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Diaspora vote: relationship and power of the legislature in political leadership in Nigeria

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ABSTRACT

This study examined the factors hindering the inadequate legislative framework for legitimate diaspora voting in Nigeria. Given the large number of Nigerians living abroad and the recent adoption of electronic voting in Nigeria, it is plausible that diaspora voting could become a part of Nigeria's electoral process. The paper aimed to identify the necessary instruments for incorporating the diaspora vote law into Nigeria. Using institutionalism as a framework of analysis, the patron-client relationship between the executive and legislative branches was examined, suggesting that the chief executive may influence the legislature. The study employed a qualitative approach to elucidate why Nigeria's diaspora voting law remains elusive and offers potential solutions. It was found that, despite its crucial role in a democratic system, the legislature has not fully met expectations for enacting diaspora voting in Nigeria. The lack of synergy between the 1999 constitution (as amended) and the electoral law constitutes a major barrier to enacting the diaspora voting law. The study also revealed the need for constitutional amendment and electoral reform to guarantee the right of Nigerians living abroad to participate in any election in Nigeria. We then recommend a constitutional amendment to facilitate diaspora voting in Nigeria.

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Introduction

The Nigerian diaspora, spread across the globe, represents a substantial and influential demographic. Given the global demand for the inclusion of citizens in the democratic processes of their home countries (Cordenillo, 2017; Nissen, 2021), the active participation of these migrants in Nigeria's democratic processes could significantly influence the nation's democratic image on the global stage. However, despite the constitutional recognition of voting rights as a fundamental aspect of democratic citizenship (Vambe, 2021), the absence of a comprehensive legal framework governing diaspora voting rights hinders their involvement in national elections. This study explores the key factors that have been mitigated against the enactment of a diaspora voting law in Nigeria, with a specific focus on the role of the legislature.

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Nigeria’s migrants, who migrate legally and hold permanent residence in their host country, possess dual citizenship as stipulated in the 1999 Constitution, Section 25 (as amended) (Federal Republic of Nigeria, 1999). In essence, they can be recognised as both political actors and transnational citizens, provided they have acquired citizenship in their host countries (Berg and Rodriguez, 2013; Jakobson et al., 2022). This status grants them the inherent right to exercise their voting privileges, irrespective of their geographical location around the world. Consequently, they maintain political rights and interests in both the sending and receiving nations. This dual political engagement empowers them to articulate their demands and needs within the political sphere of their country of origin (Dollmann, 2022, p. 2). As De Rooij suggests, an imbalanced participation rate may lead to a systemic underrepresentation of the concerns of specific groups, particularly those within the diaspora (as cited in Dollmann, 2022, p. 2). In this context, diaspora voting emerges as one of the essential remedies for addressing the underrepresentation or simply put, electoral marginalisation of migrants in Nigeria’s electoral processes (Wellman, 2021).

Given their dual citizenship, Nigeria’s migrants merit inclusion in the country’s electoral processes, especially concerning their voting rights during elections (Policy and Legal Advocacy Centre, 2022). Economically, Nigerians in the diaspora hold a notable position in Africa, consistently sending remittances home (see Figure 1). Paradoxically, this segment of the population is disenfranchised upon leaving the shores of their homeland. Despite ongoing efforts to integrate diaspora participation in Nigeria’s electoral processes, including advocacy for diaspora voting, the actual implementation of such initiatives remains elusive, even with the adoption of electronic voting systems in Nigeria.

Diaspora voting enactment, given its legal implications, falls directly under the purview of the legislature. Hence, Nigeria’s National Assembly has a critical role in actualizing diaspora voting by enacting relevant legislation (Business Day Newspaper, 2022; Kwen, 2022). This may involve amending specific sections of the constitution and the electoral Act to pave the way for diaspora voting in Nigeria. Legislation is vital in enforcing diaspora voting because it gives a force of law and legal backing. For instance, in implementing diaspora voting in the US in 1975, states were mandated to create legislative provisions allowing overseas registration and voting (Kwen, 2022).

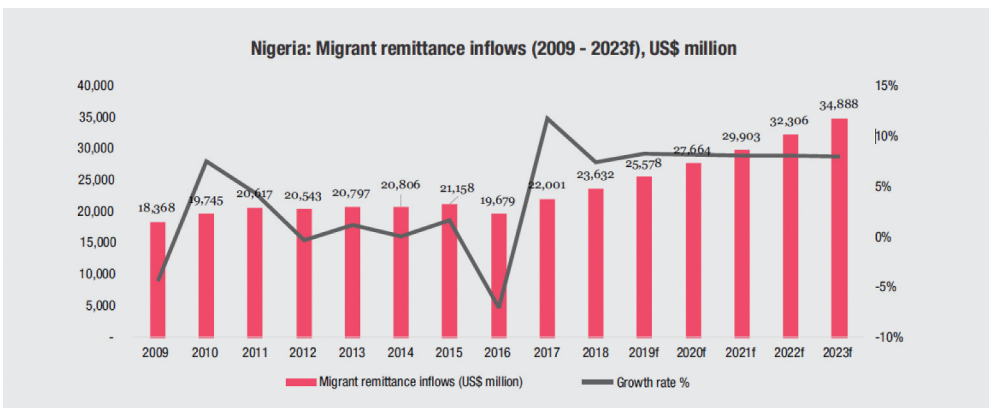


Figure 1. PwC remittance projections. Source: PricewaterhouseCoopers Limited, 2019

According to Omotola (2022), electoral reforms entail a comprehensive and multi-faceted activity on three levels – rule-making, application and adjudication (p. 190). Rule-making, according to Omotola's analysis, requires developing the basic rules of the electoral game; rule application means applying these rules to specifications to organize the electoral game, and rule adjudication entails resolving game-related issues (Omotola, 2022). Further, Omotola defines *electoral governance* as the combination of constitutional, legal, and institutional laws and organizational practices that form the basic principles for election procedures and electoral competitiveness. Hence, making diaspora voting feasible in Nigeria is not rocket science; it involves a robust legislative process and depends largely on data and technology (Kwen, 2022) as elucidated below.

Literature exists on the roles and power of the legislature in national development around the world (Elgujja, 2021; Fagbadebo, 2023; Gloppen et al., 2023; Goodfellow, 2014; Opalo, 2019). However, literature remains unclear about the role of the legislature in ensuring diaspora vote within the Nigeria context, this study seeks to fill this gap by reviewing the extant literature and legal or constitutional documents globally. Hence, this study seeks to shed light on the intricacies preventing diaspora vote in Nigeria, and the tools to be employed in facilitating diaspora vote in Nigeria. The rest of the paper outlines the statement of the problem, the research questions that guided the study, the empirical methods used in gathering data, the theoretical framework underpinning the analysis as well as the findings and conclusions from the study.

Statement of problem

Despite the significant demographic and economic strength of the Nigerian diaspora, the lack of a legislative framework allowing them to participate in national elections remains a critical issue. The current legal barriers, particularly Section 77 (2) of the 1999 Constitution and Section 12 (c) of the Electoral Act, restrict diaspora voting by requiring physical residency in Nigeria. About 37 out of 54 countries in Africa have introduced diaspora voting laws (Wellman, 2020). There have been efforts to enlist Nigeria on this list, given the population of her citizens in the diaspora. Additionally, officials of the Independent National Electoral Commission (INEC) have made persistent promises in this regard (INEC, 2024; NiDCOM, 2024), yet Nigerians abroad are still being denied their voting rights in the home county's elections. This is because, among other factors, the Nigerian legislature has failed to enact necessary reforms (Aneke, 2022). This situation disenfranchises millions of Nigerians abroad and undermines democratic inclusivity despite technological advancements like electronic voting systems being adopted in the country's 2022 electoral law reforms. The study interrogates the reasons for this legislative inaction and identifies potential solutions to integrate diaspora voting rights into the Nigerian electoral process.

Research objectives

The study seeks to:

- (1) explore the reasons for disenfranchising Nigerians in the diaspora;

- (2) investigate efforts made to facilitate the enactment of a legislative framework legalizing diaspora voting in Nigeria;
- (3) recommend appropriate steps needed to facilitate the enactment of diaspora voting laws and;

Research questions

Given the above objectives, this study will provide answers to the following questions:

- (i) What are the factors responsible for disenfranchising Nigerians in the diaspora?
- (ii) What are the efforts made so far to facilitate the enactment of diaspora voting law in Nigeria?
- (iii) What are the appropriate steps to be taken necessary for the enactment of diaspora voting laws in Nigeria?

Materials and methods

This study adopts a qualitative research approach to exploring the intricate dynamics of the legislative process concerning the enactment of diaspora voting laws in Nigeria. Data were sourced through document analysis, examining a variety of legislative frameworks including the 1999 Constitution of Nigeria (as amended), the Electoral Act of 2010 and 2022, as well as reports, policy documents, and academic literature on diaspora voting and legislative functions. Scholarly works on legislative institutions, diaspora engagement, and electoral governance were reviewed to provide theoretical context as well as media reports such as Newspaper articles and policy analysis from reputable outlets in Nigeria. The analysis of data followed a thematic approach, wherein key themes were identified from the documents and literature reviewed. A case study approach was also applied, focusing on key moments in the legislative history of diaspora voting in Nigeria. The study is grounded in institutionalism, specifically examining the patron-client dynamics between Nigeria's executive and legislative branches. This framework was employed to understand how institutional constraints and political interests shape legislative action – or inaction – on diaspora voting laws.

Theoretical framework

Institutionalism is a theory that suggests that societal shifts, technological advancements, and legislative changes influence decision-making within a society. It has evolved over time (Hofer, 2022) and is applied in various fields, including Management (Hanna et al., 2023), Social and Behavioral Science (Greeve & Argote, 2015; Hofer, 2022; Shrum, 2001; Peters, 2000), and Entrepreneurship (Kuijpers & Eijdenberg, 2021). The theory originated from the revolution against methodological individualism in behavioralism and rational choice approaches. Peters (2000) delineates four major institutional approaches: the normative approach, as expounded by March and Olsen (1984, 1989, 1996) emphasizes understanding political behavior through the 'logic of appropriateness' acquired through institutional membership (Peters, 2000, p. 2), the rational choice approach, which posits

that institutions consist of rules and incentives, and members respond to these components, and the historical institutionalism, which asserts that initial policy and structural choices of an institution persistently influence its behavior throughout its existence (Hoefer, 2022). This approach emphasizes the significant influence of precedent within an institution, as decisions made in the early days shape policy outcomes even many years later. Empirical institutionalism, which questions whether institutions impact policy choices or political stability, focuses on a common-sense definition of institutions, emphasizing formal government structures (Peters, 2000).

The Nigerian context is analyzed using various approaches to understand the relationship between the executive and legislature. The normative approach explains the undefined influence of the executive on the legislature, which has hindered its oversight function. Historical institutionalism explains the gradual transformation of the legislature into an extension of the executive, rooted in colonial legacy (Chilaka et al., 2021; Fagbadebo, 2023). Rational choice institutionalism explains the relationship's sustained by unconventional rules and reward systems, based on patron-client relationships or party affiliation. This has led to legislators' material reliance on chief executives, resulting in a legislative rubber stamp nature (Opalo, 2019). Despite the legal empowerment of diaspora voting rights in the constitution, the legislature's inability to perform its constitutional duty has hindered the implementation of transformative policies, leaving diaspora voting as an unrealistic prospect.

Diaspora vote, legislature and political leadership in Africa

The term *diaspora* refers to any community with a distinctive identity associated with an imagined or territorialized nation beyond their country of residence. It encompasses individuals who are either migrants or descendants of migrants, whose identities and sense of belonging, whether tangible or symbolic, have been moulded by their experiences and backgrounds related to migration (International Organization for Migration (IOM), 2018). According to Cohen (2008), diasporas are characterized by specific elements, including migration (whether forced or voluntary, for reasons such as work, trade, or seeking asylum), harbouring an idealized memory of the ancestral home country, maintaining an ongoing connection to the home country, fostering a robust group consciousness over time, and experiencing a sense of kinship with diaspora members in other nations.

This study focuses primarily on two of these elements: *migration* and the *continuing connection to the home country*. Diasporas wield significant influence in the political processes of their home countries through robust transnational connections (IOM, 2018). For instance, Nigerians in the diaspora, who often hold dual citizenship, actively engage in the affairs of their homeland, seeking recognition and contributing to its development (Aneke, 2022). This inclination is intrinsic and cultural, among Nigerians, as they strive to balance their interests in both countries, enhancing their contributions in their host nation for a more substantial impact. Essentially, the ordinary Nigerian residing abroad desires to maintain their Nigerian citizenship, identity, and associated benefits, including voting rights (Aneke, 2022).

In any democratic system, the voting right serves as a vital means through which citizens actively engage and participate in the electoral processes, not only for those

residing within the homeland but also for citizens residing abroad, particularly those with dual citizenship. The dual citizenship makes them still legally Nigerians as their *Nigerianess* is enhanced through their citizenship by birth, registration, descent, marriage, or naturalization. They reserve the right to exercise their voting right in any election in the homeland regardless of the location across the world. This also means they have political rights and interests in the sending and receiving country. In that case, their ability to participate politically allows them to express their demands and needs within the political space of the country of origin (Dollmann, 2022, p. 2). Beyond the expression of demands and needs, they deserve to participate actively in the voting process at the national elections in their home country. This is known as diaspora voting or simply put, *diaspora enfranchisement*.

Diaspora enfranchisement enables the migrated citizens to vote in their country of origin. It is the whole process of empowering the citizens in the diaspora to vote in the election of their home country, in most cases through their homeland legislation. Alternatively, it is a legal framework that entitles citizens in the diaspora to exercise their democratic rights to vote in national elections from a foreign territory (Assistance, 2007, cited in Elgujja, 2021). This is hinged on citizens' universal right to vote (UDHR Section 21(3) (Elgujja, 2021). Hence, the participation of all citizens in formal political processes is fundamental for democracy and Election Management Bodies (EMB) and other stakeholders who have crucial roles in empowering marginalized persons to participate in formal political processes including key governmental agencies, with the legislature holding a pivotal position.

The significance of the legislature in any democratic system cannot be overemphasized. In any democracy, each arm of government has distinct roles and functions, despite the potential for some overlap. The three fundamental arms – legislature, executive, and judiciary – play unique roles in upholding democratic principles. While the executive and judiciary are responsible for enforcing and adjudicating laws, respectively, the legislative arm takes on the primary role of enacting new laws, initiating amendments, or repealing existing ones. The legislature bears the crucial responsibility of enacting laws that contribute to a well-ordered society and empower the other branches of government to carry out their functions effectively (Chilaka et al., 2021). Serving as the embodiment of the public, the legislature defines the significance of 'the people' in the conceptualization of democracy, which is a government organized by the people for the public good (Fagbadebo, 2023, p. 9). Consequently, the existence of the legislature, as a symbol of public participation in the policy process, gives substance to democracy (Fagbadebo, 2023). It establishes the governing rules for both internal and external relations. Indeed, the scope of legislative authority, as outlined in the constitution, encompasses a wide range of issues, touching virtually every aspect of a state's life (Chilaka et al., 2021). Therefore, in the specific context of enabling diaspora voting, the formulation of legislation is largely placed on the shoulders of the political leadership, particularly the legislature.

The lack of willpower among political leaders in Africa makes democracy persistently as a process to a means rather than a means to an end. There is a noticeable decline in the executive's commitment to passing and effectively implementing proposed laws (Goodfellow, 2014). This is evident in the substantial manoeuvring between the legislature and the executive, with African leaders often failing to adhere to the letter or spirit of

the constitution and existing laws upon assuming power (Gloppen et al., 2023). Despite the constitutional empowerment in Nigeria for its diaspora to participate in national elections, the absence of specific legislation on diaspora voting hinders the realization of this provision. Goodfellow's insights from Uganda underscore this issue, particularly regarding the executive's sponsorship of numerous proposed laws. He observes that the government introduces a substantial number of laws, generating extensive debates in the media and presenting them to parliament. However, these laws often end up shelved and seemingly forgotten after heated discussions (Goodfellow, 2014, p. 1). He attributes this to resistance within the spheres of the legislative, executive, or media. He contends that the executive's objectives may not consistently prioritize the passage and complete implementation of proposed laws. Instead, the focus may be on using the legislative process for symbolic gestures that either antagonize or appease various opposition groups during critical moments, rather than enacting substantive and impactful laws (Goodfellow, 2014). The call for diaspora voting has persisted in Nigeria for the past 15 years. Despite the widespread adoption of diaspora voting by many African countries, Nigeria, the most populous and the largest democracy on the continent, is yet to pass legislation on diaspora voting.

Diaspora voting rights in Africa: implications for Nigeria

Diaspora voting dates back to the reign of Roman Emperor Augustus in 62BC –14AD (Ochei, 2022, Szulecki et al., 2023). The earliest form was extended only to persons who served the interests of their nations from abroad, such as diplomats, sailors and military personnel. Under the Roman Empire, senators in newly established colonies participated in elections by sending sealed votes to Rome before Election Day. However, the contemporary surge in trans-border migration has exerted pressure on the political involvement of migrants (Szulecki et al., 2023). The year 2018 witnessed a notable 50% increase in global migration (Onyekachi, 2018). As of 2023, approximately 2.3% of the world's population, accounting for around 184 million people, resides outside the borders of their home countries (World Bank Group, 2023, p. 1). This trend is particularly evident in Africa, where the record-level migration of over 40 million Africans reflects a 30% rise since 2010. Given the persistent strong push factors, this upward trajectory is anticipated to continue by 17 to 19% 2050 and 25 to 28% in 2100, for developing countries (Africa Center for Strategic Studies, 2023; Hien et al., 2018).

In light of the prevailing global migration trends, there has been a growing interest in engaging diaspora communities in the affairs of their homelands. The heightened focus on integrating immigrants into the electoral processes of their home countries began in 1990, leading to approximately 37 nations granting diaspora citizens the right to vote. Notably, only four of these countries were from Africa (Jaulin & Smith, 2020). However, as of 2020, the narrative has changed, with around 135 countries having enacted legislation facilitating diaspora voting, including 32 African nations (Wellman, 2020). Numerous explanations have been put forth for this shift, citing factors such as the evolving norms associated with democratization (Rhodes & Harutyunyan, 2010; Turcu & Urbatsch, 2015), strategic efforts to strengthen connections with diaspora citizens (Gamlen, 2008; Leblang, 2017), and responses to lobbying efforts by emigrants (Collyer, 2013; Itzigsohn, 2000). These perspectives view diaspora voting as a signalling mechanism, serving either to

signal to the international community that states embrace democratic values or to convey recognition to emigrants as valued citizens of their home countries (Wellman, 2020).

Enacting the voting rights of the diaspora hinges on the willingness of politicians and the perceived advantages associated with it. In addition to meeting constitutional mandates and the imperative for democratization, enabling diaspora voting serves as a strategic approach to maintaining an ongoing connection with citizens residing abroad, thereby fostering increased remittance (Wellman, 2021). Nigerians in the diaspora have been widely acknowledged for their significant financial contributions. In 2023 alone, they sent approximately \$20 billion home, contributing about 6.1% of the national GDP (Kabir, 2023; Onje, 2024). This figure is projected to rise to \$26 billion by 2025 (Mbachu, 2024). Indeed, diaspora remittance to Nigeria has been on an incremental progression (see Figure 1). This substantial financial support explains why successive Nigerian administrations have sought to strengthen connections with the diaspora, through initiatives like election financing, candidate endorsements, infrastructural development, and investment. It is no surprise that diaspora engagement is one of the key principles of the successive government in Nigeria.

Nigeria's diaspora has made significant contributions to national development, but efforts to actualize diaspora voting have not yielded success. Abike Dabiri-Erewa, Chairman and CEO of the NiDCOM, has been a key advocate for diaspora voting, leveraging her extensive experience in governance and her appointment as Senior Special Assistant to President Muhammadu Buhari on Foreign Affairs and the Diaspora. Dabiri-Erewa co-sponsored a bill to amend Nigeria's Electoral Act of 2010, granting Nigerians in the diaspora the right to participate in general elections (Ibrahim et al., 2019). However, the bill was not passed into law, perhaps due to potential costs and political implications.

Enabling external voting is crucial to upholding the principle of universal suffrage, and the right of individuals with dual citizenship to participate in national elections is a fundamental democratic principle (Vambe, 2021). Despite about 37 out of 54 African countries embracing diaspora voting as noted earlier (see Table 1), Nigeria has yet to pass legislation granting emigrant enfranchisement. Different African countries adopt diverse approaches to diaspora enfranchisement. Notably, nations such as Botswana, Mozambique, Senegal, Kenya, and South Africa permit their citizens to partake in national elections even when residing abroad. In contrast, countries like Lesotho, Uganda, and Zimbabwe restrict participation to state officials at foreign embassies. The current wave of emigration from Nigeria, driven by persistent insecurity, necessitates the need to address the diaspora voting concerns. Given the potential electoral strength of Nigerian emigrants, Nigeria should assess the potential electoral influence of its overseas citizens and formulate legislation supporting their active participation in the political processes of their home country.

Findings and discussion

Why has the diaspora vote law yet to be enacted in Nigeria?

The major constraint to the initiating of diaspora voting in Nigeria begins with sections 77 (2), 117 (2) and 134 (2b) of Nigeria's 1999 constitution and Section 12 (b, c) of the 2022 electoral

Table 1. Countries in Africa that have adopted diaspora voting.

S/N	Country	Year		Type of election
		Adopted	Implemented	
1	Algeria	1976	1976	Referendums, presidential and legislative
2	Benin Republic	2002	2011	Presidential
3	Botswana	1997	1997	Legislative
4	Burkina Faso	2015	Pending	Presidential and legislative
5	Burundi	2015 (drafted)	Pending	Presidential and legislative
6	Cabo Verde	1991	1991	Presidential and legislative
7	Cameroon	2011	2011	Presidential and legislative
8	Cape Verde	1992	1992	Legislative
12	Congo	2023	2023	Presidential and legislative
13	Cote d'Ivoire	1995	2010	Presidential
15	Egypt	2011	2011	Referendums, presidential
17	The Gambia	1997	2012	Presidential and legislative
18	Ghana	1992	2006	Presidential and legislative
19	Guinea	1993	1993	presidential and legislative
20	Guinea-Bissau	2009	2014	presidential and legislative
21	Kenya	2010	2013	Presidential
22	Liberia	1986	1986–2004	Presidential
23	Libya	2012	2012	legislative
24	Mali	1992	2007	Referendums, presidential and legislative
25	Mauritania	2009	2010	Referendums, presidential and legislative
26	Morocco	1984	1984	Legislative
27	Mozambique	1990	2004	Presidential
28	Namibia	2014	2019	Presidential and legislative
29	Niger	2010	2016	Referendums, presidential and legislative
30	Rwanda	2003	2009	All elections
31	São Tomé and Príncipe	2016	2016	Presidential
32	Senegal	1992	1993	Referendums, presidential and legislative
33	Sierra Leone	2012	2012	Presidential and legislative
34	South Africa	1994	1994	Presidential and legislative
34	Sudan	1996	—	Referendums and presidential
36	Togo	2005	2020	Presidential
37	Tunisia	1988	1989	Referendums, presidential and legislative

Source: Generated by Authors through the internet search, 2024.

law, both of which states that an eligible voter must have attained the age of 18 and *be resident in Nigeria and has limited the scope of presidential electoral victory to the states of the federation*, respectively. One of the major constraints noted is the legal/constitutional restriction of the 1999 constitution, and if not amended, diaspora voting in Nigeria may not be passed into law. As noted earlier, there must be a synergy between the homeland constitution and the electoral act for diaspora vote to be allowed in Nigeria. The residency requirement before an average voter could be eligible in Nigeria is a serious constraint to beat.

Hence the failure to enact diaspora enfranchisement law begins with the fact that the electoral reforms that will favour diaspora voting include numerous actors, including independent commissions, international organizations, judiciaries, and civil society groups. However, following legal extension, the core aspects of implementation are primarily hinged on the political will of the politicians, either directly through electoral legislation or indirectly through agencies in charge of external voting (Wellman, 2021). Hence, the political will is lacking thereby preventing diaspora voting to see the light of the day.

The above points to the nature of Nigeria's legislature which is closely tied to the perception of its leaders. According to Chilaka et al. (2021), the Nigerian legislature was originally established as a means of ratifying decisions made by colonial governors and

was not intended to function as an autonomous institution with the full range of powers typically found in modern democratic law-making bodies. As a result of its pre-colonial character (Opalo, 2019), the legislature has inherited its *ratificatory* function from the colonial period and remains heavily dependent on the other arms of government, particularly the executive. This lack of independence has been a consistent feature of Nigeria's legislature, with few exceptions. In cases where there is disagreement between the legislature and the executive, the root cause is often unresolved personal clashes (Dahiru, 2018; Kperogi, 2017) and intra-party issues (The Vanguard, 2018) as was seen during President Buhari's first term (2015–2019) when Senator Bukola Saraki was Senate President. There were recurring executive-legislative clashes. This is also in line with the postulation of the institutionalism theorists as espoused above.

Also, the perception of the political leader is another contending factor. The political leader will allow diaspora engagement in the political affairs of their country if they perceive a form of political gain. However, any feeling that such an adventure would jeopardize their interest may result in total rejection of the bid to extend voting rights to diaspora members. For instance, in 1992, under Jerry Rawling, Ghana granted the voting right to the military juntas, Ghanaians employed in government service and international NGO offices and Ghanaian international students on government scholarships through the Provisional National Defense Council's Representation of the People Act (ROPA). This act was perceived to only favour those within the purview of government to the exclusion of other citizens who migrated to escape abuse and repression experienced under Rawlings' regime. This was perceived as a calculated move to disenfranchise those likely to vote against the ruling party, the National Democratic Congress (NDC), in the 1992 election. It was recorded that Jerry later won the election with 60% of the vote cast (Muhammad, 2021).

As noted above, lack of political will is a major factor. The political elite in Africa will be willing to support the diaspora vote if they believe that those in the diaspora will support their party in the election, given the experience of Ghana above. The political inclination of Nigerians in the diaspora is difficult to predict, given the unavailability of data on the actual size and demography of Nigerians abroad. Nigeria still needs to improve with up-to-date information on the actual number of her citizens presently living abroad.

Another factor to consider is the identity diversities of the Nigerians abroad. Nigerians abroad are diversified in religious and ethnic affiliations. This distribution has been heavily influenced by Nigeria's North-South divide, with Nigerians from the Christian-majority South constituting a sizable portion of the country's diaspora in the West and those from the predominantly Muslim North constituting the majority of the country's diaspora in the Middle East and wider Muslim world (The Republic, 2021). Aneke believes the political class is "still checking, calculating, and recalculating which sections of Nigeria will gain the most from diaspora voting (2022). He further queried 'Is diaspora votes possibly favour the Southern Christian bloc or the Northern Moslem bloc? Who will benefit more from diaspora votes, the East, West, or North?' (Aneke, 2022). So it is difficult for political leaders to predict their political leaning.

Arising from the above is the need for more adequate data on the population of Nigerians abroad. Even until the time of writing this paper, the population of Nigerians abroad is still guesswork; there is no accurate data on the Nigerians in the diaspora. Whereas to measure the impact of Nigerians abroad on their homeland politics, accurate

empirical data is required rather than subjective assumptions (Elgujja, 2021). Data is not available on the number of Nigerians leaving the country. Worse still, Nigerians in the diaspora are not required nor encouraged to register with embassies, particularly those who have migrated illegally or are not documented at the point of exit. This may not be easy to factor in but if available, this information could be used to determine delimitation, registration, the exact number of polling units in each country of residence, and the number of ballot papers required (Ogbonnaya, 2013, cited in Elgujja, 2021). Be that as it may, an occasion like this could be used to organize Nigerians in the diaspora to register. The registration process could be used to corroborate the extant document on the diaspora population, and by that, Nigeria will be able to generate a robust database for citizens abroad.

Another hurdle is the calibre of politicians that occupies Nigeria's National Assembly. For Aneke, 'Nigerian politicians are selfish and dishonest' (2022; para 19, line 2). He believes that the INEC is not the problem but the corrupt members of the National Assembly who have scuttled that attempt to make diaspora enfranchisement a reality. He concludes that Nigerians abroad would remain disfranchised until these corrupt politicians complete their crooked thought process and eventually agree to amend the constitution (Aneke, 2022).

Elgujja listed other factors limiting the inclusion of Diasporas as a lack of harmony among the Diasporas community as there were different associations based on their locations, professional lineage, ethnicity, religion, or business interest. Systemic corruption, the lack of infrastructure, the lack of good governance, and challenges facing democratic sustenance that seem to be endemic to Nigeria form the major constraints (Elgujja, 2021).

What are the efforts made so far to facilitate the enactment of diaspora voting law in Nigeria?

The return of democracy to Nigeria in 1999 marked a significant turning point, empowering citizens to make legitimate demands of the government. This democratic transition coincided with an increasing rate of emigration, which by 2021 had resulted in a negative migration trend of -0.29 per 1,000 population (Sasu, 2023). The growing Nigerian diaspora has since become a key player in the country's internal affairs, including their demand for the right to participate in national elections.

According to Muhammad (2021), efforts to integrate diaspora voting rights into Nigeria's electoral framework have been ongoing since around 2006, but the bill has been facing legislative obstacles.

In addition to individual advocacy, as noted earlier, INEC has collaborated with various Nigerian diaspora organizations, civil society groups, and political leaders, to advocate the recognition of diaspora voting rights. In 2010, attempts were made to include the clause into the electoral law but it was rejected. Also, in 2022, it was reintroduced in the context of broader electoral reforms (Ngara & Ejalonibu, 2021) but was again rejected. Organizations like the Nigerians in Diaspora Organization (NIDO) led by Sebastian Udejah have also played key roles in this advocacy, creating a databank of Nigerian skills abroad (Nigeria in Diaspora Organisation, 2009). However, this initiative faced setbacks due to a lack of strong identification with parent and regional bodies by some members of the diaspora (NIDO, 2009).

As of 2024, the major obstacle in the electoral reform process concerning diaspora voting lies in determining how votes cast by the diaspora would be allocated. Some lawmakers have raised concerns based on Section 134 (2b) of the 1999 Constitution, which requires that a presidential candidate must secure at least one-quarter of the votes cast in each of at least two-thirds of Nigeria's states and the Federal Capital Territory, Abuja. They argue that the Constitution does not specify how Nigerians in the diaspora would be categorized for electoral purposes (INEC, 2024). One suggestion is that diaspora votes be categorized alongside the voter's state of origin. However, this would be difficult to determine if the election conducted is a secret ballot.

What are the appropriate steps to be taken for the enactment of diaspora voting laws in Nigeria?

Attaining diaspora voting rights in Nigeria requires the implementation of essential mechanisms; it cannot be realized in isolation. Several measures need to be established to ensure that diaspora voting becomes a developmental milestone in Nigeria. We therefore recommend the following key components:

Constitutional amendment

Attaining diaspora voting rights in Nigeria requires a basic requirement, *viz*; constitutional amendment. This falls directly under the purview of the legislature. As observed, certain sections of the 1999 constitution such as Section 77 (2), 117 (2) and 134 (2b) need to be amended as well as section 12 (b & c) of the 2022 electoral law. This should be done with a view to ensuring a synergy between these two laws in Nigeria on diaspora vote.

Synergizing the electoral law with the constitution

Given the abovementioned, diaspora voting is predominantly regulated by the homeland constitution, it becomes imperative to establish a harmonious relationship between electoral laws and the nation's constitution. The contemporary shift in international norms regarding external voting rights, or diaspora enfranchisement, can be viewed either as a manifestation of broader democratization or as a potential erosion of the foundational dynamics between citizenship and territorial ties. Elgujja (2021) emphasizes the necessity for the government to institute all requisite mechanisms to actualize diaspora participation in the homeland. The call for enfranchisement of individuals residing abroad is inherently tied to the widely recognized notion that the right to vote is a fundamental human right. While the new electoral act is anticipated to introduce innovations to general elections in Nigeria, it is essential to ensure the comprehensive inclusion of individuals in the diaspora (Eme, 2022; European Union, 2023). Among the critical mechanisms to achieve this inclusion is electoral reform, as explained below, fostering a seamless synergy between electoral laws and the overarching legal framework. Such synergy not only provides a legal foundation for implementation within the country but also extends its legitimacy to the diaspora.

Electoral reforms

The deterioration in the history of Nigeria's electoral process necessitates a reform of the Electoral Act. The trend has been all manners of electoral manipulation and intimidation of

the opposition and the electorate. There has been no election in Nigeria since adjudged to be free and fair than the previous ones due to the worsening election administration in Nigeria (Omotola, 2022). This calls for electoral reforms. The 2010 Electoral Act introduced the use of technology in electoral administration. Nevertheless, the 2015 and 2019 elections were also characterised by fraud and manipulation of results (Democracy in Africa, 2022). The second trend in electoral reforms began in 2015 but was delayed until 2022 due to concerns about the electronic transmission of results and mandatory direct party primaries. The Act was amended to provide three primary election models: direct primaries, indirect primaries, and consensus candidates. The 2022 Electoral Act, signed into law on 25 February 2022, sought to ensure a transparent electoral process and outcome by introducing electronic voting. However, the 2022 electoral reforms did not address the issue of diaspora voting, raising concerns about the need for further amendments. Given the above, previous studies (Elgujja, 2021; Oju et al., 2023; Oluwasanmi & Fagbadebo, 2025; Wapmuk et al., 2014) buttress the feasibility of the inclusion of diaspora voting, especially given the recent electoral reforms that introduced the use of technology.

Election technology

In a survey conducted by Oluwasanmi and Fagbadebo in 2024, electronic voting stands out as the most preferred mode of voting among the diaspora (see Figure 2). Given the electoral act reforms support for electronic voting in Nigeria, using election technology has many advantages over other means of diaspora voting in terms of real-time data capturing, voter's verification and accreditation, accurate counting of votes and seamless transmission of result (Omogbolagun, 2023). While the 2022 Electoral Act in Nigeria has included the use of technology – electronic voting- and its implementation (Section 41 (1)), it is pertinent to note that technology has not fully been maximized as there have been incidents of technical glitches since 2003 when election technology was first introduced, even up to 2023 elections. There is a pervasive apprehension regarding the overall security of technologies in Nigeria. Questions persist about their reliability and integrity, just as there is uncertainty regarding the commitment, professionalism, and integrity of the personnel responsible for operating these technologies. Moreover, there is no assurance that the political elite will not undermine the integrity of technology-driven processes (Kwen, 2022), given that electronic voting could be subjected to technical glitches as witnessed in the 2023 election transmission of the result. Also, it could be subjected to electronic fraud such as hacking of the election body website, and data falsification. All these could be mitigated through professional preemptive measures. Technical glitches would also be minimized considering technological advancement in the developed countries, all other things being equal.

Adequate data on Nigeria in the diaspora

Access to accurate voter data can significantly bolster election integrity, foster trust among voters, instil confidence in candidates regarding the electoral process and promote effective stewardship. With the integration of digital technology in electoral procedures, elections have transitioned from mere voting events to being heavily reliant on data (Private International, 2024), encompassing the entire election cycle from voter registration to result transmission. There is a need for adequate data on the population of Nigerians abroad. The population of Nigerians abroad is still guesswork; up to the time of writing this paper, there is no accurate data on the Nigerians in the

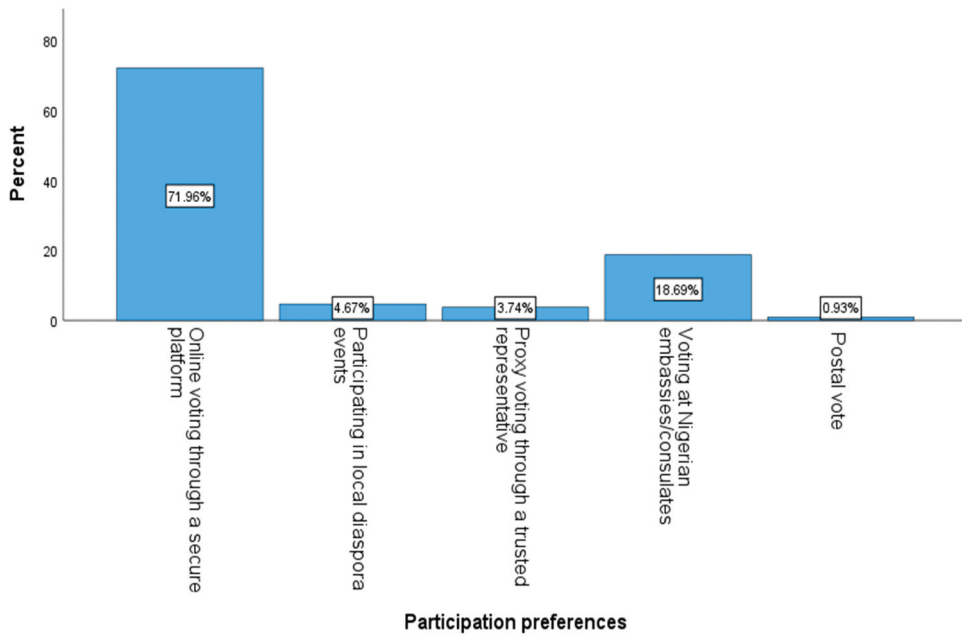


Figure 2. Diaspora preference for mode of participating in Nigeria election. Source: Authors' web-survey, 2024

diaspora. Whereas to measure the impact of Nigerians abroad on their homeland politics, accurate empirical data is required rather than subjective assumptions (Elgujja, 2021). Data is not available on the number of Nigerians leaving the country. Worse still, Nigerians in the diaspora are not required nor encouraged to register with embassies, particularly those who have migrated illegally or are not documented at the point of exit. Nigeria must undertake concerted efforts to acquire data on its citizens residing abroad. Doing so will greatly help in facilitating the diaspora vote in Nigeria.

Adherence to international laws

Almost all the existing international laws give legal backing to diaspora enfranchisement. For instance, the United Declaration on Human right (Article 21, paragraph 2), African Charter on Human and Peoples' Rights (Article 13, paragraph 1), International Covenant on Civil and Political Rights (Article 25a, b, c), International Convention on the Protection of the Rights of All Migrant Workers (Article 41 paragraph 1&2). All these emphasise the need to allow citizens in the diaspora to participate in the home country's elections. Given the above, there are no binding international recommendations on external voting (Lafleur, 2015 cited in Jaulin & Smith, 2020) perhaps the reason why some democratic countries are yet to allow it in their national elections. However, Nigeria being a member of most of these international organizations, can leverage its poise to expand its democracy in Africa and beyond as well as a way to maintain continuous connection with the diaspora.

Conclusion

The research is undertaken to explore the role of the legislative arm in ensuring diaspora voting in Nigeria. Given the prevalence of diaspora voting in Africa, Nigeria's status as the continent's largest democracy, the teeming population of Nigerians abroad, and the constitutional acknowledgement of dual citizenship for Nigerian migrants, the absence of inclusive legislation on diaspora voting in Nigeria contradicts democratic principles. The study aims to shed light on the factors impeding diaspora voting in Nigeria and identify strategies to promote it. Adopting an institutional approach, the research explicates the patron-client relationship between the executive and legislative branches, wherein the legislature may be influenced by the chief executive to the detriment of its legislative responsibilities. Despite the important role of the legislature in any democratic system, the study reveals that it has not fully met expectations in enacting diaspora voting in Nigeria. Among the identified constraints are colonial legacies, the calibre of the political class in power, and the recalcitrant nature of the constitutional stance on diaspora voting. However, the study suggests the constitutional amendments to allow Nigerians in the diaspora to participate in elections without residency requirements, among others.

Disclosure statement

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