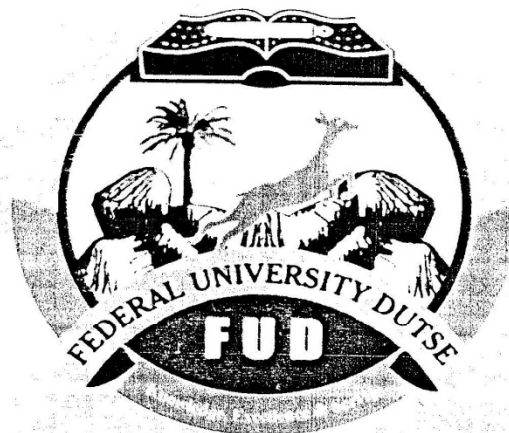


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TABLE OF CONTENTS

	An Overview of Personality and Politics in Kwara State: A Study of Saraki's Influence	
	Abdulrahman Abubakar	1
on of the journal respective the entire	Personnel Motivation in Hospitality Industry: Implications for Job Performance and Tourism Development in Nigeria	
	Lawal Musediq O., Irhue Young K., Ogunleye Akin G.	13
	An Overview of the Role of Women Legislators in Nigeria's National Assembly in the Fourth Republic	
ot more vs Roman 20 pages	Abdulrasheed Alada M.	34
ation, (s). ent	Political Commitment: The Epitome of Human Security in Kano State	
	Ali Ado S. Ahmed Aliyu, Aminu Musa A.	53
	Brexit: Potential Implications for Great Britain and Nigeria	
not be	Taiye A. Awotunde, Abubakar Abdulrahman	74
should	Political Propaganda, Hate Speech and Electioneering Campaign in Nigeria: The 2015 Presidential Election's Experience	
tachment in	Ebenezer Ejalonibu L., Zekeri Momoh	87
le a	Political Hermeneutics of Poverty in Dutse, Jigawa State	
gawa Journal University	Dalhatu Sani Y.	103
	An Assessment of the Benefits of Nigeria's Peacekeeping Role in Ensuring Peace and Stability in West Africa	
	Muritala Dauda, Mohammad Z. Bin Ahmad. Mohammad Faisol K., Mustapha Alhaji A.	114

Rethinking Nigeria's Electoral Legal Framework: A Focus On Eligible Voters' Disenfranchisement

Adebola Rafiu B., Olufemi Oyekunle T., Isaac Obiomoanę A. 140

The Impact of Freedom Radio Political Programme "Kowanne Gauta" on Political Awareness in Gwale Local Government Area of Kano State

Sani Garba W., Dahiru Alhaji I. 170

The Role of Mass Media in Political Socialization: A Case Study of 2015 General Election in Nigeria

Aminu Mohammed L., Buba Amne M. 184

An Assessment of Housing Delivery in Nigeria through Public-Private Partnership

Suleiman Danladi H., Salisu Adam D. 197

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Rethinking Nigeria's Electoral Legal Framework: A Focus On Eligible Voters' Disenfranchisement

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Abstract

Psephologists have established that election is one of the most critical factors central to the principle and practice of democracy. For any democracy to be consolidated, electoral process which is the method of political recruitment must be all-inclusive. That is, no eligible voter should be disenfranchised. Appreciable scholarship efforts have been invested in the study of election and electoral process in Nigeria, however, little attention is given to the disenfranchisement of some eligible voters by the country's electoral framework. It is against this backdrop that this paper examines the legal and illegal disenfranchisement of some categories of people by Nigeria's electoral management body using the 2015 General elections as point of reference. The main thrust of the paper is to identify the factors responsible for the disenfranchisement and the implications on electoral outcome and democratic consolidation in Nigeria. The paper adopts the basic propositions of the theory of Institutional Legitimacy to study the technical disenfranchisement of large number of eligible voters by INEC in the 2015 general elections. Data were gathered from secondary source and descriptive method of data analysis is adopted. The paper found that legal framework of the electoral system and institutional lapses are responsible for the massive disenfranchisement of eligible voters, especially the ad-hoc staff that was recruited for election duties and voters who could not access their Permanent Voter's Card (PVCs) as a result of poor distribution of PVCs in some states. The paper among others calls for a review of the electoral process to allow the electoral workers vote during elections.

Focus On

Keywords: Election management, Voting, Disenfranchisement, Electoral process, Electoral legal framework

Introduction

The conduct of a credible election is essential in any democracy, as voting during election is at the core of citizens' democratic rights. Elections in democracies play the vital role of ensuring representation of popular will and, help to secure the legitimacy of the political system. Thus, Dalton (1988, p. 35) holds that, "citizen involvement in the political process is essential for democracy to be viable and meaningful". There is ongoing concern to recent elections in Nigeria that have seen a gradual decline in the overall percentage of the electorate exercising their right to vote (Qadah, 2005). This is worrisome from a democratic point of view in that, if the reasons of the decline are left unchecked, the mandate of those elected to hold the positions might eventually be questionable (Qadah, 2005). Following the successful procedural and consequential outcomes of the 2015 general elections, the need to amend the legal framework for the conduct of elections became imperative. This was premised on the need to widening access to the voting process for mass participation in the future elections in Nigeria. The elections, though was generally accepted by both local and international community left much to be desired as there are still lots of works to be done in the area of inclusiveness which incidentally confers legitimacy on the government.

Statistics from the Independent National Electoral Commission (INEC) indicates that a fraction of the 32% of the voting age population (VAP) participated in the 2015 general elections. The implication of this is that a large cluster of VAPs did not exercise their franchise overtly occasioned by the lacuna that presented itself in Nigerian electoral laws. This right to vote or be voted for is not only constitutionally guaranteed, it is also protected under International Human Rights Law. Indeed, international human rights law provides that the right to vote (including other rights recognized under the Covenant) shall not be subject to unreasonable restrictions and distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Despite interesting analysis of the general elections and its outcome by existing scholarship, one area of worry which has not been explored satisfactorily by scholars and practitioners is the disenfranchisement of very large number of eligible voters. This paper therefore seeks to explore this problematic and to fill this gap by identifying the causal factors and recommend appropriate policy relevance actions that could save the situation.

Concept of Election

Elections are generally understood to refer to the process of choosing people for particular jobs by voting (Ojo, 2008, p. 6). In the political realm, elections are conceived as a formal expression of preferences by the governed, which are then aggregated and transformed into a collective decision about who will govern, who should stay in office, who should be thrown out, and who should replace those who have been thrown out. It is simply the process of elite selection system (Ojo, 2008, p. 6). In the words of Jinadu (2005, p.3). "elections encapsulate the mediating institutional and psychological process and anchors for citizens, as adults in an organized and routinized manner to express their choice among those who seek public political office (Jinadu, 2005:3)".

The conceptualization of election in the political realm rests squarely on the concept of liberal democracy (Nohlen, 1996, p. 1). It is almost impossible to comprehend the theory and practice of democracy without linking it to the process of elections. In the view of Lindbergh (2004, p. 6), every modern vision of representative democracy entails the notion of elections as the primary means of selecting political decision makers. As a matter of fact, earlier attempts at conceptualization liberal democracy equated it with the phenomenon of elections. Democracy however, should not be reduced to be process of elections only. It is a mixed bag of elements that transcend the mere holding of elections. They are nevertheless acclaimed as the "the heart of democratic order" (Chiroro, 2005, p. 38) and a hall mark of democracy (Ojo, 2007, p. 6). To buttress this view, Bratton (1998:52) aptly captured the significance of election to democracy while recognizing the fact that "elections do not, in and of themselves, constitute a consolidated democracy, but they remain fundamental, not only for installing democratic governments, but as a necessary requisites for broader democratic consolidation. Election as a concept to Shively (1997:187) entails a complex process that involves a chance between candidates or a choice whether or not a particular policy is to be adopted. In his own view, Ojo (2007:7) posit that elections are "institutional mechanisms that implement democracy by allowing citizens to choose among candidates or issues". In another conception Obi (2008:73) defines election as "a modality of freely choosing representatives". Summarily, election entails a process of choosing people for positions through voting.

Elections play an important role in the larger project of democracy. Elections have technical and social significance. In the technical sense they are the process through which an office is assigned to a person by an act of volition that requires the simultaneous expression of many people's opinions. In the social sense, an election is the process by which a person is linked to an office through the due participation of the people who will bear the weight of his or her authority. It is noted that it is this social aspect with the consent of the

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governed, and that this boils down to democracy and distinguishes election from appointment (Nwolise, 2007:157). The place and vitality of election in democracy indeed cannot be overemphasized. In this regard therefore:

Elections have the potential to confer legitimacy, moderate dissent, engender compliance and heighten citizen efficacy. Elections are especially crucial for eliciting consent from those citizens who would prefer alternative rules and policies within the political process (Elekwa, 2008:7).

Ideally, election is a means of determining the will of the people regarding their choice of political leaders and regime types. In essence, both the process and the outcome of the election should reflect the consent and aspirations of the people as organized electorate (Olu, 2003:18). This implies that apart from being a routine periodic democratic exercise, election must be competitive, transparent, free and fair as well as credible in order to live up to its democratic essence and merit. Also election as a symbol of sovereignty, it serves the purpose of investing governments with political authority and legitimacy. It ensures that citizens retain power to hire and fire political leaders. To achieve this, an election must be free and fair, or at least perceived to be so (Laakso, 2007:224).

The structures and processes of elections must be guarded by democratic ideas and principles. At the structural level there must be minimum prerequisites: a competent and relatively autonomous and impartial electoral body to administer the conduct of elections, an impartial judiciary to interpret electoral laws and adjudicate electoral matters, a viable press and an electoral system acceptable to all parties to an election. An election therefore, is not simply casting of votes during the polling day but a sum total of processes that come before and after it. It should however be noted that elections should not be viewed as periodic one-time event but as a set of events and decisions leading to elections that have long lasting consequences once the proverbial dust is settled (Laakso, 2000:224).

International Conventions and Legal Framework Underpinning Electoral Process in Nigeria

The Federal Republic of Nigeria is a party to the key universal and regional treaties relevant to democratic participation (EU EOM, 2015:11); including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of Persons with Disabilities, the African Charter on Human and Peoples' Rights, etc. The right to vote and to be elected in periodic elections through universal suffrage are established in the 1999 Constitution (as amended), and the 2010 Electoral Act (as amended). The fundamental

freedoms of assembly, association, expression and movement, are also provided for as well as access to justice and legal remedy. The conduct of the general elections is regulated primarily by the Constitution and the Electoral Act. Other legal instruments also supplement, for example the Police Act and Guidelines for the Conduct of Police Officers on Electoral Duty, the Nigerian Code of Advertising Practice & Sales Promotion (APCON), the Nigeria Broadcasting Code, and various INEC Guidelines and Regulations.

The Legal Framework for the conduct of the 2015 general elections in Nigeria comprises the 1999 Constitution of the Federal Republic of Nigeria (as amended), The Electoral Act(2010 as amended), INEC Establishment Act 1998, INEC (Amendment) Act 1998. Guidelines issued by INEC and other laws regulating the conduct of institutions and agencies involved in elections (INEC, 2017). Of all these, the Constitution takes the first place in the order of precedence, in that any provision in any Act or Regulation which is contrary to its provision(s) is null, void and of no effect to the extent of such inconsistency (INEC, 2017). Despite various legal reform initiatives since the 2011 elections, including the Constitution Amendment Bill, which included some election-related provisions, yet a number of key shortcomings are yet to be addressed, with the legislative framework not fully in line with universal and regional standards for elections committed to by Nigeria. Among this is the right to vote which is an element of civil and political rights, and which is a constitutionally recognized fundamental political right. Section 1 sub section (2) of the 1999 Constitution of the Federal Republic of Nigeria, (as amended), establishes the right to vote as the foundation of a political regime based on democratic elections. It prescribes that: "the Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution"

Thus, other sections of the Constitution such as sections 7(4), 117(2), 118, 135(5) and 178(5) recognize the right to vote and the necessity of registering eligible voters as the basis of elections into the various arms of government. It therefore means that any derogation or desecration of the right to vote derogates or desecrates the system of governance termed "democracy". Indeed, Article 21(3) of the Universal Declaration of Human Rights, 1948, in particular recognizes that only governments produced through the freely given will of the people demonstrated through the right to vote can be accorded legitimacy. In other words, governments that emerge in violation of the sacred right to vote are illegitimate. Article 21(3) provides:

The will of the people shall be the basis of the authority of government: this wills shall be expressed in periodic and genuine elections which shall be by

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universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

The critical significance of the right to vote has been underscored by scholars and upheld judicially. Boyer (1981: 121) opines that:

The franchise – the right to vote for one’s representative – is the fundamental political right. It produces the most direct verdict by citizens on the performance of those who govern them. It is ... “the key stone in the arch of the modern system of political rights in this country.

Also as important as the right to vote, is the legal framework that specifies the structure, role and responsibility of the electoral body, and the relationship between the electoral body and political actors, amongst others. The electoral laws addressed some of the issues raised by the Electoral Reform Committee. INEC as the institution empowers to organize election in Nigeria can only work within the electoral laws permitted by the legislative chamber and issue its own guidelines aimed at creating platform for all eligible VAP to participate in elections. These electoral laws are however hampering the efforts of the Commission to open up access to electoral process thereby promoting the apathetic and low level of democratic culture of the citizens resulting to disenchant with the political process. Contentious outcomes of elections (on account of low voters participation) occasioned by restrictive access to electoral process make the theory of institutional legitimacy most relevant.

Theoretical Perspective

This paper abstracted the basic propositions arising from the theory of Institutional Legitimacy as the theoretical framework of analysis. The theory of institutional legitimacy is one of the popular explanatory frameworks for the understanding of organizational actions. The major proponents of this theory are Meyer and Rowan (1977), DiMaggio and Powell (1983), Scott (2001). The theory assumes among other things that institutions serve to drive change and to shape the nature of change across levels and contexts, but particularly, they (institutions) change in character and potency over time. It considers the processes by which structures, including schemes; rules, norms, and routines, become established as authoritative guidelines for social behavior (Scott, 2004). The nature and manner in which institutions are created and transformed determine how they perform; whether they can bring about change or be changed themselves, or extinguished. Institutions that are created through the due process tend to acquire legitimacy and support of the populace. Meanwhile, Oliver (1992) and Scott (2001) noted that much of the emphasis in the institutional theory is on construction and on convergent change process.

In the application of the theory to the investigation of the problem, the paper considered the nature and manner of the establishment of Independent National Electoral Commission (INEC). The nature and manner of the establishment of INEC is directly proportional to the degree of legitimacy and support acquired and consequent performance. When an institution like INEC is established following the due process, it reduces undue political pressure on the body and gains the necessary support from the populace needed to perform effectively and efficiently. To be sure, the 1999 Constitution (as amended), which currently regulates all elections in Nigeria, just like in the previous cases; provides for the appointment of the Commission's Chairman by the President, subject to Senate confirmation. This provision was strictly adhered to in the appointment of the Commission's Chairman but with a little degree of freedom to operate in 2015 general elections. Therefore, the success of the election management body (INEC) as an instrument of change in the 2015 general elections is consequent upon following the due process in appointing the supreme head of the Commission and the operational freedom of the Commission's head. Arising from the observance of due process in the creation and appointment of the management body of INEC is that it became a driver for change and has changed the electoral system in Nigeria both in character and efficiency.

Distribution of Permanent Voters' Cards (PVCs): A Precursor to Electoral Disenfranchisement?

As part of efforts to reform the electoral system to achieve credible elections, The Independent National Electoral Commission (INEC) successfully ensured the cleanup of voters' register through the consolidation and updating of the voters' register culminating in the issuance of a chip-based Permanent Voter Cards (PVCs) for 68,833,476 persons in the biometric Register of Voters ahead of the March 28th and April 11th, 2015 general elections.. seamless integration of both the states' and national data of voters and institutionalization of continuous voter registration before the 2015 general elections (Umoru, 2012).

The PVC replaced the Temporary Voter Card (TVC) issued on the heels of registration of voters in 2011. According to INEC, quality, security, durability and cost effectiveness were underlying factors in the production of the Permanent Voter Cards by INEC. These cards have many components and specialized features (e.g. base substrate, security printing, personalization, lamination and chip embedding), and it was designed with an average life span of ten (10) years (INEC, FACTSHEET on PVCs and Card Readers, 2015). The PVC has an embedded chip that contains all the biometrics of a legitimate holder (including fingerprints and facial image). On Election Day, it would be

swiped with a Smart Card Reader at the polling unit to ensure 100 per cent authentication and verification of the voter before he/she is allowed to vote. The PVC has security features that are not easily susceptible to counterfeiting. Only voters who had their PVC were allowed to vote in the 2015 general elections. The PVCs were available for collection at distribution points in the 36 states of the country and the Federal Capital Territory (FCT) until 21st March 2015. The clean registered of voters were produced and a detailed statistic of a state-wide PVC distribution is presented in table 1.

Indeed INEC did encounter some challenges in the distribution of the PVCs exercises. Consequently, several registrants who could not collect their PVC were suspicious of INEC partisanship. INEC was erroneously accused of voter suppression in some parts of the country through the instrumentality of the PVCs but the truth of the matter is that the poor collection rate is not a sign of INEC's bias or incapability as many of the voters failed to show any enthusiasm in the collection exercise. For instance, it took threat of sanctions to compel civil servants in some states to go for collection of their cards. However, in academic rating 71 percent is already an A grade, in the same vein 83% distribution rate, is no mean feat by INEC an indication of its readiness and preparedness for the election.

In addition, from Table 1, the registered voting population is about 68,981,233. This is a 6.4% reduction from 2011 figures of 73,528,040, and represents an estimated 78% of the total voting age population of some 88.5 million. (EU, 2015) This reductions followed production and issuance of the PVC to registered voters on the cleaned up register. Table 3 shows about 56 million (83%) of eligible voters were able to collect their PVCs before the deadline given by INEC. The total votes cast in 2015 Presidential election were 29,432,083, while registered voters turnout was 43.65% which happen to be the lowest in Nigeria's democratic history since 1999 (52% in 1999, 69% in 2003, 57% in 2007 and 54% in 2011). This indicates that many Nigerians are indifferent in political matters; a position well supported by the finding of Udende (2011) who examined the mass media, political awareness and voting behaviour in the Nigeria's 2011 Presidential Election and documented that the level of political awareness among electorate in Nigeria seems very low.

Nigeria Electoral Legal Framework and the Disenfranchised Voters

A survey conducted by News Agency of Nigeria on public perception regarding INEC's preparedness for the 2015 elections indicated the weakness and challenges facing the Commission. The picture painted clearly shows the degree of peoples' apprehensions. The Commission in its response, however, held that it was doing everything possible to ensure optimal voter participation, maintaining that, while there were

... challenges concerning the cards, people are saying the whole process has failed and we're saying no. People are saying we've disenfranchised them because we're not distributing, but we say no. You can't begin to determine who is disenfranchised until the day of election. If today is February 14th and there're a number of people out there who have registered, but INEC has not produced their cards, then you can say they have been disenfranchised. On the other hand, if we've produced the cards and people refuse or for some reasons don't go and collect those cards, they can't say INEC has disenfranchised them (*DailyTrust*, 2015).

The statement above credited to the former chairman of the Independent National Electoral Commission (INEC), Professor Attahiru Jega, expresses an acknowledgement of the pervasive pessimism in the period leading up to the 2015 general elections. But in an attempt to conduct free, fair and credible elections, truly some categories of eligible voters could not exercise their franchise. This is because elections in Nigeria remain a labour intensive project considering the poor level of technological development and insecurity challenges that warrants drafting of large number of security personnel to sensitive locations during the election. It also necessitated the use of large number of ad-hoc staff including the INEC permanent staff, security personnel, members of the National Union of Road Transport Workers (NURTW), local observer groups and the media men. Much as INEC's dependence on these ad-hoc staffs is on its own an institutional challenge (Bolaji, 2015), it should be noted that no mechanism was put in place to ensure voting by these ad-hoc staff and other categories of eligible Nigerians including: people awaiting trials in various detention camps, Nigerians in Diaspora, people with disabilities among others as INEC did for Internally Displaced People (IDP). This is clear violation to Article 25 of the International Covenant on Civil and Political Rights (ICCPR), 1966, which establishes that every citizen shall have the right and the opportunity without unreasonable restrictions to take part in the conduct of public affairs, directly or through freely chosen representatives. Details of the categories and the reasons necessitated their being disenfranchised in the general elections are as reflected in Table 2:

Table 2: Tabular Presentation of Disenfranchised Voters

S/No.	Category	Figure Estimation	Reasons for being Disenfranchised
1	Permanent Staff	Over 13,000 (FUOM, 2015: 13)	The 1999 Constitution of FRN (as amended) & 2010 Electoral Acts (as amended) demand non-partisanship of members of staffs (Section 156 and Paragraph 14

			(2) (a) of 3 rd Schedule)
2	<u>Ad-hoc Staff:</u>		
	NYSC & Staffs of Federal Government Agencies	About 750,000 (INEC, 2015:12 & The Punch Editorial 2015)	They are directly involved in the conduct of elections, as such could not personally be at their polling unit/voting point to cast their ballot in the manner prescribed by the Commission (INEC, 2014:3).
	NURTW Members	About 42,029 (INEC, 2015:104)	They provided logistic supports services for the smooth conduct of the elections, as such could not personally be at their polling unit/voting point to cast their ballot in the manner prescribed by the Commission (INEC, 2014:3).
3	Security Personnel	About 161,074 (Jega, 2012; Jega, 2013; INEC, 2015: 102)	Police officers and other security agencies are posted out of their State Commands and moved to contiguous states to ensure their neutrality on Election Day (Police Act).
4	Local Observer Groups	About 40,000 (INEC, 2015 & Ajanaku, 2015)	7 (b) No voter shall cast his/her vote other than by personally attending the polling unit/voting point and in the manner prescribed by the Commission (INEC, 2014:3).
5	Method of Voting: (Adoption of REMOBS)	2,314,407 (see Table 3)	8(a) There shall be separate periods for accreditation and voting (INEC, 2014:3). The System of voting was too rigorous and led to voter's fatigue (Table 3).
6	Prisoners Awaiting Trials	About 45,000 (NPC, 2016)	The Constitution and the Electoral Act do not have explicit legal provisions for persons detained in prison to vote.
7	<u>PVCs:</u> Unclaimed PVCs	10,122,913 (INEC, 2015)	1. Method of PVCs Distribution did not allow "Collection by Proxy" and this means people who had the genuine mandate to collect for their people were

	Unprintable PVCs		<p>conceded, consequently this promotes voter apathy.</p> <p>2. Voter's card transfer mechanism for those who had changed their locations after registration was ineffective.</p> <p>Large number of registrants failed optimization test as Business Rules for production of PVCs state that any registrant with less than two fingerprints does not get PVC. (INEC, 2015)</p>
8	Nigerians in Diaspora	About 15 million Dabiri-Erewa	<p>1. Only Nigerian citizens residing in Nigeria at the time of registration of voters can vote at any election (Section 77(2) and 117 (2)).</p> <p>2. One can only vote where he or she is registered. Section 57 and 58 of the Electoral Act 2014 (as amended)</p>
9	Media Team	No Figure Estimate	They served as non-partisan observers, as such could not personally be at their polling unit/voting point to cast their ballot in the manner prescribed by the Commission (INEC, 2014:3).
10	People with Disabilities (PWD)	Estimated 19 million (COG, 2015:31).	Though Section 56 of the Electoral Acts (2010) recognize the rights of people with various forms of disabilities; yet, INEC made no special voting system for them as they did during registration exercise.
	TOTAL ESTIMATE	48,390,482	

Source: Compiled by Researcher from different sources

The figure 1 below provides further graphic illustration of systemic disenfranchisement of voters with respect to 2015 general elections. For ease of categorization they are classified into three namely: legal, illegal and others.

Those who fall under "illegal" classification were the Prisoners Awaiting Trials, Permanent Staff of INEC, ad-hoc Staffs, Security Personnel, NURTW Members, Local Observer Groups, The Media Team, and People with Disabilities (PWD). This is because they all reside in Nigeria and yet the exigencies of their work on Election Day could not allow them to vote. The "legal" classification only contains Nigerians in Diaspora, for the simple reason that presently, the Electoral laws prohibit them from participation; while the one under "others" classification were those who could not withstand the rigorous nature of Method of Voting such as the weak, aged and majority of lactating mothers.

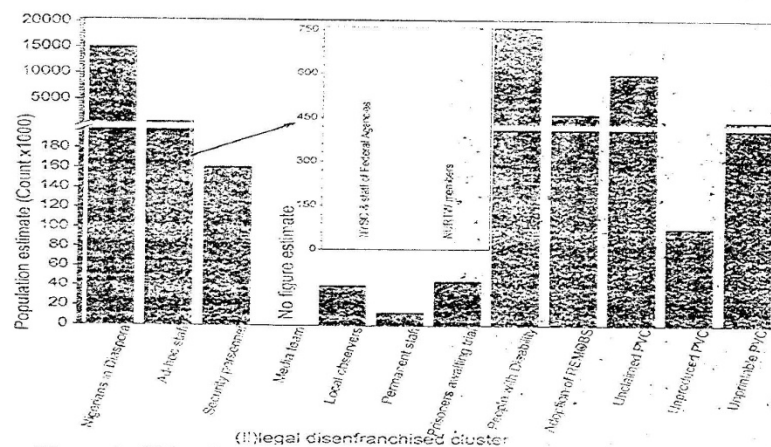


Figure 1: (II)legally Disenfranchised Voter Clusters
Source: Authors' compilation from different sources

Findings and Discussion

This study seeks to unearth the level of disenfranchisement that laced the conduct of 2015 general elections. The findings of study revealed that there is significant relation between legal frameworks that guided the conduct of 2015 general elections in Nigeria and perceived systemic disenfranchisement of eligible voters. A disturbing estimated figure of about 48 million eligible voters as presented in Table 2 were purported to be legally or illegally disenfranchised and this call for rethinking of Nigeria's electoral legal framework. Given the fact that this figure (48m) is large enough to change election result especially when juxtaposing it with marginal number of votes (i.e. 2.5million) that separated the winner from the first runners-up. Though the winner has legitimate vote to be President, but a fraction of voters which participated in the election was never a representation of the entire economy of the country. The problem of the system was further compounded by the lacuna

in the Electoral Acts which did not allow the elections to be technologically driven.

Further analysis from the above graph reveals permanent staff as the least disenfranchised voters with over 13 thousand people belonging to the VAP, while the people with disability carried the highest number with 19 million eligible voters. The Nigeria media landscape has over 400 media houses apart from the private media; all of which deployed their team for effective coverage of 2015 general elections; although their figure cannot be ascertained. Of particular important to this study is the clusters that are in millions such as Nigerians in Diaspora (15m), People with disability (19m), unclaimed (10m) and unprintable (9m). Since elections are the key to establish a link between leaders and the public, therefore the failure of the legal framework to allow these eligible voters to participate in voting is an obstacle to democratic governance. This is because non-participation in the electoral processes of certain groups of people is a means of installing bad and unpopular leaders. Some developed and developing democracies of the world have created avenue for poll workers and other categories of people who will be on election duty to vote before the date of elections.

Available statistics on the 2015 general elections reveal that the total number of registered voters was 68, 833,476 (http://www.inecnigeria.org/?page_id=31). When the figure is juxtapose with the estimated population of Nigeria, which is put at 160,000,000 million (NPC, 2006), the paper observed that over 80 million (about 50%) of the citizens did not register for the election. These groups can be classified into two categories: first, those belonging to voting age population (VAP) that are qualified to register and participate in the elections but due to one reason or the other could not be physically present to capture during the registration exercise and secondly those who have not attained legal voting age as at the time of registration exercise. The following sections discussed succinctly how the variously identified categories of VAPs were systematically disenfranchised from performing their civic responsibility in 2015 general elections.

i. INEC Permanent Staff

Section 156 and Paragraph 14 (2) (a) of 3rd Schedule of the 1999 Constitution of FRN (as amended) and 2010 Electoral Acts (as amended) demand non-partisanship of members of staff. What this portends is that over 13,000 permanent staffs of INEC cannot have an input in deciding who governs them and so were disenfranchised.

ii. Security Agents

Electoral Security is part of the measures for credible and transparent election. This probably necessitated why INEC facilitated the establishment of the Inter-Agencies Consultative Committee on Election Security (ICCES) in 2010

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to ensure coordinated engagement of all security agencies during election periods, among others (Jega, 2012; Jega, 2013). Membership of ICCES include: The Nigerian Police, Civil Defense Corps, the Military, the Nigerian Customs and the Nigerian Immigration. The Nigerian Police Force as part of its core mandate, with a staff strength of 371, 800, directly participated in providing security during the elections and this applies to other security outfits listed above. Though no military officer was posted to any polling booth but they were deployed to major roads and some flash points for security checks. Therefore, it can be argue that since all these security personnel numbering over 400,000 security personnel were posted out of their State Commands and moved to contiguous states to ensure their neutrality on Election Day, they were illegally disenfranchised as they resided in Nigeria during the election time but exigency of their work prevented them to be physically present at their polling unit/voting point to cast their ballot.

iii. Ad-hoc staff

Although INEC was statutorily charged with the responsibility of administering the elections; but the Commission had inadequate manpower to cover the election unaided. This made INEC to recruit not fewer than 750 000 ad-hoc staff (including members of academic and non-academic staff of Federal institutions of higher learning as ad-hoc collation officers at different levels and the use of National Youth Service Corps members and final year students as ad-hoc polling officers in the 2015 elections) to conduct the election (INEC, 2015:12). This figure exceeds the total number of registered voters in Bayelsa and Ekiti states which is put at 610, 373 and 732, 021 respectively. The NYSC corps members constituted a significant proportion of the personnel in all 36 states. In the spirit of selflessness and patriotism, corps member operating polling units had to work late into the night. The unfortunate thing was that in spite of patriotism of these groups of people, they could not personally be at their polling unit/voting point to cast their ballot in the manner prescribed by the Commission, hence illegally disenfranchised. About 42,029 hired vehicles of members of NURTW were also used to prosecute the election. (INEC, 2015:104). What this indicates is that the drivers of these vehicles could not vote as they could not personally be at their polling unit/voting point to cast their ballot.

iv. Civil Society Groups, Professional Bodies and Human Rights Organizations

Election monitoring plays an important role in enhancing the transparency and credibility of elections and democratic governance as well as acceptance of election results. It also helps to diminish conflict before, during and after elections (International IDEA 1999). A total number of eighty-two (82) local observer groups featured prominently in the 2015 general elections according to 2015 INEC General Election Reports (INEC, 2015). For instance, The

Transition Monitoring Groups (TMG) which has 400 groups under its umbrella and which had been consistently observed elections in Nigeria since the era of military rule deployed 4,000 trained and accredited citizen observers in teams of two to 1,507 representative random sampled polling units across the country for the elections (Ajanaku, 2015). The Nigerian Bar association also reported having 840 accredited observers. So also the Youth Initiative for Advocacy Growth and Advancement (YIAGA) observed on 28 March and 11 April deployed 1,600 and 560 observers respectively. The Situation Room was active throughout both Federal and State elections, providing live commentary on the process. However it is not clear exactly how many observers they deployed etc. However, Constitution and Electoral Acts do not make provisions for these groups of people to exercise their franchise and as such all their members were illegally disenfranchised.

v. The Media Workers

The fourth estate of the realm, the media, is a major stake-holder not only in the electoral process but also in governance at all levels. These vibrant Nigerian media scene includes some 200 radio stations and 150 television channels as well as approximately 400 mostly private print media outlets (EU EOM, 2015:22). Federal government-controlled Nigerian Television Authority (NTA) and Federal Radio Corporation of Nigeria (FRCN) are the two dominant media houses with the widest coverage. Combined they are composed of 150 stations networked throughout the country, while the private media, currently consisting of some 135 broadcasters, is steadily growing (EU EOM, 2015:22). Be it print, broadcast and electronic, the media played key roles in the electoral process by informing, educating and enlightening all the key stakeholders-the government, the electoral body, the political parties and politicians, the electorates and the general public in the 2015 elections, the Nigerian print and broadcast media carried out an extensive coverage of the voting process from the beginning till the end. The numerical strength of various media outlets that cover the general election could not be estimated. Their reporters who moved from one place to the other to avail the public of the situation report were technically disenfranchised because no legal provision was put in place for them to cast their ballot ahead of the elections; since they could not be physically present at their polling unit/voting point as prescribed by the Commission (INEC, 2014:3).

vi. Separate Processes for Accreditation and Voting

There is no gainsaying the fact that the major challenges that characterized previous elections in Nigeria was the issue of multiple voting. Therefore to improve the integrity and boost confidence level of Nigerian electorates, the Commission took the view that a major way to check this in the 2015 elections was to have: (i) accreditation of voters, between 8.00 am and 12.00 noon, simultaneously across the country and (ii) vote casting from 12:30 pm, until

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the last person on the queue had voted. According to the Chief Press Secretary to the INEC Chairman, Kayode Idowu, this arrangement will make it extremely difficult for any multiple voting to take place (Idowu, 2015). Naturally this came with its own challenges especially over 2million accredited voters could not come back to vote. The adoption of separation of accreditation from voting similar to the 2011 edition used was aimed at improving the credibility of elections but eventually promoted a degree of political apathy amongst the electorates, especially the weak, aged, lactating mothers and others. A dismal 7.3% of accredited voters' abstention from voting among others may be due to voter's fatigue or lack of belief in the credibility of the process, failure of previous elected governments or sheer ignorance of the general public about the importance of participating in the electoral process (Loschky, 2015). The failure of INEC to have pursued the amendment to Section 49(1) and (2) of the Electoral Act 2010 (as amended) which differentiate accreditation from voting can be argued to have caused about 2.3million eligible voters to be technically disenfranchised.

vii. Prisoners Awaiting Trials

According to the Anthony General of the Federation and Minister of Justice, Abubakar Malami, the rights of awaiting trial inmates who constitute 73 per cent of the nation's prison population were violated in 2015 general elections (*The Sun*, 2018). Though the Constitution and the Electoral Act do foresee deprivation of the right to vote for persons sentenced to imprisonment, however no explicit legal provisions are made for persons detained in prison and INEC did not make any such special arrangements. Interestingly, the Federal High Court in Benin Judicial Division held, in its judgment of 16 December 2014 on suit No. FHC/B/CS/12/2014, stated that INEC and the Controller General of Nigeria Prisons Service "have the duty to ensure the exercise" by the prisoners/plaintiffs of the right to register and vote and "any failure to enforce these rights amount to illegal violation of the plaintiffs' voting rights". However the court also held that INEC "is not bound to specifically set up registration centers and voting units within the prison yards." (EU BOM, 2015:11) But with this Judicial pronouncement, INEC needs no other legislation to accommodate the persons awaiting trials to participate in the recruitment of their leaders in 2015 general elections but the Commission chose not to uphold the judicial pronouncement consequently illegally disenfranchised about 42,263 Nigerian awaiting trials (<http://www.prisons.gov.ng/about/statistical-info.php>) in contravention to all known electoral laws and judicial brief in Nigeria.

viii. Nigerians in Diaspora

Presently, only Nigerian citizens residing in Nigeria at the time of registration of voters can vote at any election (Section 77(2) and 117 [2]). It is ineluctably true that Section 77, Subsection (2) of the 1999 Constitution states.

Every citizen of Nigeria, who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for purposes of the election to a legislative house, shall be entitled to be registered as a voter for that election.

This suggests that this part of the Constitution has denied Nigerian citizens in Diaspora the opportunity to participate in leadership recruitment in their country. This goes to show that about 15 million Nigerians in Diaspora were illegally exempted from voting despite the judicial pronouncement of an Abuja High Court delivered on 27th January, 2009. According to the presiding Judge, Justice Adamu Bello, since Nigerian nationals abroad have convinced the court that they are entitled to vote and be voted for, it becomes the responsibility of INEC to "put in place relevant machinery to assist the plaintiffs to vote from abroad". The need for extension of franchise to these Nigerian citizens in the Diaspora draws strength from similar practice in advanced democracies around the world. For instance, since the 1985 amendment of the Federal Electoral Law in Germany, German nationals resident abroad now have the right to participate in elections (Inter Nations, n.d.). In the light of this, Diaspora franchise can only be achieved in Nigeria through the electoral voting system (eVS) but in conducting 2015 general elections; INEC was guided by 2014 Electoral Acts (as amended) which did not accommodate eVS. The paper implicated that amending this section of the Constitution would hasten the Diaspora voting (<http://sunnewsonline.com/diaspora-voting-rights-an-urgent-need>).

The paper finds that Section 57 and 58 of the Electoral Act 2014 (as amended) states that one can only vote where he or she is registered. This section of the Electoral Acts expressly prohibited Nigerians in the Diaspora to vote in the 2015 general elections. The law says "you can only vote where you are registered" (Leadership, 2018). In fact, Ambassador Geoffrey Teneilable, former Consular-General of Nigeria in Atlanta, Georgia, USA acknowledged that over two million Nigerians live in the United States (with their significant contributory power to the economy of the nation) wonder why are their rights to participate in the electoral process being hamstrung. (The Sun, 2018)

In a similar development, the INEC Chairman, Prof. Yakubu affirmed:

there are about 10 million Nigerians in Sudan under two categories- "Sudanese of Nigeria origin and Nigeria migrants in Sudan" (The Nation, 2018). He further stated: We have urged the National Assembly to expedite action by amending sections of the Constitution and the Electoral Act (2010 as amended) to make way for Nigerians living outside the country to participate in the electoral process and vote. (<http://www.inecnigeria.org/?inecnews=inec-nass-make-case-for-diaspora-voting>).

This will definitely allow improvement of the electoral process and accessibility of franchise to all Nigerians, albeit within the ambit of law as not allowing Nigerians in the Diaspora to vote in general elections amounts to a denial of their fundamental political rights of voting and being voted for as provided for in the 1999 Constitution of the Federal Republic.

In the final analysis, this paper is of the view that if electoral space is open up for about 15 million Nigerians of voting age who live and work outside Nigeria; it might have made significant impact in determining the outcome of elections and in conferring credibility to the entire electoral process. This is because the incumbent government with instrumentality of Ministry of Foreign Affairs and other windows will have been advantaged to use state resources to conduct extensive campaign and garnered Diaspora votes.

ix. People with Disability (PWD)

According to the Centre for Citizens with Disabilities, a non-governmental organization, there are an estimated 19 million Nigerians with a form of physical disability. Though there still remains a significant lack of data on other forms of disability. But despite the fact that Nigeria ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) on 24th September 2010 and in Article 4(1), the Convention obligates Nigeria "to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability." Section 56 of the Electoral Acts, 2010 (as amended) also states that a voter who is blind or is otherwise unable to distinguish symbols or who suffers from any other physical disability may be accompanied into the polling unit by a person chosen by him and that person shall, after informing the Presiding Officer of the disability, be permitted to accompany the voter into the voting compartment and assist the voter to make his mark in accordance with the procedure prescribed by the Commission. yet, the reality on ground does not confirm implementation. While polling officials were generally aware of the process for allowing people with disability to vote, there was a concern that the location and lay out of polling units were not conducive for people with disability. This concern reinforced the observation of Commonwealth Observer Groups in the 2015 general elections where many polling officials confided that they had yet to receive a voter with disability. This absence of disabled voters was a clear reflection of the needs to engage people with disability in political participation. Clearly the restrictions on vehicular movement on Election Day no doubt technically disenfranchised an estimated 27.6% of the registered voters as this prevented majority of them from reaching their polling units.

x. Permanent Voter Cards (PVCs)

Mandatory use of PVCs meant that distribution and collection of PVCs was critical. There was support across the political spectrum in principle for the use of PVCs. Though concerned by likely disenfranchisement of eligible voters, the PDP strongly objected to how such new technology was introduced without proper testing, given the fact that they had not been used in any mid-cycle elections, and emphasized the risk to disenfranchisement if PVCs were not sufficiently collected (PDP Press Release, 28 March). While the introduction of PVCs has been effective in increasing the reliability of the voter register and reducing opportunity for fraud, their impact has also been limited by the seemingly weak quality of biometric data captured during registration in 2010 and 2014. For instance, after the register of voters was subjected to optimization processes with the instrumentality of Automated Fingerprint Identification System (AFIS); some business rules for production of Permanent Voter Cards (PVCs) were applied to the data after AFIS run, critical among them was that any registrant with less than two fingerprints does not get PVC, hence about 1.3% that failed required standardized biometric solution were unprintable (see Table 3); consequently their records were removed from the register and this category of eligible voters too were no doubt technically disenfranchised.

In addition, the late arrival of a large number of PVCs (those from later CVR phases, transferees and lost cards) caused frustration, increased tension and public distrust of INEC in the pre-election stage. This was against the backdrop of several hitches encountered in relations to poor distribution of the PVC to potential voters duly registered in 2010 and 2014, issued with temporary voter cards but could not access their PVCs during the election year because of logistical and technical challenges. The system put in place by INEC for the distribution of the PVCs failed to take cognizance of certain categories of voters who may change their location after voter's registration but before PVC collection or were internally displaced occasioned by insurgencies. This mechanism proved problematic to the extent that voters who had changed their locations after registration found it almost impossible to collect their PVCs. The transfer window instituted by the Commission to address these challenges was also ineffective. Thus, despite INEC's strong pronouncements on its readiness to conduct elections as originally scheduled in February, it suffered serious shortcomings like extensive under-collection of PVCs (EU EOM, 2015). As a result of the lapses in the PVC production and distribution mechanism put in place by INEC, about 100,000 PVCs which are necessary for voting, remained unproduced one day before 28 March Election Day, while over 10 million (15%) PVCs remained uncollected.

In the final analysis, 15% of eligible voters arguably could have swung the outcome of elections to either way if they were opportune to collect their

PVCs. But their failure to obtain their PVCs indicates that about one-third (1/3rd) of voter turnout in addition to other categories (i.e. the Unproduced PVCs and those registrants that failed optimization test) had been technically and disenfranchised.

Implications of Electoral Disenfranchisement on Electoral Outcomes

i. An Increased Political Apathy

The electoral laws used for the conduct of 2015 general elections promoted political apathy. This is because it does not mainstream the marginalized population that constituted substantial part of the population for the elections. To this end, they became disenchanted with the political process. A good number of people who are willing to participate could not do so because of their crucial role they play on Election Day; same goes for voters with disabilities or those having other inconveniences in being physically present at a polling unit on Election Day. This leads to voter apathy- a component of political apathy. In Nigeria; the systemic voter turnout since 2007 is an indication that Nigerians have greatly become apathetic towards elections (<http://www.idea.int/vt/countryview.cfm?CountryCode=NG>). In a country supposedly run by elected officials, disenchanted and inactive citizens can present a problem. This is because, when very few people vote at elections, the elected persons do not necessarily represent the beliefs and values of the general population. Fewer voters at the polls lessen the impact of the popular vote and strengthen the impact of special interest groups.

ii. Legitimacy Crisis

Voter disenfranchisement, be it technical or legally-related, erodes the likelihood that the government can realistically anticipate civil cooperation from marginalized groups who are systematically denied the opportunity to participate in the making of laws to which they are ultimately expected to adhere. Due to the social alienation and disorganization that ensues, with increased disenfranchisement stringency, antisocial behavior, deviance and criminal participation are likely to increase. A fraction of the 32% of the voting age population (Table 1) that participated in the 2015 general elections were antithetical to the framework that can establish a truly legitimate, free and fair elections which will eventually transit to a true democracy. This is because what brought government into power was not a proportional representation of the wider majority of the Nigerian electorates as expressed through the ballot papers. The impression such act of perfidy created was that the political institutions are inhabited by some people with stolen mandate. This situation ultimately has a devastating impact on the legitimacy of such public officers that are supposed to direct the course of democracy. Without being pessimistic, the continued disenfranchisement of eligible voters is likely to produce government of the few to rule the majority.

Conclusion and Recommendations

The argument so far is that to achieve mass participation of citizens in electoral process in Nigeria, there is need to re-strategize the methods for reengaging the electorate in the voting process. One of these methods is the modernization of the way in which the elections are being conducted. The reasons for this lie in the benefit which the regime derives from it. All inclusiveness in elections benefits everyone including the opposition by conferring legitimacy on the government. To do so, INEC has a major role to play in formulating a framework aimed at accommodating the aspects of disenfranchised populations analyzed in section of this paper.

The following areas particularly need attention:

i. The legal framework of the Nigerian electoral system need to be revisited by the National Assembly. Provisions should be made for electoral workers to vote since they are eligible voters and citizens who will also be affected by the electoral outcome in terms of who occupies the political offices. In addition, consideration should be given to the physically challenged in the electoral process to make it easy for such people to participate.

ii. In order to increase voter turnout to make elections more credible, a vigorous voter registration must be conducted and produce a credible voter registration well in advance of elections. The current percentage of eligible citizens who did not register is disturbing.

iii. The voting system should also be amended to reduce voter fatigue. The proposed amendment by the National Assembly to Section 25 of the Electoral Acts which seeks to change the existing two day voting system to three day voting system will further increased voter fatigue. Instead one-day voting system should be embraced just like the two-tier verification and then voting are being combined so that one can verify and vote the same time.

iv. INEC can also address the late arrival of materials and personnel at voting booths so those who come early can vote and leave for other responsibilities.

v. The electronic verification system has been successful except for few failed machines which can be corrected but the system could go for complete electronic voting system (EVS) as a new and modernized way to carry out the election process and abandon the paper trail which could still leave room for rigging. Furthermore, it is daunting for people to travel to their Local Government Areas for each election, consequently, this reduces voter turnout arisen from those who could not afford to make the trips, especially the citizens in Diaspora or those who leave far away from "home". It will also enable the ad-hoc staffs, PWDs etc. to get involved in the electing their leaders.

Nasirawa	1,219,129	1,242,667	6,462	889,067	1,048,053	84	75	282,569	189,250	189,360	461,401	521,641	7,959	7,318
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Table 1: PVCs' Distribution and Voters' Turn out in 2015 General Elections										
State	No. of Registered Voters	No. of printed PVCs	Unprintable PVCs	No. of PVCs Collected	% of PV C's Collected	Unincluded PVC State	Accredited per 100 Voters	Voters Turnout	Accredited that failed to vote	
Abia	1,680,794	1,680,794	-	1,387,566	94	108,499	1,074,076	1,028,551	2,539	
Bayelsa	610,373	610,373	-	548,585	90	16,553	381,789	371,739	13,050	
Cross River	1,175,623	1,175,623	-	983,968	84	187,953	590,577	465,906	34,671	
Delta	2,275,264	2,275,264	-	1,959,952	85	306,929	1,350,914	1,284,845	66,066	
Edo	1,791,165	1,791,165	-	1,230,566	69	560,599	599,196	522,785	76,381	
Rivers	2,537,590	2,537,590	-	2,127,837	84	22,791	1,643,409	1,584,768	58,641	
South-South	10,070,809	10,070,809	-	8,418,474	84	1,499,872	5,552,925	5,258,597	294,328	
Abia	1,396,166	1,396,166	-	1,183,127	85	177,945	442,578	401,049	41,489	
Anambra	1,963,427	1,963,427	-	1,656,967	84	258,915	774,130	703,409	71,021	
Ebonyi	1,074,273	1,074,273	-	818,392	79	222,881	425,301	393,337	31,964	
Enugu	1,429,221	1,429,221	-	1,223,606	86	188,912	616,112	585,632	30,480	
Imo	1,855,172	1,855,172	-	1,707,449	92	2,534	801,712	731,921	69,791	
South-East	7,718,259	7,718,259	-	6,621,541	86	851,207	3,660,098	2,815,348	244,745	
Enugu	732,021	732,021	-	522,107	71	210,351	323,781	309,645	14,294	
Ogun	5,822,276	5,822,276	-	3,799,274	65	1,802,804	1,678,734	1,495,975	182,779	
Ondo	1,795,794	1,795,794	-	1,123,657	63	516,950	594,975	559,615	35,362	
Oyo	1,526,316	1,526,316	-	1,118,479	73	397,437	618,030	582,435	35,605	
South-West	13,699,080	13,699,080	-	10,332,290	73	146,425	683,169	663,373	19,796	
Benue	2,415,566	2,415,566	-	1,639,967	68	741,135	1,973,849	1,928,506	14,243	
Kogi	2,019,851	2,019,851	-	922,873	67	3,815,066	4,972,436	4,239,447	433,479	
Imo	932,275	932,275	-	569,109	61	319,194	344,036	316,015	28,041	
Kwara	1,350,883	1,350,883	-	926,013	69	391,659	476,839	439,287	37,552	
Niger	1,179,658	1,179,658	-	889,067	75	282,569	489,360	461,401	27,959	
Nigeria	124,912,9	124,912,9	6,462	104,803,53	84	182,250	562,959	521,641	41,318	

Niger	2,013,669	1,957,084	50,585	1,682,058	86	275,026	933,607	844,683	88,923
Plateau	2,003,916	1,693,097	309,949	1,508,585	89	184,512	1,076,533	1,000,692	76,141
North-Central	10,748,511	10,375,515	-	8,230,685	79	2,024,180	4,638,288	4,286,850	351,438
Adamawa	1,565,780	1,565,780	-	1,381,571	88	176,088	709,993	661,210	48,783
Bauchi	2,057,211	2,057,211	-	1,967,081	96	41,161	1,094,069	1,039,775	54,294
Borno	1,838,514	1,838,514	-	1,407,777	77	160,997	544,759	515,008	29,751
Cross	1,147,181	1,147,181	-	1,070,725	93	71,035	515,828	473,444	42,384
Farab	1,340,652	1,340,652	-	1,270,889	95	71,344	638,578	602,716	35,862
Yobe	1,101,966	1,101,966	-	824,401	75	193,478	520,127	491,767	28,360
North-East	9,051,304	9,051,304	-	7,922,444	88	714,103	4,023,354	3,783,920	239,434
Jigawa	1,831,316	1,831,316	-	1,757,658	96	73,658	1,153,428	1,071,889	81,539
Kaduna	3,414,250	3,407,222	7,028	3,174,519	93	229,983	1,746,031	1,650,201	95,830
Kano	4,975,701	4,506,721	468,980	4,112,039	91	863,662	2,364,434	2,172,447	191,987
Katsina	2,840,654	2,840,654	-	2,620,096	92	170,243	1,578,646	1,481,714	96,932
Keby	1,470,648	1,470,648	-	1,372,630	93	86,821	702,817	715,122	77,695
Sokoto	1,664,984	1,611,929	53,055	1,527,004	95	69,606	988,899	876,369	112,530
Zamfara	1,495,717	1,495,717	-	1,435,452	96	24,512	875,049	780,179	94,870
North-West	17,693,270	17,164,207	-	15,999,398	93	1,518,485	9,499,304	8,747,921	751,383
Total	68,981,233	68,079,174	902,059	56,431,255	83	10,122,913	31,746,490	29,432,083	2,314,407

Source: Authors' Compilation with data from <http://www.inecigeria.org/indexnews=distribution-of-permanent-voters-cards-as-at-march-2015-2>

Abridged Data summary

No. of unprintable PVCs	902,059	1.3%
No. of unclaimed PVCs	10,122,913	15%
No. of Accredited voters that failed to vote	2,314,407	7.3%
Total	13,339,379	

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