





# An Impact Analysis of Digitalized Voting System on Voting Behavior and Democratic Consolidation in Nigeria

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## ABSTRACT

Election results in most African countries are hardly transmitted using digitalized devices. This has created room for suspicion and discrediting of electoral integrity in part of Africa. Citizens' suspicion of the electoral process has not only made many African voters believe that votes hardly count, but it has significantly provoked tendencies of political apathy and indifference during elections in some African countries. Political apathy and indifference are partly responsible for the recruitment of mediocre persons to elective political offices, which in the long run, amount to bad governance. While the occupation of elective public offices by mediocre persons is antithetical to democratic consolidation, Africa's electoral integrity largely depends on, and can only be sustained if election results are digitalized or transmitted in real time electronically. Although studies have extensively examined and identified factors such as competency, integrity, proven track records, vision, ideology, manifesto, and inducements, among others, as factors influencing voting choice or behavior, evidence is very little on how a digitalized transmission of election results, impacts on voting behavior and consolidates Africa's democracy, using the elite theory. This article thus expanded knowledge on how a digitalized voting method influences voters' decisions or choices using the qualitative method. Results indicated that a digitalized voting system could enhance vote count, public trust in election results, and the deepening of democracy in Africa. It concluded that a digitalized voting system has the potential to increase citizens trust in the electioneering process in Nigeria. This is a contribution to the general body of knowledge in e-voting and election administration.

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## INTRODUCTION

One of the indicators of democratic consolidation is credible free and fair periodic elections, which enhances vote counts. In some African countries, votes hardly count due to electoral malpractices. African elections are prone to malpractices, partly due to the absence of digital technologies to administer or conduct elections.<sup>1</sup> Over the years, many African elections have been rigged because of the manual transmission of election results, which are hardly released in real time. Manual transmission of results not only generate suspicion but also creates tensions among politicians and political parties that harbor the fear that their votes have been swapped or

<sup>1</sup> Samuel Chukwudi Agunyai and Hope A Ikedinma, "Religious and Political Hate Sermons, Electoral Violence, and National Disintegration in Nigeria," *Elections and Electoral Violence in Nigeria*, 2022, 51–72.

changed.<sup>2</sup> This ugly circumstance often leads to post-election violence, which has implications for the untimely loss of lives and chaotic situations before, during, and after elections.<sup>3</sup> Indeed, African democracy has been badly hit by the fallout of manual collation of election results.<sup>4</sup> To consolidate African democracy and increase election integrity, many African countries have begun to shift focus from the manual transmission of election results to digitalized voting systems.<sup>5</sup>

A digitalized voting system is an electronic device that accredits voters and transmits election results in real time.<sup>6</sup> Scientific evidence shows that tendencies of human manipulation of election results and rigging which are features of the manual voting system are declining rapidly with the use of digitalized voting systems.<sup>7</sup> This is because digitalized voting systems such as the Bimodal Voting Accreditation System (BVAS), reduce human interference with the accreditation of voters and other forms of electoral malpractices. Today, in some African countries, especially Nigeria, it is now very difficult to record huge numbers of accredited ineligible voters, with the BVAS. With BVAS, it is difficult to accredit ineligible voters, unlike the manual system. This electronic device has brought into place many innovations and changes that have positively contributed to election integrity in most African countries.<sup>8</sup>

Some of these changes include the transmission of results in real-time, reduction in vote buying and selling, public trust in the electioneering process, and the belief that vote could count, among others. It has partly changed the negative belief or opinion of some African voters towards elections, as many of them, seem to have the belief that their votes could count with the use of the digitalized voting systems.<sup>9</sup> This belief, if widely held by the majority of Africans, could help to reduce tendencies of political apathy and indifference towards elections. It could also influence voting behavior and choice among African voters. This is because, the greater voters know that their votes will count, the higher their turnout will be on Election Day. Evidence shows that the reason for low voter turnout during an election is partly connected to the fact that many voters feel that their votes will hardly count and excessive manipulation of election results through the manual voting system.<sup>10</sup> They tend to be discouraged and doubtful of the electioneering process, if the voting system is burdened with irregularities and malpractices, hence their low turnout. However, the renewed interest to vote in an election in Nigeria is partly a result of the use of BVAS.<sup>11</sup> BVAS partly made many Nigerian voters, especially the youth actively participate in voting during the just concluded 2023 general election. It did not only change their behavior towards the collection of their permanent voters' cards (PVC) but motivated them to vote on election day. This could have only partly been possible due to the trust in the use of BVAS in the general election.

This can be interpreted to mean that the use of the digitalized voting device called BVAS in Nigeria, to a larger extent influences the behavior of an average Nigerian voter in the 2023 general election. The renewed interest among Nigerian youth to collect their Permanent Voter Card (PVC) that would enable them to vote on election day, was partly because they believe in the potential and credibility of the BVAS.<sup>12</sup> Thus, it is more appropriate to submit that since BVAS only accredits eligible qualified voters and transmits results in real time, it will help to strengthen public trust in the voting system and promote credible periodic elections, which in turn, are crucial ingredients for democratic consolidation. The extent to which digitalized voting systems such as the BVAS, could determine the behavior of voters and consolidate democracy are the real focus of this research. The core issue in this research is to examine how the digitalized voting system influences behavioral changes

<sup>2</sup> Samuel Chukwudi Agunyai, "Emerging Governance Crises in Twenty-First Century Nigeria," *Africa Now! Emerging Issues and Alternative Perspectives*, 2018, 211–39.

<sup>3</sup> Agunyai, "Emerging Governance Crises in Twenty-First Century Nigeria."

<sup>4</sup> Toba Paul Ayeni and Adebimpe Omolayo Esan, "The Impact of ICT in the Conduct of Elections in Nigeria," *American Journal of Computer Science and Information Technology* 6, no. 1 (2018).

<sup>5</sup> O. S. Afolabi, *Participation, Voting Behaviour and Pattern of Voting in 2015 General Elections in Nigeria*. (Abuja: The Electoral Institute: INEC Press Nigeria., 2015); Olugbemiga Samuel Afolabi, "Political Elites and Anticorruption Campaigns as 'Deep' Politics of Democracy," *Taiwan Journal of Democracy* 15, no. 1 (2019): 159–81; Adebimpe Omolayo Esan and T B Ayeni, "E-Voting in Nigeria: Barriers to Full Implementation," *Ahmadu Bello University*, 2017.

<sup>6</sup> O S Afolabi and M O Quadri, "Speed Without Motion: Election Administration in a Developing Democracy: The Case of Nigeria," *The Electoral Expert Review Vol 3* (2015).

<sup>7</sup> Charles Ayo et al., "E-Voting Implementation in Nigeria: The Success Factors," *International Journal of Computer Science and Its Applications* 15, no. 2 (2008): 91–105.

<sup>8</sup> Dele Wasiu S Alausa and Luisa O Akingbade, "Electronic Voting: Challenges and Prospects in Nigeria's Democracy," *Electronic Voting: Challenges and Prospects in Nigeria's Democracy* 6, no. 5 (2017): 67–76.

<sup>9</sup> Ayo Awopeju, "Election Rigging and the Problems of Electoral Act in Nigeria," *Afro Asian Journal of Social Sciences* 2, no. 2 (2011): 1–17.

<sup>10</sup> E E Alemika, "Post-Election Violence in Nigeria: Emerging Trend and Lessons," *Cleen Foundation*, 2011.

<sup>11</sup> David Collier, "Understanding Process Tracing," *PS: Political Science & Politics* 44, no. 4 (2011): 823–30.

<sup>12</sup> Agunyai and Ikedinma, "Religious and Political Hate Sermons, Electoral Violence, and National Disintegration in Nigeria"; Ayeni and Esan, "The Impact of ICT in the Conduct of Elections in Nigeria."

in humans. It asks if the use of BVAS, an electronic device deployed to accredit and transmit election results in Nigeria, has any influence on how voters behaved or participated in the just concluded general election.<sup>13</sup> It also hypothesizes that the use of BVAS is largely connected to the deepening of Nigeria's democracy. A desktop review version of the qualitative method has been adopted to complement structural functionalism.<sup>14</sup> The introduction section is followed by the problematization of the digitalized voting system and its theoretical underpinnings. The drivers of the digitalized voting system will be discussed followed by the legal basis of the e-voting system and digitalized voting system and credibility of election in Nigeria, alongside prospects and challenges, and then the conclusion.

### **Problematizing the Digitalized Voting System**

Elections are expected to be free, fair, and credible in order to enhance election integrity and consolidate democracy. However, the reality in most African countries, including Nigeria, shows that election is rarely credible due to human manipulations of the manual voting system. Human manipulations of the electioneering process have widely been documented.<sup>15</sup> However, findings from these documents indicated that the digitalized voting system is more credible, transparent, and has fewer human errors or devious, unlike the manual system. The digitalized voting system was introduced to bring sanity, transparency, and credibility to elections in Africa, but the extent to which this device has achieved its expected ends is hardly examined. Importantly, how factors such as performance, competency, ethnicity, religion, rotational system, integrity, and party affiliations, have influenced voting behavior or choice has been well-established in the literature.<sup>16</sup> However, attention is very minimal to how a digitalized voting system such as BVAS stimulates voters in making certain decisions concerning elections and participation in voting.<sup>17</sup> This brings to the fore the importance of this research, which examines the impact of a digitalized voting system on voting behavior and democratic consolidation in Africa. It argues that since e-voting allays the fears of voters over rigging and promotes public trust in the electioneering process, periodic elections, which is one of the indicators of democratic consolidation will be credible.<sup>18</sup> Determinants of a credible election include active participation of voters without harassment, transparent accreditation of voters, and prompt transmission of election results, among others. However, how the use of BVAS, an electronic device, reinforces these determinants to make the election a credible one and consolidate democracy is scarcely examined.

### **Theoretical Underpinning of Digitalized Voting Systems**

Due to its applicability to the subject matter, Elite Theory was utilized. The politics or controversy surrounding the use of electronic voting and the transmission of election results, requiring the approval of the Nigerian National Assembly is best explained by the Elite theory. In this regard, Elite theory demonstrates that in every political system, there are few groups of people, who occupy the topmost echelon of seats of power and that their decision or policy so agreed upon or reached seems to be binding on the ruled or followers.<sup>19</sup> In the Nigerian case, political elites may consist of the president, governors, parliamentarians, and ministers, among others. Their decision is usually binding on the citizens, given the fact that some of these political elites are voted for by citizens to represent them. This theory holds the view that society is divided between the majority ruled (citizens) and a few minorities (rulers), who are always at the helm of affairs of the country. It stipulates that in every society, the majority of resources (material, human, financial), including intellectual, cultural and other ones are concentrated in the hands of a few persons, who use these huge resources to maintain power and

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<sup>13</sup> Salimonu R Ishaq et al., "Adoption of E-Voting Systems: A Case Study of Independent National Electoral Commission (INEC), Nigeria: A Preliminary Study," 2012.

<sup>14</sup> K. Idowu, "Card Reader Is Configured to Work Only on Election Days Leadership" (Abuja: Independent National Electoral Commission, The Election Management System (EMS), 2015).

<sup>15</sup> S. Adamu, "Appraising The Success of the 2015 Election, The Nigerian Observer," <http://www.nigerianobservernews.com/2015/04/26/appraising-the-success-of-2015-election/#sthash.qZkjiIkY.dpuf>, 2015; Olawale Surajudeen Adebayo, Damian Oshomah Ugiomoh, and Mohammed Danlami AbdulMalik, "The Design and Development of Real-Time E-Voting System in Nigeria with Emphasis on Security and Result Veracity," *International Journal of Computer Network and Information Security* 5, no. 5 (2013): 9; Olugbemiga Samuel Afolabi, "The State and Election Administration in Nigeria," *The Nigerian Electoral Journal* 6, no. 2 (2014): 93–121.

<sup>16</sup> Attahiru Muhammadu Jega and M M Hillier, "Improving Elections in Nigeria: Lessons from 2011 and Looking to 2015," *Lecture Delivered at Chatham House, London* 5 (2012).

<sup>17</sup> J O Nkwede, "The Grammar of Political Parties and Social Movements: An Integrated Approach," *Abakaliki: De Oasis Communications and Publishers*, 2014.

<sup>18</sup> Jega and Hillier, "Improving Elections in Nigeria: Lessons from 2011 and Looking to 2015."

<sup>19</sup> Robert A. Dahl, *Democracy and Its Critics* (Yale University Press, 1989).

greater influence on the entire population.<sup>20</sup> These few groups of people who largely depend on the huge resources of the society to exercise their power over others (majority) are referred to as the political or ruling class, while the unorganized majority, are the ruled class or followers.<sup>21</sup>

This political or ruling class can be likened to any leader who occupies a political position as the case may be in Nigeria. Evidence from Dahl shows that whatever the political class says in terms of power or ruling, decision, or policy formulation is done to control or direct the affairs of the majority, the ruled class of the society.<sup>22</sup> The theory argues that the power to exercise control or direct the affairs of the majority by the ruling class could generate two possible reactions from the majority-ruled class. Positive and negative reactions are the likely outcomes of the power exercised by the political class.<sup>23</sup> It is positive, when the political class embarks on people-oriented decisions or policies that seem to satisfy the demands and needs of the majority ruled class of the society. However, when the majority ruled class demonstrates, protests, complains, suspects or doubts, withdraws their support, criticizes, or antagonizes the political class over the selfish use of power or abuse of power on the majority, then, the reaction can be said to be negative. This might have made Afolabi opine that the elite or the ruling class in Nigeria are used to making policies that enrich only them at the expense of other majority, otherwise known as citizens.<sup>24</sup> This in his view, is a potential source of demonstration and protest among citizens to register their grievances against the ruling political class in Nigeria.

This theory can adequately be applied to explain how the use of a digitalized voting system influences voting behavior and the consolidation of democracy in Nigeria. BVAS is part of a digitalized voting method, which cannot be used in an election, without the approval of Nigeria's National Assembly. Nigeria's National Assembly is made up of parliamentarians, who are representative of the people. Their functions include law making, oversight functions, and approval of the annual budget. Part of the law-making function of the National Assembly is the approval of the Electoral Act. The use of BVAS to accredit voters and real-time transmission of election results is in the 2022 Electoral Act requiring the approval of Nigeria's National Assembly. Nigerian parliamentarians, who are members of the political class as stipulated by the elite theory, are expected to discuss, debate, harmonize, and give approval to the use of BVAS. In doing this, their selfish interest is likely to arise during discussion and debate for the approval of the BVAS. In order to use this technology (BVAS) in general elections in Nigeria, the elite must come to an agreement on the subject of a digitalized voting method as a policy issue that needs the approval of the National Assembly.<sup>25</sup>

As a party with an interest in the matter, the elites are driven by concerns over how their electoral prospects may be impacted by the introduction of e-voting in the nation.<sup>26</sup> Since the elite theory assumes that policies are initiated to ensure remarkable changes in the country, even though such policies favor elites more than citizens, this theory guides the understanding of how the ruling All Progressive Congress (APC) and People Democratic Party (PDP) legislators displayed mixed reactions to the approval of the BVAS. While some, especially PDP legislators seem to support the approval of BVAS to be used in general elections, their APC counterparts, vehemently opposed BVAS's approval, as a majority of them decided not to support the policy of electronic transmission of results to enable them to continue in the old pattern of election rigging and remain in government.<sup>27</sup> It is imperative to note that BVAS was finally approved for use in Nigeria's general elections as a result of extensive debate and discussion by the political class in Nigeria's National Assembly. This can be interpreted to mean that just as the elite theory has envisaged that the political class makes laws that are binding on the majority, the Nigerian parliamentarians, (who aptly can be referred to as political class), approve the 2022 Electoral Act into law. The use of the BVAS would have been very difficult without the input of members (political class) of the National Assembly. BVAS was approved into law to allow on-the-spot accreditation and voting and real-time transmission of election results.

This approval brought lots of changes in Nigeria's electioneering process. It was used in the Osun State governorship election, which saw the incumbent governor voted out of office, despite the distribution of money on Election Day. BVAS has created the notion that politicians could spend huge amounts of money to buy votes

<sup>20</sup> Claudia Mariotti, "Elite Theory," in *The Palgrave Encyclopedia of Interest Groups, Lobbying and Public Affairs* (Springer, 2022), 427–32.

<sup>21</sup> R. A. Dahl, *Polyarchy: Participation and Opposition* (New Haven, CT: Yale University Press, 1971).

<sup>22</sup> Dahl, *Democracy and Its Critics*.

<sup>23</sup> Gabriel O Ajayi, "NITDA and ICT in Nigeria," *Round Table on Developing Countries Access to Scientific Knowledge, The Abdus Salam ICTP Trieste, Italy*, 2003; Afolabi, "Political Elites and Anticorruption Campaigns as 'Deep' Politics of Democracy."

<sup>24</sup> Afolabi, "Political Elites and Anticorruption Campaigns as 'Deep' Politics of Democracy."

<sup>25</sup> Carolien Van Ham and Staffan I Lindberg, "Vote Buying Is a Good Sign: Alternate Tactics of Fraud in Africa 1986-2012," *V-Dem Working Paper 3* (2015).

<sup>26</sup> Sabo Ahmad, S A J Abdullah, and R Bt Arshad, "Issues and Challenges of Transition to E-Voting Technology in Nigeria," *Public Policy and Administration Research* 5, no. 4 (2015): 95–102.

<sup>27</sup> Sajid Gul et al., "Factors Influencing Foreign Direct Investment," *Economics & Finance Review* 2, no. 2 (2012).

and still lose the election. The case of Oyetola former governor of Osun State succinctly affirmed this view. Some of these changes are a massive urge for the collection of PVC, renewed interest, especially among the Nigerian youth to participate in the 2023 general elections, a fair increase in public trust that votes will count, reduction in vote buying, among others. It can be reasonably inferred that due to the decision of political elites at the National Assembly to approve the use of BVAS, there are voting behavioral changes, which was seen in the way the Nigerian youth made an effort to collect their PVC and voted in the 2023 general elections. This wouldn't have come so easy without the introduction of a digitalized voting system (BVAS). To this end, it can be inferred that while the Nigerian political elites at the National Assembly enact a law or Act that is binding on the majority ruled class, it tends to affect the voting behavior of the majority in certain ways and manners. The use of BVAS has enhanced public trust in the electioneering process and made a lot of Nigerians believe that votes will count. Despite the long queue on Election Day, some voters maintained their positions in the queue and still voted and stayed late at night for the counting of votes, which lingered till the early hours of the next day of the election. This may have been a result of the trust in BVAS and the belief that the election results would be transmitted electronically in real-time. However, the 2023 presidential election was flawed with a delay in the transmission of the presidential election results by the Independent National Electoral Commission (INEC). This delay angered many Nigerians, especially the youth, who came out to vote because of the same BVAS which INEC promised would transmit the election results in real-time.

The reactions were mixed among Nigerian citizens. Some, especially the youth, believed that technical glitches that were opined by INEC as the cause of the late transmission of the presidential election results, were part of a game plan by the Nigerian political class, especially the ruling government of the APC to rig out the people's choice. Others believe that the delay in the transmission of the results was because INEC conspired with the APC's presidential candidate. The authenticity of these reasons as envisaged by some Nigerian citizens has not been confirmed and such may not be seen as factual, but the attitude exhibited by Nigerian legislators during the approval of the BVAS could have made many Nigerians think that way. Evidence shows that the majority of the political class from the APC and PDP at the National Assembly during the approval of BVAS, grudgingly approved the BVAS. The debate over BVAS approval was more to protect the interest of politicians than the promotion of election credibility and integrity. From the foregoing, it can be deduced that the elite theory adequately applied the impact of a digitalized voting system on voting behavior and democratic consolidation in Nigeria. For example, while the political class (elites) was needed for the approval of the use of BVAS, it triggered or motivated Nigerian youths to vote and engage in political participation, which in turn, served as a means of deepening Nigeria's democracy. However, evidence from the just concluded 2023 Nigeria's general elections, indicates that while BVAS seems to bring lots of electioneering changes (massive involvement of the Nigerian youths, massive collection of PVCs, instant transmission of senatorial, House of Representatives, governorship, and state house of assemblies elections), the country's democracy is hardly consolidated due to the growing suspicion, doubt, and public distrust over the delay in the transmission of the 2023 presidential election results.

### **Drivers of a Digitalized Voting System**

This section aims to identify factors that support the digitalized voting system. To start with, Nigeria's traditional manual system of voting is overwhelmed with incessant cases of electoral malpractices such as rigging, violence, voter harassment, ballot snatching, and deliberate manipulation of election results in favour of certain parties or candidates, and vote fraud, among others. These factors raise serious concerns over the credibility of Nigerian elections.<sup>28</sup> This might have made Afolabi conclude that transparency, freedom, and fairness which are the hallmarks of credible elections hardly exist in Nigeria.<sup>29</sup> Afolabi further noted that Nigeria's traditional manual voting system is characterized by illegal mass ballot paper thumb printing, omission of some political party's logo on the ballot paper or omission of eligible voter names from the register, intimidation of voters, forged results of election, errors due miscomputation of election results, etc. Citizens started requesting a reform in Nigeria's election procedures because the situation became very consistent which was troubling.<sup>30</sup> The call for voting reforms was a result of these electoral malpractices, which led to the description of the Nigerian electoral process as spoiled and highly politicized. In light of these, Idowu and Afolabi came to the conclusion

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<sup>28</sup> Samuel Olugbemiga Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?," *Africology: The Journal of Pan African Studies* 10, no. 1 (2017): 3-24; Idowu, "Card Reader Is Configured to Work Only on Election Days Leadership."

<sup>29</sup> Afolabi, "The State and Election Administration in Nigeria."

<sup>30</sup> O S Afolabi and K O Ogunne, "Biometric Technologies, Electoral Fraud and the Paradox of Voter Turnout During Nigeria's 2015 Elections," *Quarterly Journal of Administration* 35, no. 1 (2018): 1-18.

that Nigeria's manual voting system had been taken advantage of and corrupted, underscoring the necessity for fresh concepts and techniques in voting.<sup>31</sup>

It is evidently clear that inherent challenges in the traditional manual method constitute drivers of the Electronic Transfer of Results (ETRs) in Nigeria. Harassment of voters, violence on Election Day, suspicion over results announced by the INEC, after the general election, obvious suspicion at the stage collation of results by the INEC, rigging, omission of eligible voters from the list of registered voters, snatching of permanent voters' cards, and lack of public trust on the INEC to conduct credible elections among others, are drivers of digitalized voting systems in Nigeria.<sup>32</sup> A critical look at the above submissions from the three study locations showed that inherent problems of the traditional manual method of conducting elections in Nigeria, which gives room to electoral irregularities, fraud, violence, and other notable problems constitute drivers of the digitalized voting system in Nigeria. This can be interpreted to mean that the negative consequences of the traditional manual administration of elections by the INEC have largely influenced the utilization of the digitalized voting system in Nigeria. On whether the gains or positive impacts of e-voting drive digitalized voting systems, almost all respondents supported the fact that gains such as the reduction of mal-practices, the credibility of the election, and the idea that voting will now count in Nigeria drive the call for the utilization of electronic devices to conduct general elections in Nigeria.

Indeed, the idea that the votes of electorates will now count unlike in the manual method, where their votes can be illegally manipulated, drives the utilization of electronic devices to conduct elections in Nigeria. This view had earlier been supported by findings in Afolabi and Tayo, which indicated that the desire to eradicate all forms of malpractices in electoral processes necessitated the call for the utilization of digitalized voting systems in Nigeria.<sup>33</sup> It can therefore be interpreted to mean that while the negative consequences of the traditional manual method of election motivated the move for the use of digitalized voting systems, the positive gains and attributes of utilizing electronic voting systems such as BVAS also motivated the move for a digitalized voting system.

The need to consolidate Nigeria's democracy and promote election integrity is partly the motivation for the call for digitalized voting systems. Some of the metrics for measuring the success of democratic consolidation are how credible, free, and fair elections are. E-voting is one of the best means to ensure a free, fair, and credible election. The approval of the BVAS, a component part of the 2022 Electoral Act, succinctly affirmed the connection between e-voting and election integrity. Evidence from above shows that in addition to the negative attributes of the manual system, the desire to deepen Nigeria's democracy also stimulated the quest for a digitalized voting system in Nigeria. This had been confirmed or affirmed by findings in Afolabi which indicated the desire of the Nigerian state to consolidate its democracy and promote the use of BVAS in Nigeria. The results of Afolabi's study might have made Afolabi conclude that a credible election via a digitalized voting system has implication for democracy, good governance, and peace in Africa.<sup>34</sup> Thus, it can reasonably be inferred from the submissions above that drivers of a digitalized voting system in Nigeria include spoilt electioneering process, electoral irregularities, the state or federal government's quest to consolidate democracy, and the desire to increase public trust in Nigeria's electioneering process.

### **Constitutional Underpinning of the Digitalized Voting System in Nigeria**

The vast majority of constitutions across continents, including Africa and Nigeria in particular see the right to vote and be voted for as a fundamental human right, which is enshrined in the constitution of most democratic culture. According to Article 21 of the 1948 Universal Declaration of Human Rights (UDHR), everyone has the right to take part in the governance of their nation, either personally or through representatives that they have selected themselves. The will of the people shall be the basis of the authority of the government, and the expression of this will shall be through regular, sincere elections, which shall be by universal, equal, and secret ballot or by means similar to free elections. The 1999 Nigerian Constitution's sections and subsections 77 (2),

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<sup>31</sup> Idowu, "Card Reader Is Configured to Work Only on Election Days Leadership"; Afolabi, "The State and Election Administration in Nigeria."

<sup>32</sup> Idowu, "Card Reader Is Configured to Work Only on Election Days Leadership"; Afolabi, "The State and Election Administration in Nigeria."

<sup>33</sup> Afolabi, "The State and Election Administration in Nigeria"; Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?"; Afolabi and Ogunne, "Biometric Technologies, Electoral Fraud and the Paradox of Voter Turnout During Nigeria's 2015 Elections"; S Tayo, "Nigeria's Historic Elections: Uncertainties and Anxieties of a Vital Process," *London: Chatham House, the Royal Institute of International Affairs*, 2015.

<sup>34</sup> Afolabi, "The State and Election Administration in Nigeria"; Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?"

117 (2), 132 (5), and 178 (5) guarantee the right to vote to all Nigerian citizens who have reached the age of eighteen, despite the fact that it is not mentioned in the section on fundamental human rights.

Enfranchisement clearly plays a vital part in all legal discourses, as shown by the aforementioned legislation and the international legal instruments. Because of this, these laws strongly preserve the right to vote. The right to vote necessitates discussions about some citizens who wish to vote but are unable to do so because they are, for example, in diaspora (serving their country, as is the case with military personnel) or disabled (elderly, sick persons, or prisoners). And because manual voting is the only option to exercise one's right to vote as the case may be in Nigeria, these categories of people are disenfranchised from voting. E-voting would need to overcome a number of challenges in Nigeria before it could be accepted as a legitimate way to conduct elections, these challenges include the legality of using smart card readers, harmonization issues, logistical and institutional issues, technological and infrastructural concerns, and protection of citizen data.

The first legal challenge Nigeria faced in its slow and deliberate transition to recognizing electronic voting was the legitimacy of the deployment of the SCR in the 2015 and subsequent general elections. This was disputed as one of the most crucial election-related problems by critics of the card reader. According to the JSC's ruling in *Shinkafi v. Yari Okoro*, the purpose of the card reader device is to verify who actually owns the PVC that was presented and prevent duplicate voting. Section 52(2) of the 2015 Electoral Amendment Act states that voting shall adhere to the regulations set forth by the Independent National Electoral Commission. A significant gap in the country's electoral act is made clear by the aforementioned paragraph. Section 52 of the 2015 Electoral Amendment Act needs to be changed to a specific, predictable section that allows electronic voting. Because voting and exercising one's franchise are sacred rights, the laws governing them should be clear and unambiguous. Electronic voting, which is often referred to as the method (or a recognized procedure), is used in Nigeria to fill elected posts. The modified electoral statute should contain explicit prescriptions, regulations, and instructions on how such elections will be conducted in addition to a firm acceptance of electronic voting as a method of conducting elections. This will give electronic voting the credibility it needs and prevent losers in an election from waging a protracted legal battle against the winner in court.<sup>35</sup> This might have made Agunyai and Ojatorotu conclude that a governance crisis or failure is caused partly by electoral malpractices inherent in the manual voting system.<sup>36</sup>

To conduct a credible election, this gap in Nigeria's e-voting legislation needs to be remedied. In the crucial area of elections, judges shouldn't be allowed to make their own laws. Since courts serve a distinct purpose, the judiciary is not required under the Constitution to enact new legislation but rather to interpret existing legislation and assess its constitutionality. Judges' political biases, personal opinions, and sentiments may influence their rulings if judge-made pronouncements are used to fill the holes left by the non-enactment of the e-voting Act. If this were to happen, it would be a grave disservice to the country because laws enacted by judges are not subject to the same scrutiny, open discussion, and rigorous approval processes as normal laws. The minimum procedural, regulatory, and technical standards that must be satisfied should also be covered by the legislative framework for electronic voting.<sup>37</sup>

Similar to this, a discussion of the legal framework for Nigeria's digital voting system aims to evaluate the constitutional justification and rules governing its usage in elections. In order to determine the extent of the usage of e-voting and ETR, the Nigerian constitution and the Electoral Act serve as the relevant legal documents. The INEC is mandated to conduct elections in Nigeria under the third schedule, part 1, item F, paragraphs 14 of the 1999 constitution, which established it through section 153(f) of the Constitution of the Federal Republic of Nigeria, 1999. Despite the silence of the 1999 constitution on the use of e-voting and ETR in Nigeria, the INEC is nonetheless legally mandated to conduct and organize elections in Nigeria.<sup>38</sup> The absence of e-voting and ETR provisions and prospects in the constitution reflects basic carelessness and flaws that came with the tardy implementation of technology in Nigeria's electoral process.

The National Assembly of Nigeria passed the Electoral Act, a piece of legislation that outlines the INEC's authority, organizational structure, and election-related procedures. The Electoral Act has undergone a number of amendments since the Fourth Republic's return to democracy in 1999, beginning in 2001, 2002, 2003,

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<sup>35</sup> Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?"

<sup>36</sup> Samuel Chukwudi Agunyai and Victor Ojatorotu, "Governance Failure and the Formation of Anti-State Organisations: The Impact of the Amnesty Policy on the Development of Nigeria's Niger-Delta, Nigeria," *African Journal of Governance & Development* 10, no. 2 (2021): 356.

<sup>37</sup> Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?"

<sup>38</sup> Pamela Ogwuazor Momah, "Electoral Commissions and the Conduct of Elections in Nigeria: The Role of INEC," *Elections and Governance in Nigeria's Fourth Republic*, 2016, 37; Obinne Obiefuna-Oguejiofor, "Advancing Electronic Voting Systems in Nigeria's Electoral Process: Legal Challenges and Future Directions," *Journal of Sustainable Development Law and Policy (The)* 9, no. 2 (2018): 187-219.

2005, 2006, and most recently in 2022 (Electoral Act, 2010).<sup>39</sup> Section 52 (1b) of 2010 revised Electoral Act stated that the use of E-Voting in the administration of elections in Nigeria is prohibited until it was revised by the 9th National Assembly and signed into law by President Muhammadu Buhari in March 2022. More specifically, Section 50 (2) stated that voting at an election performed per this Bill shall be done following the Commission's established procedures, which may include electronic voting, provided that the Commission (INEC) shall not send the election's results electronically. These provisions added to the Electoral Act explaining the government's peculiar attitude regarding the deployment of electronic voting and electronic transmission of results in Nigeria. Nigerian politics are do-or-die affairs, so the traditional voting system, which allows for ballot snatching, falsification of election results, logistical and transportation issues, election violence, and human error, was maintained for a long time to allow for easy manipulation of election results.<sup>40</sup>

The 9th National Assembly amended the 2010 Electoral Act and the President signed it into law on February 25, 2022, in response to public outcry and years of review and contentious debate in the National Assembly, allowing for policy support and legal backing for the use of a digital voting system in Nigeria. The following adjustments were made to the 2022 Electoral Act with regard to e-voting and ETR.

- i. The INEC was required to keep the voter registration at the National Head Office and other annex locations around the federation by Section 9 (2) of the 2022 Electoral Act, provided that the record is also kept manually or in hardcopy form and transmitted to its database. In contrast to the previous Act, the record under the booklet approach was kept.
- ii. Sections 47(2) and 41 of the 2022 Electoral Act authorize the use of electronic equipment, including smart card readers, electronic voting machines, and other technological devices, both in the voter registration procedure and in the overall administration of elections.
- iii. The 2022 Electoral Act also provides for ETR in accordance with the process chosen by the INEC under Section 50(2).

## **DIGITALIZED VOTING SYSTEMS, VOTING BEHAVIOR, AND DEMOCRATIC CONSOLIDATION IN NIGERIA**

The introduction of e-voting and ETR as a replacement for Nigeria's traditional voting method has been highlighted as the answer to the country's numerous election irregularities. In a similar vein, the prospect of e-voting and ETR may be unsatisfactory without adequate and effective use of ICT tools, particularly in a developing nation like Nigeria where technology use for governance and by citizens is still at its low ebb.<sup>41</sup> This section is devoted to analyzing the opportunities and obstacles that support and oppose the use of electronic voting and electronic ballot reporting in Nigeria.<sup>42</sup> E-voting and ETR in Nigeria have the potential to eliminate human error and logistical issues in the calculating process and speed up collation. The Nigerian election is rife with human error and logistical issues, such as incorrect counting of votes and late collation of results because of traffic congestion that prevents INEC officials from arriving at the collation center on time.<sup>43</sup> Other times, INEC staff are tardy in compiling election results, which causes confusion throughout the entire collation process.<sup>44</sup> Contrary to what was possible under the manual system, in which collation officers traveled long distances to deliver voting results to INEC collating centers, the use of technology in the collation and transmission of election results will address the inherent issues related to timely and effective election administration, results management, and announcement.<sup>45</sup> This tends to increase public trust in the electioneering process and promotes consistency in the transition from one government to the other. As people

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<sup>39</sup> Edono Joseph Unufe and Oluch Justin-Ugo, "Election Administration in Nigeria: Interrogating Independent National Electoral Commission Transition Efforts from Manual to Electronic Voting," *African Research Review* 13, no. 4 (2019): 12–23.

<sup>40</sup> Olayemi Mikail Olaniyi et al., "Framework for Multilingual Mobile E-Voting Service Infrastructure for Democratic Governance," 2011.

<sup>41</sup> A M Ahmed and M Usman, "The Impact of Technology on Nigeria's Democratic Development: An Analysis of the Card Reading Machine," *Int J Multidisciplinary Res Modern Edu* 1, no. 2 (2015); Ahmad, Abdullah, and Arshad, "Issues and Challenges of Transition to E-Voting Technology in Nigeria."

<sup>42</sup> Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?"; C O Kuye et al., "Design and Analysis of Electronic Voting System in Nigeria," *International Archive of Applied Sciences and Technology* 4, no. 2 (2013): 15–20.

<sup>43</sup> Kuye et al., "Design and Analysis of Electronic Voting System in Nigeria"; Esan and Ayeni, "E-Voting in Nigeria: Barriers to Full Implementation."

<sup>44</sup> O. Aghu, *Unbridled Election Rigging and the Use of Technology: The Smart Card Reader as the 'Joker' in Nigeria's 2015 Presidential Election* (Nigerian Institute of International Affairs, Research and Studies Department, 2016).

<sup>45</sup> Ayeni and Esan, "The Impact of ICT in the Conduct of Elections in Nigeria"; J Shola Omotola, "Elections and Democratic Transition in Nigeria under the Fourth Republic," *African Affairs* 109, no. 437 (2010): 535–53.



tend to vote and the election results are transmitted in real-time, it tends to reduce political apathy and enhance democratic consolidation.<sup>46</sup>

The possibility of increasing the legitimacy and security of the voting process is another benefit Nigeria stands to gain from this. Nigerian elections are complicated by a variety of electoral violence, including ballot theft, election results manipulation, and voter intimidation.<sup>47</sup> Election result sheets are frequently altered, destroyed during violence, or subjected to duress by INEC employees.<sup>48</sup> By eliminating violence, ballot stuffing, voter impersonation, and multiple votes, which were features of Nigerian elections, e-voting will also ensure secure and credible elections.<sup>49</sup> E-voting and ETR will also aid in lessening the influence of money politics on Nigeria's elections, eliminating direct interaction between voters and politicians and thwarting vote-buying and vote-trading.<sup>50</sup>

E-voting and ETR in Nigeria will also make room for more transparent election adjudication and increased trust in the INEC. The INEC has been seen by the general public as partial in the conduct of elections, particularly, the INEC has been blamed for conniving with politicians to subvert the outcome of elections.<sup>51</sup> The impartiality of the INEC is also constrained by its dependence on the ruling government for funding and control over the operational use of security agencies during elections.<sup>52</sup> In other instances, INEC officials have been found wanting in the discharge of their duties, colluding with politicians and security agencies to falsify election results.<sup>53</sup> Due to widespread mistrust of the INEC, the 2010 Electoral Act was amended after the late President Yara' adua complained that the 2011 presidential election that put him in office was not free and fair.<sup>54</sup> In light of this, the launch of the NEC Result Viewing (IReV) platform will improve the transparency of results management, increasing voter confidence in the INEC and election participation.<sup>55</sup>

It was clear that election processes would face significant difficulties in light of the new normal brought on by the COVID-19 epidemic. Nigeria, as well as the INEC, is not free from these challenges. In light of the COVID-19 pandemic, the INEC released a statement on election conduct on May 21, 2020.<sup>56</sup> The necessity to use technology to limit face-to-face interactions and contacts during elections was a key component of the digitalized voting systems.<sup>57</sup> The purpose was to safeguard and assure the safety of the voting public. As a result, during the past four years, the INEC has deployed the use of technologies to lessen crowding and one-on-one interactions throughout the electoral process. Some of them include the development of portals for the nomination of candidates, the accreditation of observers and media outlets for elections, as well as improvements in the INEC's results viewing portal.<sup>58</sup> Strong telecommunications and internet infrastructure have been the driving forces behind the e-voting system, enabling Nigerians all around the nation to participate in elections using digital technologies like the BVAS.

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<sup>46</sup> J Shola Omotola, "Nigerian Parties and Political Ideology," *Journal of Alternative Perspectives in the Social Sciences* 1, no. 3 (2009): 612–34; Afolabi and Ogunne, "Biometric Technologies, Electoral Fraud and the Paradox of Voter Turnout During Nigeria's 2015 Elections"; Agunyai and Ikedinma, "Religious and Political Hate Sermons, Electoral Violence, and National Disintegration in Nigeria."

<sup>47</sup> Olu Awofeso and Paul A Irabor, "Assessment of Government Response to Socioeconomic Impact of COVID-19 Pandemic in Nigeria," *Journal of Social and Political Sciences* 3, no. 3 (2020).

<sup>48</sup> Anthony Egobueze and Callistus U Ojirika, "Ethnicity, Religion and Voter's Behaviour: The Experience of the 2015 Presidential Election in Nigeria," *Global Journal of HUMAN-SOCIAL SCIENCE, F* 17, no. 3 (2017).

<sup>49</sup> Olaniyi et al., "Framework for Multilingual Mobile E-Voting Service Infrastructure for Democratic Governance."

<sup>50</sup> Ahmed and Usman, "The Impact of Technology on Nigeria's Democratic Development: An Analysis of the Card Reading Machine"; Obiefuna-Oguejiofor, "Advancing Electronic Voting Systems in Nigeria's Electoral Process: Legal Challenges and Future Directions."

<sup>51</sup> Unufe and Justin-Ugo, "Election Administration in Nigeria: Interrogating Independent National Electoral Commission Transition Efforts from Manual to Electronic Voting."

<sup>52</sup> Momah, "Electoral Commissions and the Conduct of Elections in Nigeria: The Role of INEC"; Unufe and Justin-Ugo, "Election Administration in Nigeria: Interrogating Independent National Electoral Commission Transition Efforts from Manual to Electronic Voting."

<sup>53</sup> Momah, "Electoral Commissions and the Conduct of Elections in Nigeria: The Role of INEC."

<sup>54</sup> Jega and Hillier, "Improving Elections in Nigeria: Lessons from 2011 and Looking to 2015"; Ahmad, Abdullah, and Arshad, "Issues and Challenges of Transition to E-Voting Technology in Nigeria."

<sup>55</sup> S Wahab, "INEC, Electronic Transmission of Results, Electoral Act and Matters Arising," Premium Times, <https://www.premiumtimesng.com/opinion/589746-inec-electronic-transmission-of-results-electoral-act-and-matters-arising-by-wahab-shittu.html>, March 23, 2023.

<sup>56</sup> Wahab, "INEC, Electronic Transmission of Results, Electoral Act and Matters Arising."

<sup>57</sup> Wahab, "INEC, Electronic Transmission of Results, Electoral Act and Matters Arising"; Awofeso and Irabor, "Assessment of Government Response to Socioeconomic Impact of COVID-19 Pandemic in Nigeria."

<sup>58</sup> Obiefuna-Oguejiofor, "Advancing Electronic Voting Systems in Nigeria's Electoral Process: Legal Challenges and Future Directions"; Wahab, "INEC, Electronic Transmission of Results, Electoral Act and Matters Arising."

While these benefits are commendable, there are numerous challenges that may prevent Nigeria from adopting e-voting and ETR. The reaction and support of the political elites towards the success of e-voting and ETR in Nigeria is one impediment to their effective deployment. According to Ahmed and Usman and Akinniranye and Uleanya, the success or failure of electronic voting is dependent on how well the political class interacts and how voter education works to encourage widespread support and involvement in the election process.<sup>59</sup> A new set of voter education messages is needed in order to deploy e-voting since they will make voting procedures simpler and dispel any misconceptions about things like identity theft and the disclosure of voters' preferences.<sup>60</sup> This is significant given the need to control public expectations of e-voting, some of which are at odds with the INEC strategy and the state of affairs at the time.<sup>61</sup>

Thus, without adequate information and education to discard the spoilt voting system and learn to use the digitalized voting system, electorates may lose trust in the new system and the prospect of e-voting and ETR in Nigeria may just be a mirage. Similar to this, a crucial success factor in the adoption of e-voting is the involvement of stakeholders. Forging a consensus on the enhancement of e-voting and ETR in Nigeria could be a challenging undertaking given the different and frequently opposing viewpoints of stakeholders on important election-related issues.<sup>62</sup>

Another argument that can work against the implementation of electronic voting and electronic transfer of election results in real-time in Nigeria centers on the extent of the nation's infrastructure capabilities that can support the devices' ability to receive uninterrupted power as well as the capability of broadband coverage and internet connectivity. E-voting equipment must be operated with sufficient electricity, much as internet access is necessary for ETR and internet voting.<sup>63</sup> However, with approximately 40% of the population having access to electricity, power outages are a typical occurrence in Nigeria.<sup>64</sup> This incident is likely to have a detrimental impact on ETR and electronic voting in Nigeria. However, the introduction of online voting would likely face substantial challenges due to the limited network coverage of data over 3G, which stands at 74.2% and is undoubtedly greater in urban centers and nearly nonexistent in some rural communities.<sup>65</sup>

A complete biometric data set for identification and election monitoring is another essential prerequisite for the introduction of electronic voting in Nigeria.<sup>66</sup> It is made more challenging by the fact that it is not yet clear if the country has the skilled engineers required to handle cutting-edge technology like e-voting. Nigeria is not prepared for electronic voting, according to some election experts, because it lacks the required ICT infrastructure, logistics, and knowledge.

Election irregularities are caused by INEC's poor institutional capacity, which can be attributed to the agency's lack of independence and financial autonomy, inadequate technical and logistical planning, and insufficient organizational and administrative capabilities.<sup>67</sup> In addition, a few of its employees display weak technical aptitude and corrupt tendencies.<sup>68</sup> Because of the INEC's obvious lack of "capabilities," elections are susceptible to many types of cheating, which also makes voters doubt the fairness of the system.

## CONCLUSION

Nigerian politicians, especially lawmakers at the National Assembly were actually not devoid of the idea of the relevance of e-voting and electronic transmission of results, which in the long run are instrumental to electoral integrity and democratic consolidation in Nigeria. In reality, Nigerian lawmakers in charge of the approval of the proposed Electoral Act that advocates for e-voting and ETRs have always considered politics in terms of political gains and self-aggrandizement over national gain of such proposed Acts or Bills. This invariably has

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<sup>59</sup> Ahmed and Usman, "The Impact of Technology on Nigeria's Democratic Development: An Analysis of the Card Reading Machine"; Akinniranye and K Uleanya, "Technology Use, Local Content, and 2015 Elections: The Change INEC Must Lead," *Technology Times*, <https://technologytimes.ng/technology-use-local-content-2015-election-change-inec-must-lead/>, 2016.

<sup>60</sup> Akinniranye and Uleanya, "Technology Use, Local Content, and 2015 Elections: The Change INEC Must Lead."

<sup>61</sup> Kuye et al., "Design and Analysis of Electronic Voting System in Nigeria"; Ahmad, Abdullah, and Arshad, "Issues and Challenges of Transition to E-Voting Technology in Nigeria."

<sup>62</sup> Afolabi, "Interrogating the Credibility of Elections in Africa: Implications for Democracy, Good Governance and Peace?"; Afolabi, "Political Elites and Anticorruption Campaigns as 'Deep' Politics of Democracy."

<sup>63</sup> Ejikeme Jombo Nwagwu, "Information and Communication Technology and Administration of 2015 General Election in Nigeria," *Mediterranean Journal of Social Sciences* 7, no. 4 (2016): 303; Esan and Ayeni, "E-Voting in Nigeria: Barriers to Full Implementation."

<sup>64</sup> Nwagwu, "Information and Communication Technology and Administration of 2015 General Election in Nigeria"; Obiefuna-Oguejofor, "Advancing Electronic Voting Systems in Nigeria's Electoral Process: Legal Challenges and Future Directions."

<sup>65</sup> Esan and Ayeni, "E-Voting in Nigeria: Barriers to Full Implementation."

<sup>66</sup> Nwagwu, "Information and Communication Technology and Administration of 2015 General Election in Nigeria."

<sup>67</sup> Pippa Norris, Richard W Frank, and Ferran Martínez i Coma, "Measuring Electoral Integrity around the World: A New Dataset," *PS: Political Science & Politics* 47, no. 4 (2014): 789-98.

<sup>68</sup> Esan and Ayeni, "E-Voting in Nigeria: Barriers to Full Implementation."

undermined the credibility of elections in Nigeria, as the traditional manual voting system is prone to massive electoral irregularities. To address the problems of the manual voting system, a series of amendments have been made to the 2010 Electoral Act. One such amendment was the introduction of a digitalized voting system called BVAS. Findings from this study show that in addition to helping to consolidate Nigeria's democracy, BVAS strongly influenced voters' behavior in Nigeria. It was found that the majority of Nigerian voters have a renewed interest in participating in voting because of BVAS, this accounted for the reason why most Nigerian youths scrambled at various INEC offices across the country to collect their PVC. To this extent, it can be inferred that BVAS, which is a digitalized device, positively influenced the behavior of Nigerian youth in the collection of their PVC to enable them to vote in the 2023 general elections.

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