cross Carpeting Among Candidates if Amendment Must be Effected to 2022 Electoral Act – Jega”, *Independent*, 28 November 2023, <https://independent.ng/proscribe-cross-carpeting-among-candidates-if-amendment-must-be-effected-to-2022-electoral-act-jega/> (accessed 10 March 2024).

2015, for instance, the newly created APC was able to convince many state governors to abandon the governing PDP and join it instead.<sup>73</sup> Similarly, ahead of the 2019 elections, the tide turned, and many (if not necessarily the same) politicians left the APC, in most cases for the PDP.<sup>74</sup>

#### 4.3 Monetisation of party politics

Another challenge for the prospects of party constitutionalism in Nigeria is the monetisation of party politics. This can be observed in almost every aspect of Nigerian politics, sometimes in addition to the other challenges discussed previously. For example, to regain the allegiance of influential politicians who had left the PDP ahead of the 2015 elections, the party reportedly made “mouth-watering” offers of between one and 10 million US dollars to them if they returned to their former party amid dwindling public support largely attributed to the defection of these same politicians.<sup>75</sup>

Similarly, undemocratic processes for selecting party candidates (discussed above) are further corrupted through their monetisation. For instance, it is common practice for political godfathers and party barons in all major parties to “buy” delegates in party primaries. This is due to the preferred indirect voting system, in which party delegates are responsible for selecting candidates or officials.<sup>76</sup> By bribing delegates, political godfathers and party barons ensure that their preferred candidate is elected or nominated in the primaries. During the PDP’s 2023 primaries, for example,

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73 I Ekott, “APC Leads House of Reps as 37 PDP Members Defect”, *Premium Times*, 18 December 2013, <https://www.premiumtimesng.com/news/151695-update-apc-leads-h-house-reps-37-pdp-members-defect.html> (accessed 17 June 2024).

74 N Ayitogo, “37 House of Reps Members Dump APC”, *Premium Times*, 24 July 2018, <https://www.premiumtimesng.com/news/headlines/277596-breaking-36-house-of-reps-members-dump-apc.html> (accessed 17 June 2024).

75 See O Awofeso and P Irabor, “Party Cross-Carpeting in Nigeria’s Fourth Republic: Cases and Causes”, 6 (2016) *Journal of Public Administration and Governance*, pp 31–41, 37. Awefeso and Irabor comment: “Although this is considered a rumour in some quarters, one cannot completely dispel issues like this in any polity that is not ideologically driven, where possession of political power is viewed directly as economic empowerment.”

76 The indirect voting system for primaries is one of three options that the Electoral Act envisages (see section 4.1 above).

more than 3,000 delegates were allegedly each bribed with as much as USD 35,000.<sup>77</sup> Similar allegations were made about the APC's primaries.<sup>78</sup>

While the practice of delegate-buying had been observed already in earlier election cycles,<sup>79</sup> a new phenomenon in the 2023 party primaries was the extreme increase in the costs of nomination forms. Fees for such forms are typically charged by political parties and paid by aspirants as a demonstration of their interest in contesting for a position on the party's platform. Since this practice is not regulated by the Constitution or any statutory law, there is no ceiling to the maximum amount that contestants pay to obtain such forms; as a result, parties can set unlimited fees that are unaffordable to ordinary candidates. Indeed, a recent study has shown that the costs of obtaining party nomination forms have tripled since 2019.<sup>80</sup> In the 2023 elections, presidential aspirants' nomination forms reportedly cost a 100 million naira (roughly USD 240,000 at the time) in the APC and 40 million naira (roughly USD 96,000) in the PDP.<sup>81</sup> Such exorbitant entry costs for candidates make wealthy godfathers indispensable, since they often purchase nomination forms for candidates and then leverage this fact to assert their influence over them and gain greater relevance on the political stage.

The extreme monetisation of Nigerian party politics is well illustrated by the regular increases seen in the maximum amount of election expenses allowed to parties under the Electoral Act; even so, these spending limits are routinely disregarded, resulting in excessive overspending by political

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77 Editorial Board, "Monetisation of the Democratic Process", *The Guardian*, 29 June 2022, <https://guardian.ng/opinion/monetisation-of-the-democratic-process/> (accessed 3 March 2024).

78 B Majeed, "2023: Delegates Bribed to Vote at APC Presidential Primary, Amaechi Alleges", *Premium Times*, 25 July 2022, <https://www.premiumtimesng.com/news/headlines/544781-2023-delegates-bribed-to-vote-at-apc-presidential-primary-amaechi-all-eges.html> (accessed 13 June 2024).

79 For more on the 2019 primaries, see B Sule, "Effects of Money Politics on Party Primaries in Nigerian 2019 General Election: Reflections on All Progressive Congress (APC) and People's Democratic Party (PDP)", 4 (2022) *Politicon: Jurnal Ilmu Politik*, pp 261–293.

80 U Sambo, B Sule, U Adamu, et al., "Democracy for Sale: Examining the Phenomenon of the Cost of Expression of Interest and Nomination Forms for Major Parties in Nigeria's 2023 General Election", April–June (2024), *SAGE Open*, pp 1–11, 6.

81 "APC, PDP, Oda Political Parties Cost of Nomination Forms for Nigeria 2023 Election and How Pipo See Am", *BBC News Pidgin*, 22 April 2022, <https://www.bbc.com/pidgin/tori-61187820> (accessed 3 March 2024).

parties far beyond the maximum amounts.<sup>82</sup> Against the background of the large sums of money used to influence political outcomes, Babayo Sule notes in his comprehensive study of political-party financing in Nigeria that the most recent increase of the election expense limits in the Electoral Act is insufficient and “looks like a joke”.<sup>83</sup> He points out too that, apart from the inadequacy of the spending limits, the fines envisaged in the Electoral Act for violations are small and therefore ineffective.<sup>84</sup>

#### 4.4 Judicialisation of party conflicts

Many of the challenges and associated phenomena discussed above increasingly end up in the courts. For example, while nomadism is prevalent across all political parties, the litigation of party defections was until recently not observed to have been initiated by political parties but only by private individuals or civil society organisations (CSOs).<sup>85</sup> However, as Victor Agboga notes, in a few recent cases a political party has sued a former member for migrating to another party, with these actions based on the constitutional provision tying the tenure of MPs to membership of the party that sponsored their election.<sup>86</sup> For instance, in the wake of the 2019 elections, the PDP successfully sued the former speaker of the House of Representatives, Yakubu Dogara, who had joined it before the elections but returned to the APC afterwards.<sup>87</sup>

Intra-party conflicts are also increasingly brought to court.<sup>88</sup> In the build-up to the 2023 elections, the major political parties were all enmeshed in one or another form of intra-party conflict over the conduct of their congresses and conventions, with the result that more than a thousand

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82 See B Sule, U Sambo, B Mat, et al., “Issues and Regulations in Party Financing and Electoral Expenses in Nigeria (1999–2020)”, 40 (2022) *Journal of Contemporary African Studies*, pp 253–269.

83 Sule, *supra* n. 40, p 146.

84 *Ibid*, pp 149–153.

85 Agboga, *supra* n. 71, p 623.

86 Section 68(1)(g) of the Constitution, discussed in section 4.2 above.

87 Agboga, *supra* n. 71, p 623. The legal dispute did not prevent Dogara from moving back to the PDP again in 2022. See “How Much Value is Dogara Adding to PDP?”, *This Day*, 16 December 2022, <https://www.thisdaylive.com/index.php/2022/12/16/how-much-value-is-dogara-adding-to-pdp> (accessed 22 November 2024).

88 See M Ihembe and C Isike, “Judicialising Party Primaries: Contemporary Developments in Nigeria,” 21 (2022) *Journal of African Elections*, pp 24–43.

pre-election matters came before the Federal High Court.<sup>89</sup> Generally, intra-party conflicts are regarded as internal affairs that should not concern the courts.<sup>90</sup> A long line of cases in Nigeria has confirmed this position, especially in regard to questions of party membership.

For example, in *Enang v Asuquo & Others*, the Supreme Court held that “membership of a political party is a matter that is strictly within the domestic affairs of a political party, and the Courts have no jurisdiction to determine who the members of a political party are”.<sup>91</sup> Yet while party membership is considered as outside the courts’ jurisdiction, the Supreme Court simultaneously emphasised in the same case that this is different where a dissatisfied contestant raises complaints about the conduct of party primaries in order to scrutinise whether the election was conducted in compliance with the party’s statutes, as per the Electoral Act.<sup>92</sup> Crucially, as was established in another case, this right of the aggrieved party is not subject to exhaustion of the internal administrative remedy of a political party.<sup>93</sup>

Due to patrimonialism, the resulting conflicts are usually not resolved through internal dispute mechanisms anyway, leaving aggrieved individuals with no recourse for justice within the party itself. The resulting judicialisation of these conflicts can have negative side-effects that extend beyond the parties themselves. For instance, in regard to the 2019 elections, it has been noted that “the prolonged lawsuits arising from disputed primaries brought about delays in the production of ballot papers since most of the contested primaries were still in court”.<sup>94</sup> Furthermore, there is often confusion when disputed primaries remain unresolved, elections proceed, and the courts later overturn the unlawful primaries.<sup>95</sup> In the 2019 electoral dispute in Zamfara State, for example, the Nigerian Supreme Court ruled that no valid party primaries were conducted by the APC in the state. Consequently, the

89 J Ojo, “Urgent Need to Reform Nigeria’s Politics and Elections”, *Punch*, 29 November 2023, <https://punchng.com/urgent-need-to-reform-nigerias-politics-and-elections/> (accessed 4 March 2024).

90 See generally FO Ottob, “Political Question Doctrine and Judicial Attitude to Political Controversies in Nigeria: Implications for Constitutionalism”, 9 (2022) *Lentera Hukum*, pp 263–302.

91 Supreme Court of Nigeria, *Enang v Asuquo & Others* (2023) LPELR-60042 (SC).

92 *Ibid*, pp 29–35; section 84(14) of the Electoral Act 2022.

93 Nigeria Court of Appeal, *Odey v APC & Others* (2023) LPELR 59695 (CA).

94 *Ibid*, p 30.

95 A popular example is the 2007 Supreme Court case, *Amaechi v INEC & Others* (2008) 5 NWLR (Pt. 1080) 227.

Court ordered that the candidate from the PDP, who received the second highest number of votes, should be declared the winner of the elections.<sup>96</sup>

Another effect of the increasing judicialisation of intra-party conflict is the risk of politicisation of the judiciary. The so-called Yobe North controversy prior to the 2023 elections suffices to illustrate this challenge. Senator Ahmed Lawan, president of the Senate from 2019 until 2023, had decided to stand for the presidency under the APC banner. As a senator representing Yobe North, he withdrew his renewed candidature for the senatorial seat under the APC to contest the presidency. His place was taken by Bashir Machina, who contested the primary elections held in May 2022 and won unopposed. However, after Lawan lost the APC presidential primaries, he wanted to return to his senatorial seat. Owing to Lawan's influence in the APC, Machina was asked to step down but refused, insisting that he was the rightful candidate. After purportedly holding another primary election, the APC submitted Lawan's name to the INEC as the senatorial candidate for Yobe North. But, due to the controversy, the INEC refused to recognise any candidate for the district.<sup>97</sup> In response, Machina filed a lawsuit, with the Federal High Court ordering the APC and INEC to recognise him as the lawfully nominated candidate – a position later affirmed by the Court of Appeal.

Dissatisfied with this judgement, the APC appealed to the Supreme Court. In a surprising turn of events, the Court allowed the appeal, holding that the suit at the trial court was instituted by way of the wrong originating process, and declared Lawan the APC's Yobe North senatorial candidate.<sup>98</sup> Since this apparent procedural flaw had not been raised before in the lower courts, the Supreme Court's decision to allow the appeal and change the outcome of the original judgement raised concerns that the Court had used this as a pretext to prioritise technical over substantive justice. The decision

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96 Q Iroanusi, "In APC's Loss of Zamfara, Here's the Man Who Played the Key Role", *Premium Times*, 28 May 2019, <https://www.premiumtimesng.com/news/headlines/331794-analysis-in-apcs-loss-of-zamfara-heres-the-man-who-played-lead-role.html> (accessed 11 July 2024).

97 See A Ejekwonyilo, "Supreme Court Declares Ahmad Lawan as APC's Yobe North Senatorial Candidate", *Premium Times*, 6 February 2023, <https://www.premiumtimesng.com/news/top-news/580227-just-in-supreme-court-declares-ahmad-lawan-as-apc-s-yobe-north-senatorial-candidate.html> (accessed 6 June 2024).

98 Supreme Court of Nigeria, *All Progressive Congress v Bashir Sheriff & Others* (2022), unreported suit No. SC/CV/1689/2022, <https://sabilaw.org/wp-content/uploads/2023/02/MACHINA-1.pdf> (accessed 9 March 2023).

in any case subverted the will of the numerous supporters of Machina who had endorsed his candidacy in the APC senatorial primaries.

#### 4.5 Blurring the line between the state and ruling parties

Finally, another issue thwarting the development of party constitutionalism in Nigeria is the persistent blurring of the line between the state and ruling parties. To enforce their separation, the new Electoral Act contains an innovative provision that seeks to reduce the power and influence of government members over party primaries. According to the Act, “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”.<sup>99</sup> If a political party fails to comply with this provision in the conduct of its primaries, “its candidate shall not be included in the election for that particular position in issue”.<sup>100</sup> In *Peoples Democratic Party v Edede*, however, the Nigeria Court of Appeal ruled that the provision was discriminatory against political office-holders and therefore inconsistent with section 42 of the Constitution.<sup>101</sup>

The blurring of the line between the state and ruling parties is perhaps best demonstrated by the INEC’s continual struggle for autonomy. Although its autonomy is constitutionally guaranteed,<sup>102</sup> there are signs that ruling parties over the years have been successful in manipulating the conduct of the electoral commission in their favour in an attempt to remain in power. For example, the INEC has a dubious track record of postponing elections and other statutory deadlines in favour of the ruling party of the day. In the 2015 elections, for instance, extreme pressure was exerted on it in favour of the ruling PDP to postpone the elections by six weeks,

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99 Section 84(12) of the Electoral Act 2022.

100 Section 84(13) of the Electoral Act 2022.

101 Nigeria Court of Appeal, *Peoples Democratic Party v Edede* (2022) 11 NWLR (Pt. 1840).

102 See, in particular, section 158 of the Constitution, which states that the INEC “in exercising its power to make appointments or to exercise disciplinary control over persons ... shall not be subject to the direction or control of any other authority or person”. For more detail on the INEC’s independence, see Suberu, *supra* n. 47.

purportedly for security concerns.<sup>103</sup> However, it was widely believed that the elections were postponed because the PDP feared defeat and needed more time to put its house in order. Similarly, during the 2023 elections, the INEC extended the deadline for party primaries due to internal conflicts within the ruling APC that caused uncertainty about the timing of the latter's presidential primaries.<sup>104</sup> Again, there was widespread speculation that the decision was intended to enable the PDP to select its candidate first, thereby allowing the APC to prepare better and nominate a strong contender.

While extensions of deadlines in favour of ruling parties might be regarded as mere coincidences, a look at some of the more recent appointments at the INEC casts further doubt on the electoral commission's autonomy. According to the Constitution, INEC commissioners shall be "non-partisan" and of "unquestionable integrity".<sup>105</sup> To that end, members of political parties are explicitly disqualified for appointment as members of the INEC,<sup>106</sup> but there are no other explicit limitations on the partisanship of electoral commissioners, thus making questionable appointments possible. For example, then President Buhari appointed his niece as the acting chairperson of the INEC in 2015, sparking criticism in the media that this was a case of nepotism.<sup>107</sup> In addition, the requirement itself that INEC commissioners shall not be party members was possibly violated when, in 2023, Buhari appointed four state commissioners who were reputedly APC loyalists, a decision that came under fire from a coalition of CSOs. The Senate nevertheless confirmed the appointments, resulting in a lawsuit which at the time of writing (March 2025) seemed still to be pending.<sup>108</sup>

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103 A Oluwafemi, "Four Times INEC has Postponed Elections", *The Cable*, 11 March 2023, <https://www.thecable.ng/timeline-four-times-inec-has-postponed-elections> (accessed 9 March 2024).

104 A Abubakar, "2023: How Independent is INEC", *The Cable*, 1 June 2022, <https://www.thecable.ng/2023-how-independent-is-inec> (accessed 8 June 2024).

105 Third Schedule, item F, section 14(2)(a) of the Constitution.

106 Section 156(1)(a) and Third Schedule, item F, sections 14(2) and (3)(b) of the Constitution.

107 See "Why Buhari Should be Grateful to PDP", *Nigerian Tribune*, 27 July 2015, p 22.

108 See "SERAP, BudgIT, 34 Nigerians sue Tinubu 'for appointing APC loyalists as top INEC officials'", *Premium Times*, 19 November 2023, <https://www.premiumtimesng.com/news/top-news/644554-serap-budgit-34-nigerians-sue-tinubu-for-appointing-apc-loyalists-as-top-inec-officials.html> (accessed 8 March 2024).

## 5. Conclusion

The disparity between Nigeria's constitutional and statutory framework regulating political parties and its practical implementation is stark. Given that the country is aiming for democratic consolidation, the importance of further entrenching political-party constitutionalism cannot be overstated. As this chapter has shown, the prevalence of patrimonialism in political-party dynamics is a significant threat to this goal, as parties serve as a conduit for politicians to pursue self-serving agendas, thereby undermining the integrity of democracy and constitutionalism. Patrimonialism within political parties has created formidable barriers for ordinary citizens seeking to engage in electoral processes. The dominant influence of godfathers and party barons, which is exacerbated by ethno-religious considerations and the extreme monetisation of party politics, in many instances corrupts or circumvents the constitutional and statutory framework regulating political parties.

If Nigerian politics is to move away from purely transactional thinking, many of these challenges could perhaps only be tackled holistically. Nonetheless, a stronger normative framework regulating political parties might at least contribute to deepening the country's entrenchment of constitutionalism and democracy. In this vein, a number of ideas for reform could be considered.

First, to counter the prevalence of undemocratic practices that enable party godfathers to control internal selection processes, the provisions in the Electoral Act that allow not only for direct primaries but also for an indirect voting system through delegates, as well as the selection of candidates through consensus, should be changed. As has been shown, delegates in indirect primaries are regularly bribed, and the nomination of candidates by consensus encourages informal arrangements brokered by a few influential figures outside of regular party procedures, with ordinary party members having no democratic say in the process. Relatedly, to reduce – or at least channel – ethno-religious considerations, the inconsistently applied policy of zoning could be made mandatory for all parties, or indeed even be constitutionalised, as has been proposed time and again by legal reformers.<sup>109</sup>

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109 For more on the most recent attempt, see “Legislators in Nigeria Propose Constitutional Amendments for Presidential Term Limits and Geographical Rotation”, *Constitutionnet*, 11 June 2024, <https://constitutionnet.org/news/legislators-nigeria-pr>

Secondly, to reduce the monetisation of party politics, a number of concrete steps should be taken to improve the regulatory framework governing party financing in Nigeria. For instance, the practice among political parties of charging fees for nomination forms in party primaries should be limited, or prohibited altogether, and the buying of such forms by sponsors for others should be sanctioned. In addition, the maximum amounts set for campaign costs should be reduced, not increased, as happened in the latest revision of the Electoral Act.<sup>110</sup> Offering and taking money to migrate from one party to another should also be prohibited so as to reduce the immediate financial benefits resulting from political nomadism.

Thirdly, in general but also for the previous suggestions to have any effect in practice, the existing party oversight mechanisms need to be strengthened significantly. As has become clear, the INEC is often unwilling or unable to fulfil its constitutional and statutory mandate when it comes to monitoring and enforcement in regard to internal party activities. Considering the massive challenges identified in this chapter, the question arises of whether it is realistic to expect the INEC to resolve all or any of them on its own. In addition, the widely shared perception that the electoral commission tends to favour the ruling party has damaged its legitimacy. One way to increase its autonomy would be to change the appointment procedure for INEC commissioners, for example by reducing the influence of the President in the process.

Fourth, to address the challenges of (over)judicialisation of internal party conflicts, it is essential to strengthen internal party dispute-resolution mechanisms. Political parties should be mandated to establish clear, effective, and transparent systems for resolving conflicts and ensure that these mechanisms are fair to all members as well as accessible by them. Members of these internal dispute resolution mechanisms should be able to act independently without fear of reprisal and have no known connection with any party leader. Courts should be given due regard to the outcomes of these internal dispute resolution mechanisms. To ease the burden of the courts tasked with deciding over internal party disputes, parties could be obliged to demonstrate that they have exhausted their internal dispute resolution mechanisms before their cases can be considered on merit in the courts.

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110 In this vein, see also Ibrahim, *supra* n. 1, pp 126–127.

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