ATHENA
—CENTRE—

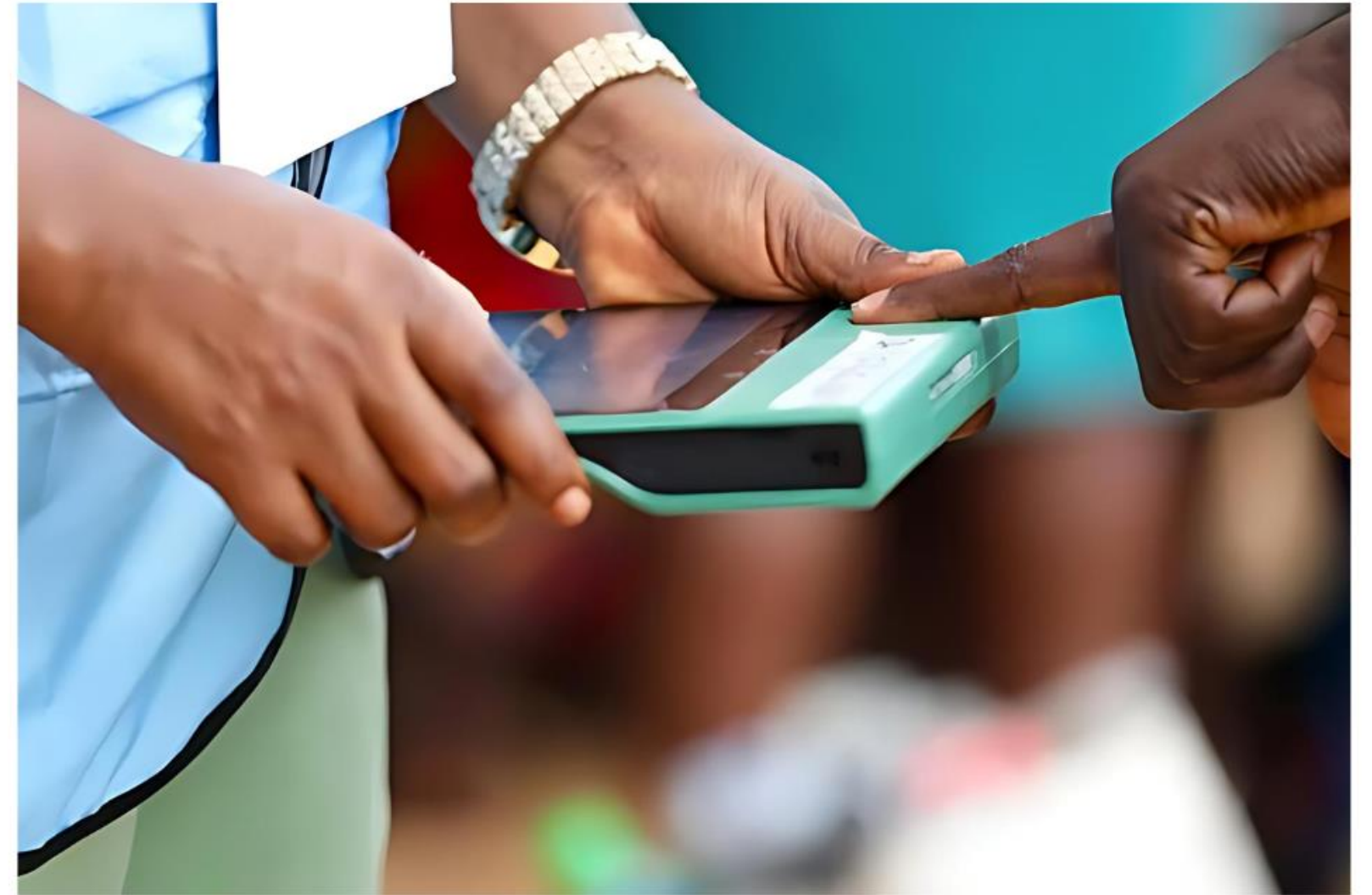# DO VOTES COUNT?

BAYELSA 2023 ELECTION: ATHENA REVIEW REVEALS TECHNOLOGY IMPACTS HIGH COMPLIANCE WITH ELECTORAL RULES AND EXPOSES CORRUPT PRACTICES

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ABOUT ATHENA CENTRE

Athena Centre for Policy and Leadership is a non-partisan, not-for-profit research Centre (Think Tank) operating at the junction of theory and practice in public policy and leadership.

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Athena Centre operates as an independent, non-partisan think tank in compliance with Nigerian laws and regulations, committed to promoting good governance, transparency, and accountability. Our mission is to conduct rigorous research and provide evidence-based recommendations that contribute to the development of a prosperous and forward-looking society in Nigeria.

Author:
Osita Chidoka - Chancellor, Athena Centre for Policy and Leadership

Co-authors:

Adebanke Equagoo
Julius Ajayi
Sarah Eke

Nwasodolu Kosisochukwu Kingsley
Adnan Baba-Ahmed
Ugonna Margaret Briggs

KEY TERMINOLOGIES

POLLING UNIT
A polling unit is a place, enclosure, booth, shade or house at which voting takes place.

WARD (REGISTRATION AREA)
A Ward is an administrative unit within a local government that serves as sub-division for electoral purposes. It is composed of several polling units.

LGA
Local Government Areas

BVAS
Bimodal Voter Accreditation System

FORM EC8A
Form used by INEC to record results at the polling unit level.

FORM EC8B
Form used by INEC to collate polling unit results at the ward level.

FORM EC8C
Form used to collate ward results at the LGA level.

FORM EC40G
Form used to report cancelled results

KEY TERMINOLOGIES CONT...

INEC COMPLIANT PUS
Polling Units where the total votes cast equals BVAS Machine accredited voters

OVER-VOTING
Occurs when total votes cast exceed BVAS Machine accreditation.

COLLATED RESULTS
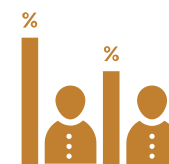Results from Polling units collated in form EC8B

TRANSFER OF OVERVOTING
Refers to cases where results with overvoting in EC8A were not cancelled by the collation officer and transferred to EC8B

EXCLUDED PUS
polling units that were not recorded in the form EC8B either due to no election or cancelled election.

INFLATED VOTES
When an electoral officer increases the total vote cast recorded in form EC8A

SUMMARY

Athena Centre through a proprietary data analytical framework uncovered the following insights:

▷ The use of technology (BVAS Machine, IReV website) improved electoral visibility and integrity.

▷ Compliance with INEC guidelines observed in significant number of polling units

▷ Possible corrupt practices by Presiding Officers and sustained by Collation Officers.

▷ INEC non-com in about 19% of the total polling units altered the final result

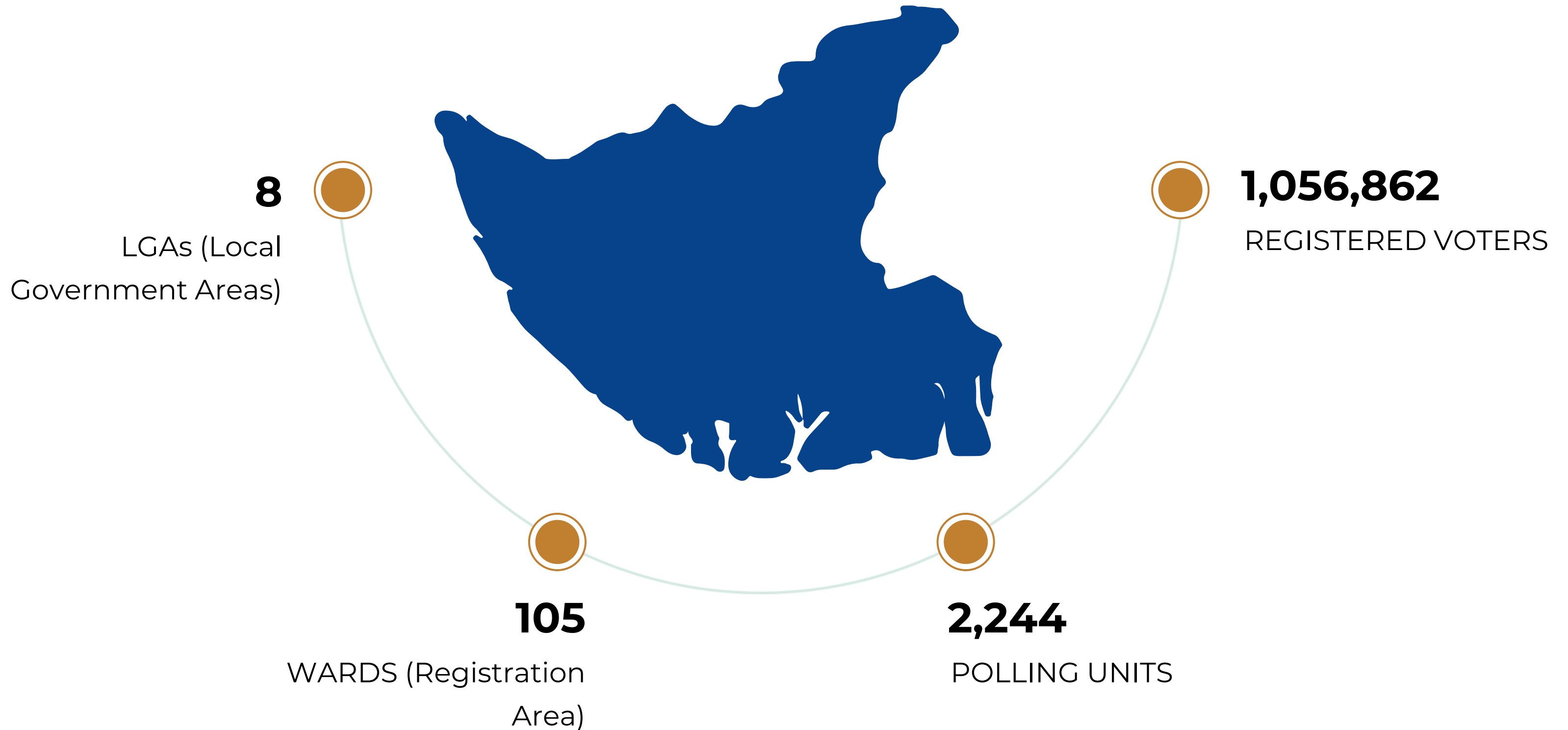▷ High number of collation officers violated the electoral laws and guidelines in announcing false results

METHOD**OLOGY**

DATA COLLECTION AND PROCESSING

▶ We downloaded results from IReV website and analysed with a proprietary tool

▶ We made a Freedom of information (FOI) request to INEC on November 13, 2023 and was supplied with BVAS generated report.

▶ We made another freedom of information request on January 30th 2024 and we were supplied with form EC8B, EC8C, EC8D, EC8E and EC40G

▶ Result from each of the forms above was transferred to the data analysis tool for further review

▶ In collecting data, we used a 2-step verification process and a quality assurance team performed further checks to ensure data integrity
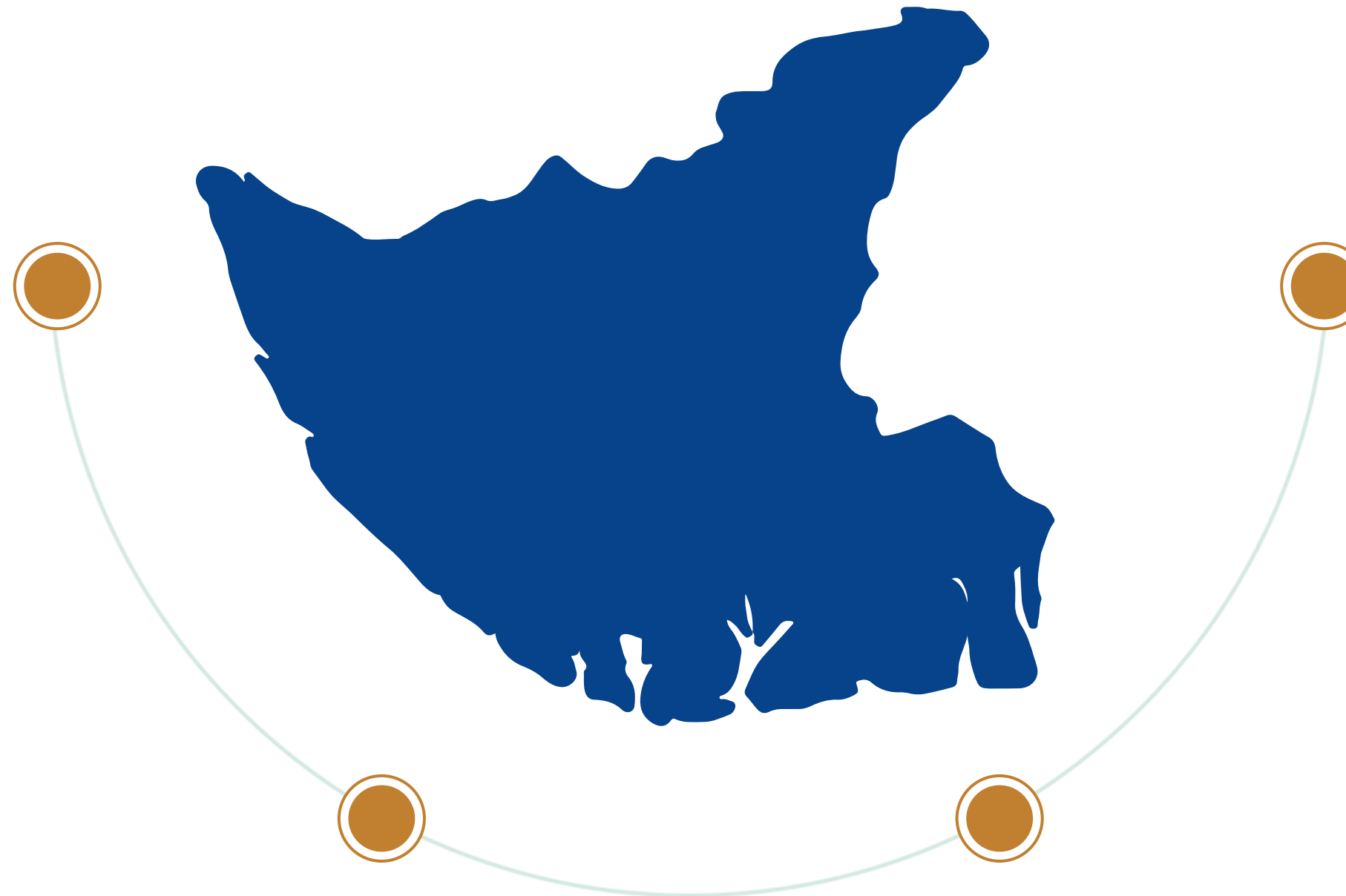
BAYELSA STATE AT A GLANCE

8
LGAs (Local Government Areas)

1,056,862
REGISTERED VOTERS

105
WARDS (Registration Area)

2,244
POLLING UNITS

BAYELSA 2023 ELECTION KEY DATA FROM INEC

253,520
BVAS Machine
ACCREDITED VOTERS
(From INEC Certified BVAS Machine Generated Report)

300,072
EC8D ACCREDITED VOTERS
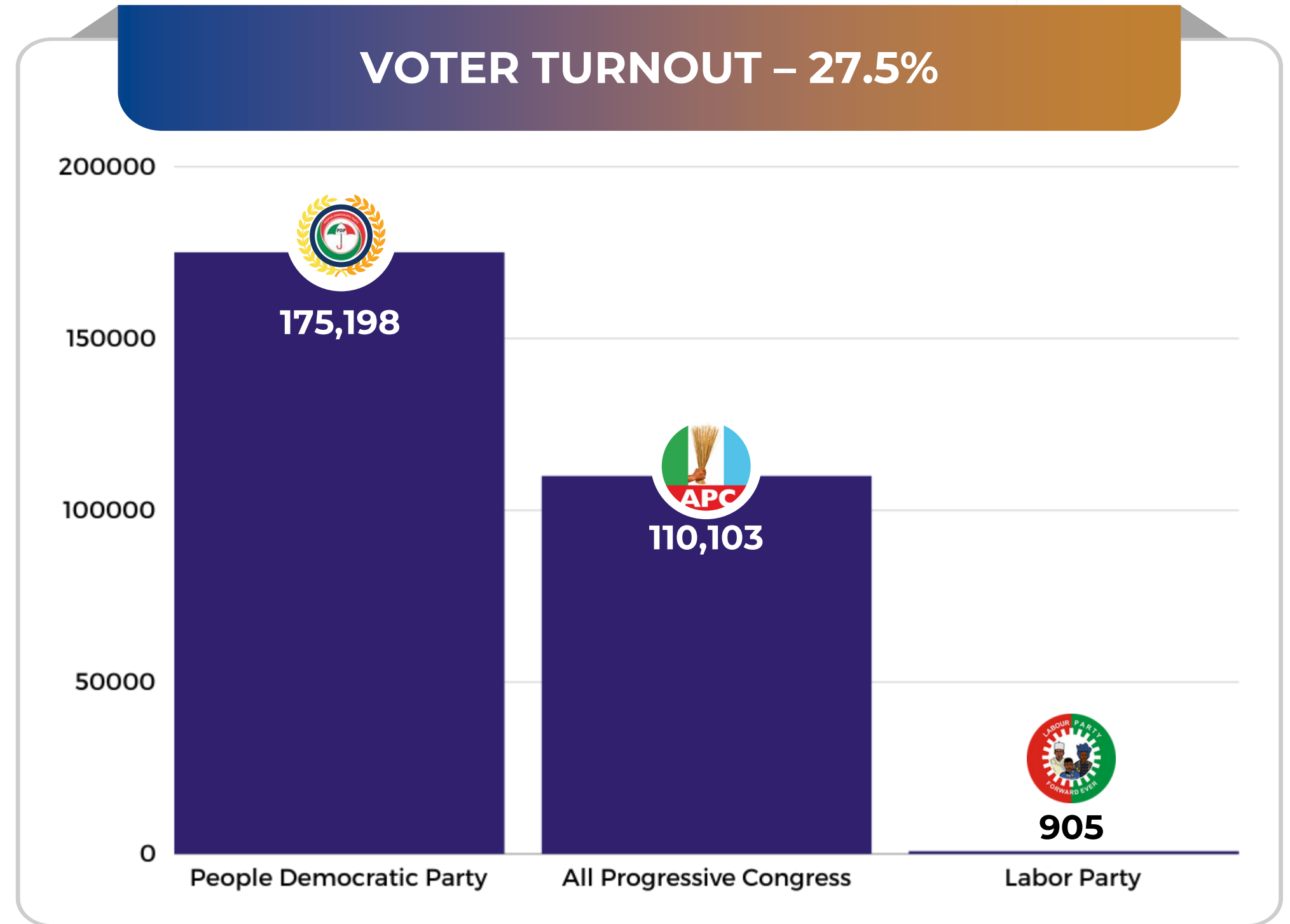(From INEC Certified EC8D Form)

337,699
EC8A ACCREDITED VOTERS
(Downloaded from INEC Result Viewing Portal – IReV website)

332,312
EC8B ACCREDITED VOTERS
(From INEC Certified EC8B forms)

BAYELSA 2023 ELECTION RESULT BY INEC

DOUYE DIRI
DECLARED WINNER

VOTER TURNOUT – 27.5%

Party	Votes
People Democratic Party	175,198
All Progressive Congress	110,103
Labor Party	905

HIGH COMPLIANCE BY INEC PRESIDING OFFICERS WITH IREV WEBSITE UPLOADS ENHANCED RESULTS VISIBILITY (98.1% RESULTS UPLOADED TO INEC RESULT VIEWING PORTAL)

2,202 polling units were downloaded from IReV website.
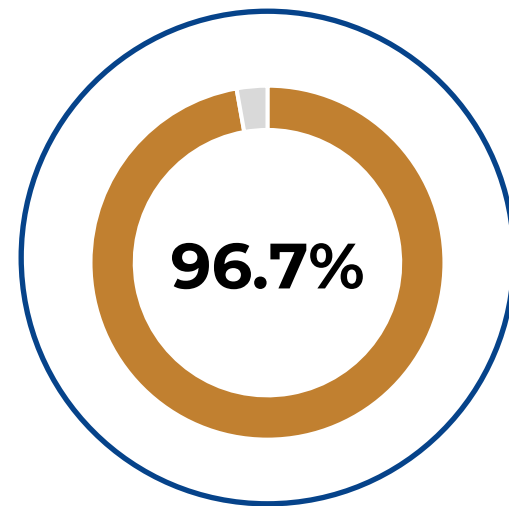
2,135 (96.7%) polling units were legible
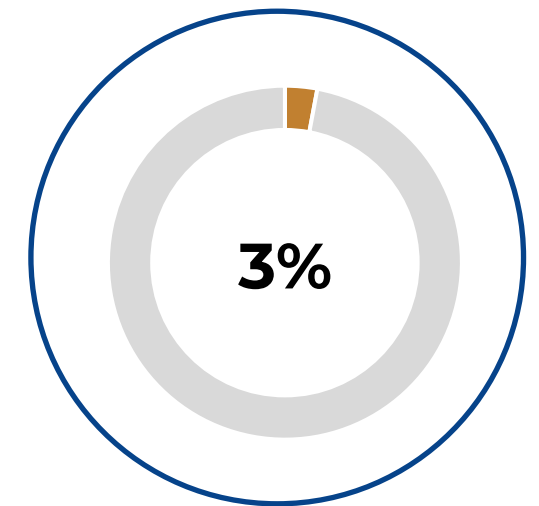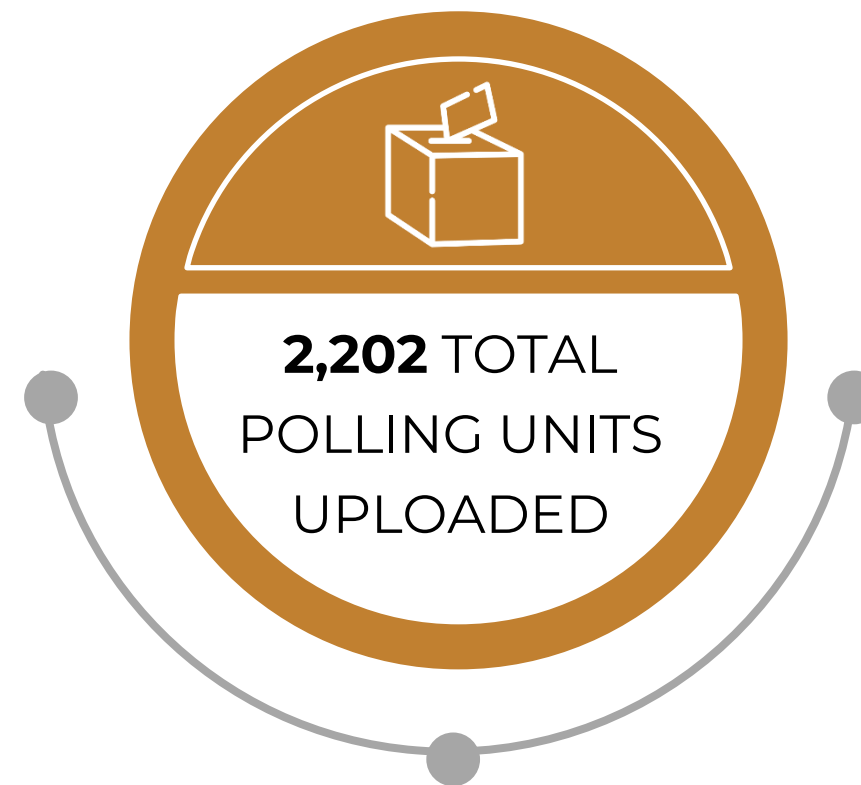
67 (3%) polling units were illegible

High incidences of human errors

- critical issues of overvoting
- Incidence of wrong calculations
- Incomplete filling of forms
- Illegible data capture
- Uploading wrong Polling Unit results

However, It did not eliminate:

96.7%

LEGIBLE

2,202 TOTAL POLLING UNITS UPLOADED

3%

ILLEGIBLE

SIGNIFICANT COMPLIANCE WITH INEC ELECTORAL GUIDELINES IN 84.8% OF THE POLLING UNITS SUGGEST SUCCESSFUL USE OF TECHNOLOGY LEADING TO IMPROVED ELECTORAL INTEGRITY

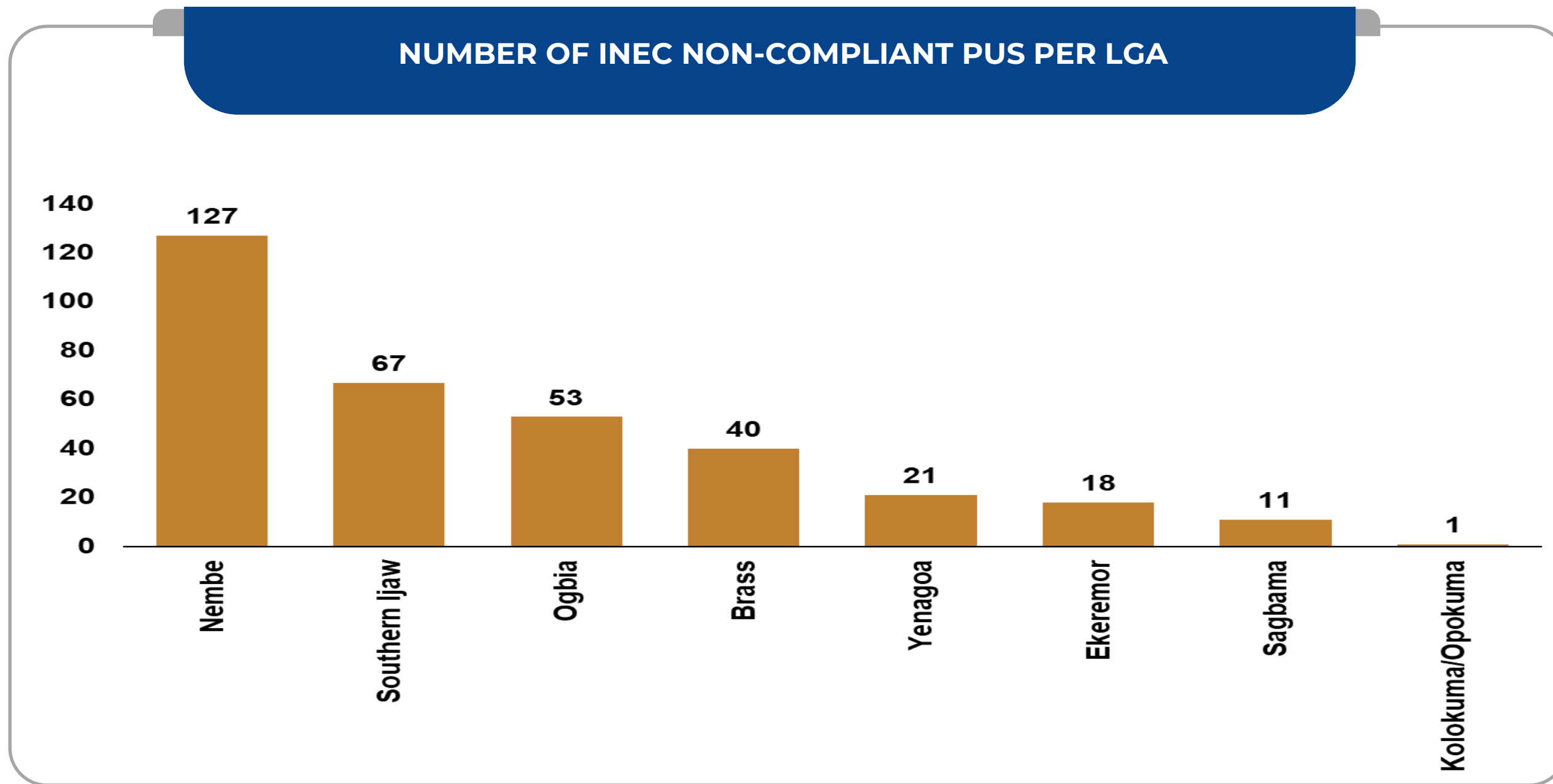**2,244 POLLING UNITS**

1,905
INEC COMPLIANT

1,905* polling units were INEC compliant.

These are polling units where total votes equals to BVAS Machine accreditation

*In arriving at this number of polling units, we have allowed tolerance of 5 votes or less to account for human computational error.

SIGNIFICANT NON-COMPLIANCE WITH INEC ELECTORAL GUIDELINES IN 338 POLLING UNITS (15%) ALTERED ELECTION RESULTS. TOTAL VOTES CAST WERE EITHER HIGHER OR LOWER THAN BVAS Machine ACCREDITATION.

NUMBER OF INEC NON-COMPLIANT PUS PER LGA

73% of the polling units that were INEC non-compliant are in three Local Government Areas

REFUSAL TO USE BVAS Machine IN 102 (4.5%) POLLING UNITS. THESE 102 POLLING UNITS WITHOUT BVAS Machine ACCREDITATION CONTRIBUTED 43, 453 VOTES.
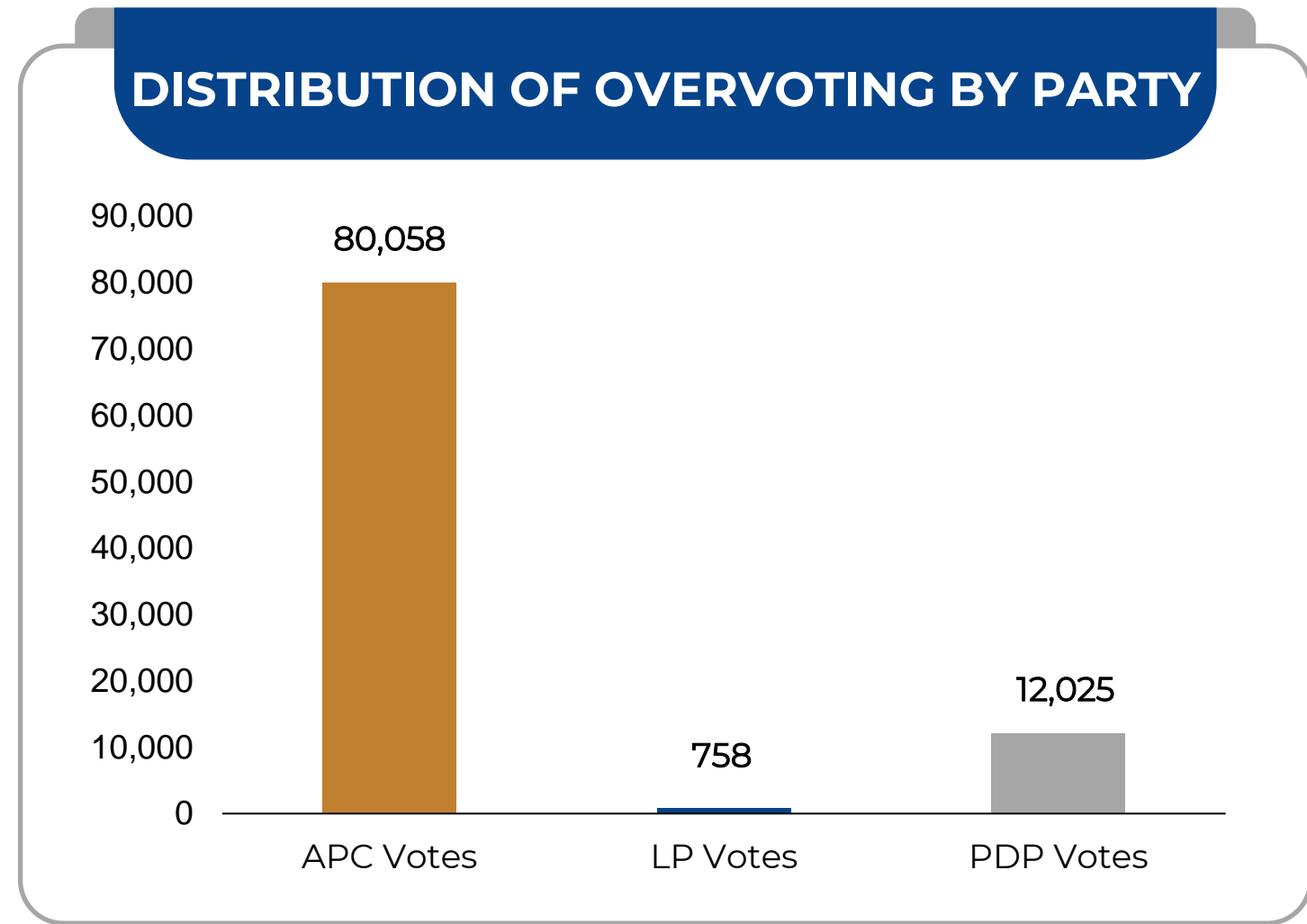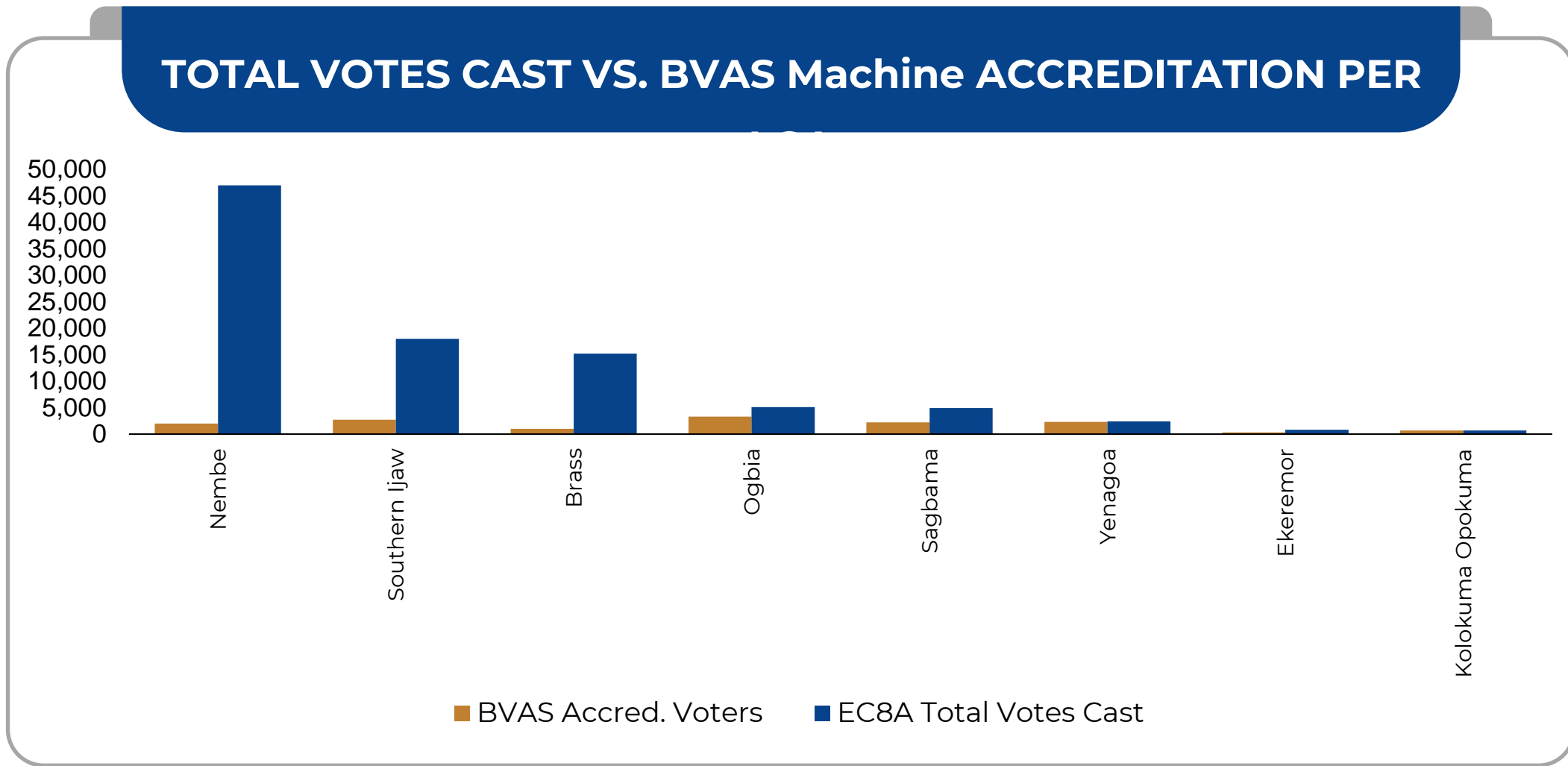
96% of the polling units where there was voting BVAS Machine accreditation are in two Local Government Areas

TOTAL VOTES OF PUS WITHOUT BVAS Machine ACCREDITATION PER LGA

Legend: Total Votes Cast ■ — Count of PU
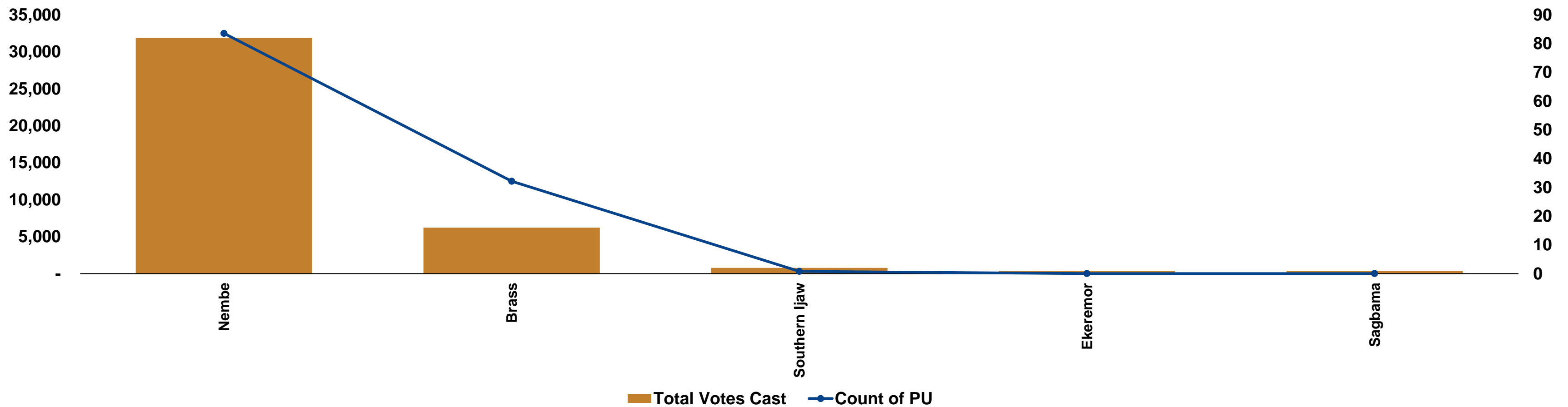
OVERVOTING IN 254 PUS (11.3%) ACCCOUNTED FOR 94, 348 VOTES SUBSTANTIALLY IMPACTING FINAL RESULT

79.9% of the polling units with overvoting are in three Local Government Areas

TOTAL VOTES CAST VS. BVAS Machine ACCREDITATION PER LGA

- ■ BVAS Accred. Voters
- ■ EC8A Total Votes Cast

DISTRIBUTION OF OVERVOTING BY PARTY

APC Votes	LP Votes	PDP Votes
80,058	758	12,025

*In arriving at this number of polling units, we have allowed tolerance of 5 votes to account for human error.
According to the Electoral Act, 2022, section 51 (2), "where the number of votes cast at an election in any polling unit exceeds the number of accredited voters in that polling unit, the Presiding officer shall cancel the result of the election in that polling unit."

RESULTS FROM 80.7% OF THE 254 PUS WITH OVERVOTING WERE TRANSFERRED TO FORM EC8B

Collation officers cancelled result in **49** polling units. **205** polling units WITH OVERVOTING contributed **78,095** votes; **highlighting possible corrupt practices impacting electoral integrity.**
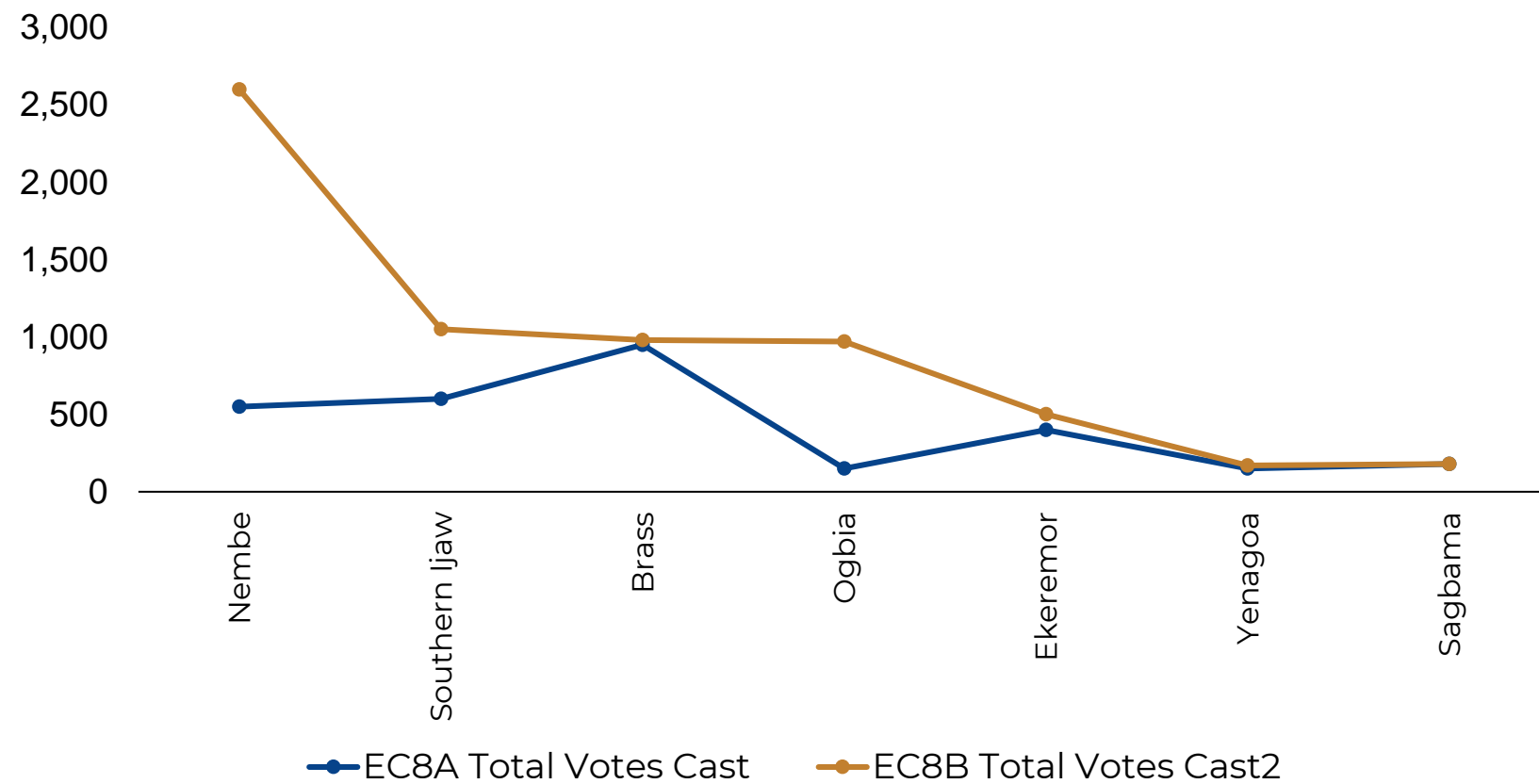
NUMBER OF PUS WITH OVERVOTING THAT WERE TRANSFERRED PER LGA

LGA	Count
Nembe	111
Brass	37
Southern Ijaw	16
Sagbama	14
Ogbia	12
Yenagoa	9
Ekeremor	3
Kolokuma/Opokuma	3

DISTRIBUTION OF TRANSFERRED OVERVOTING BY PARTY

Party	Votes
APC Votes	68,886
LP Votes	481
PDP Votes	8,088
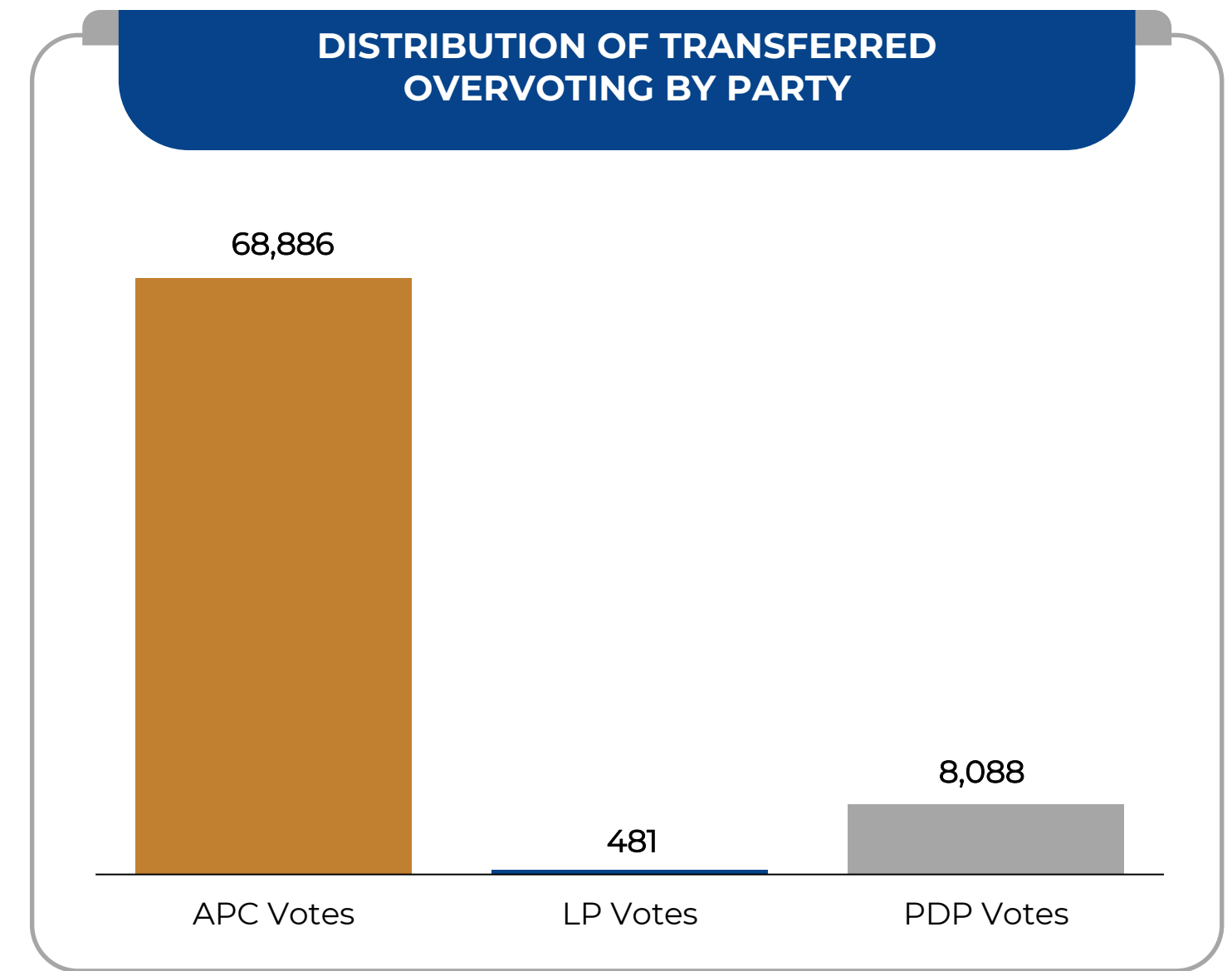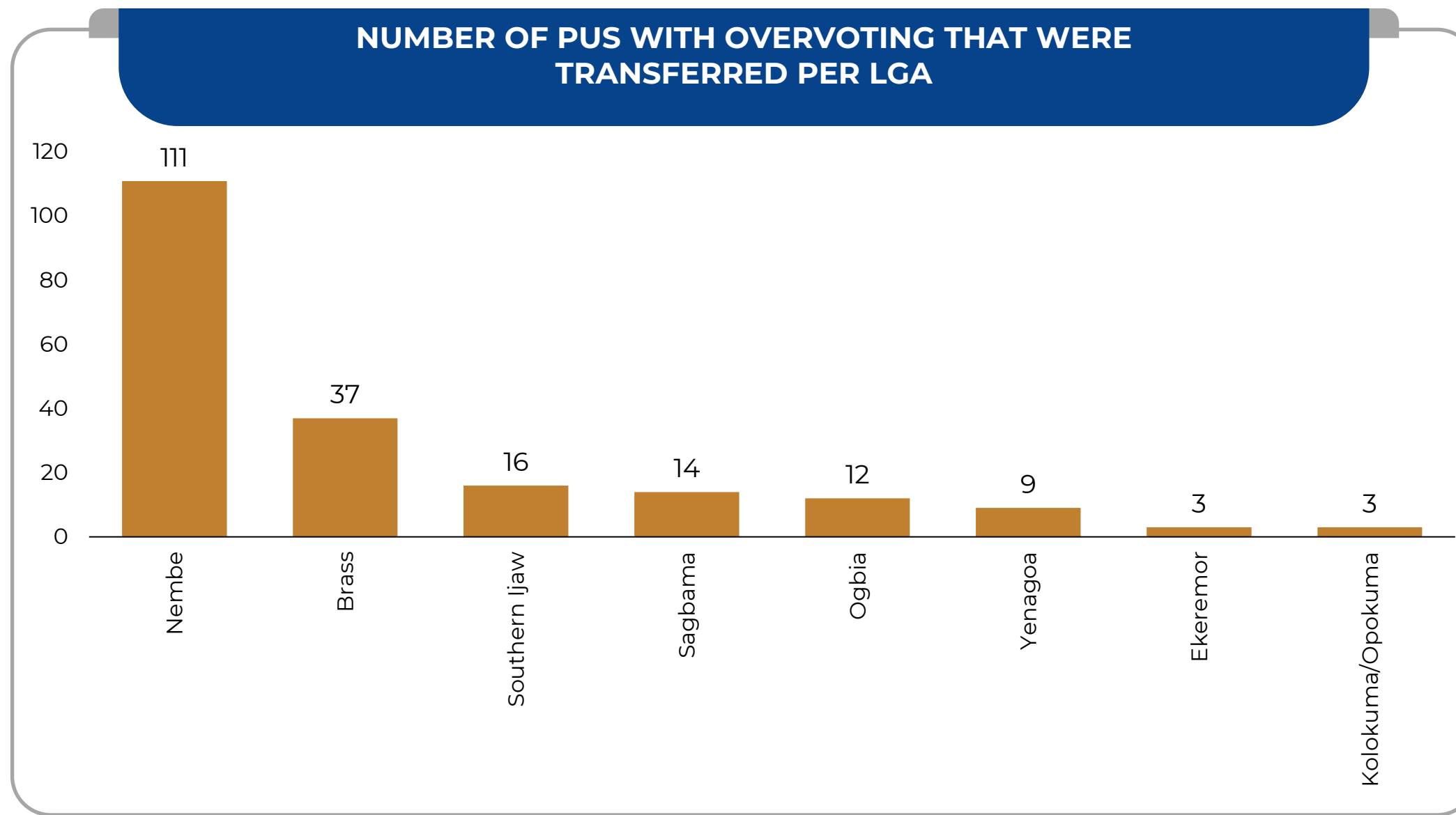
71.2% of the polling units with overvoting that were transferred to form EC8B are in 2 LGAS
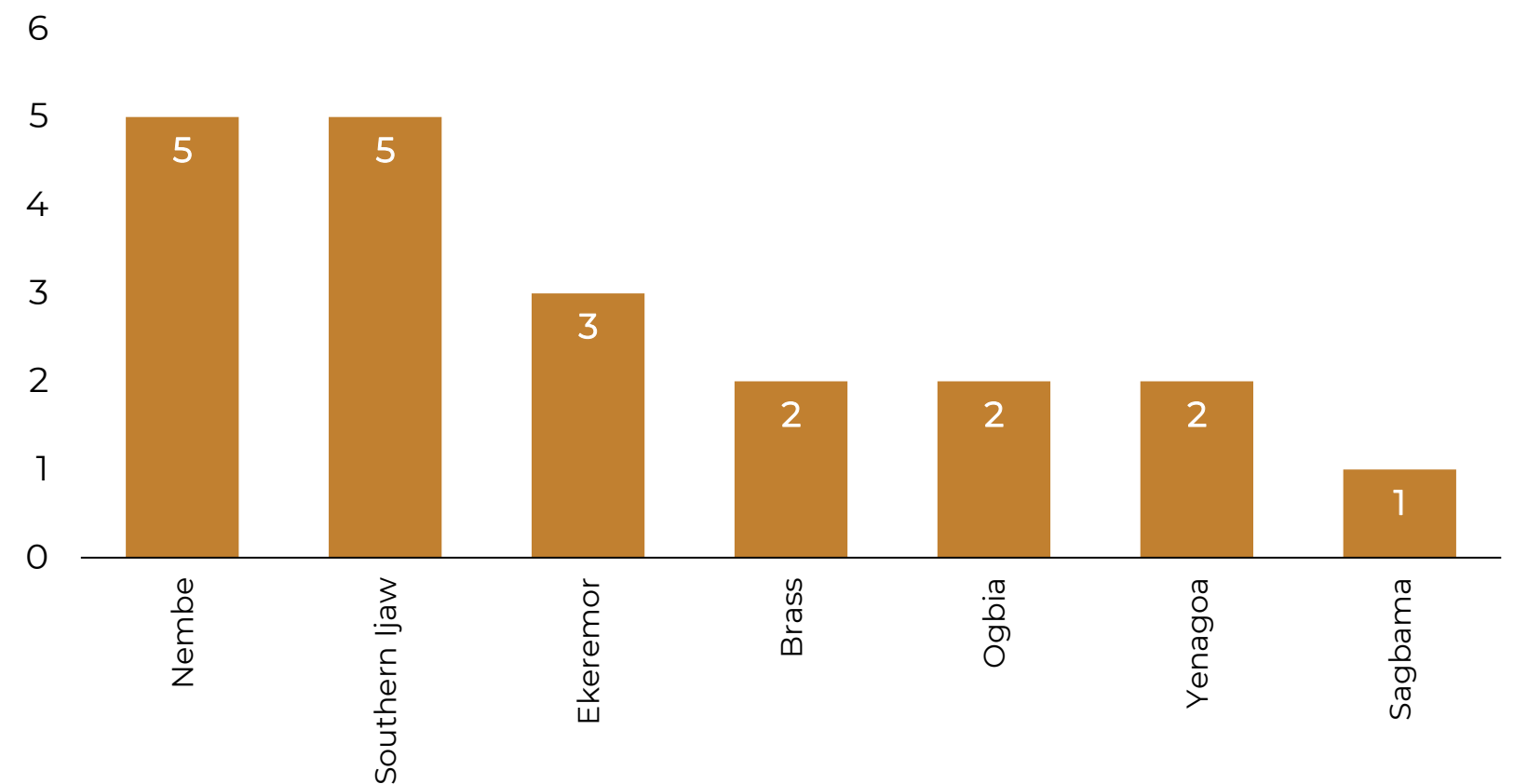
AT THE COLLATION LEVEL, RESULTS OF 20 POLLING UNITS WERE INFLATED

We observed the addition of **3,378 votes over what was recorded in form EC8A in 20 polling units, across 7 Local Government Areas.**

### COMPARISON OF EC8A TOTAL VOTES VS EC8B TOTAL VOTES CAST

Legend: ● EC8A Total Votes Cast ● EC8B Total Votes Cast2

NUMBER OF PUS WITH IFLATION PER LGA

| LGA	PUs with inflation
Nembe	5
Southern Ijaw	5
Ekeremor	3
Brass	2
Ogbia	2
Yenagoa	2
Sagbama	1

65% of the polling units where votes were inflated in form EC8B are in 3 LGAs

61 PUs (2.7%) WITH UNDERVOTING IN 7 LGAS (TOTAL VOTES CAST IS LOWER THAN BVAS Machine ACCREDITATION) SUGGEST POSSIBLE VOTE SUPPRESSION

NUMBER OF PUS WITH UNDERVOTING PER LGA
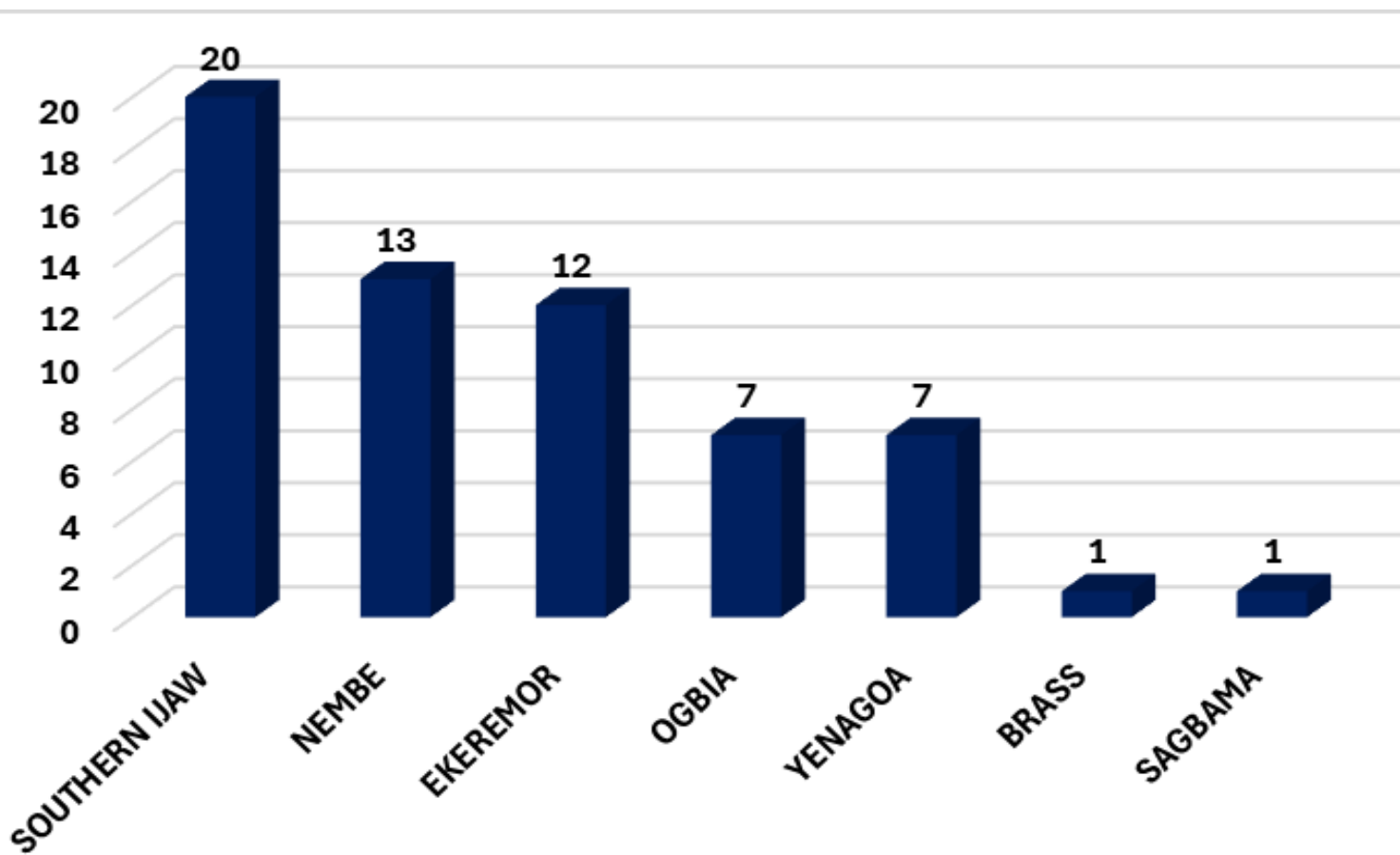
COMPARISON OF BVAS Machine AND TOTAL VOTES CAST
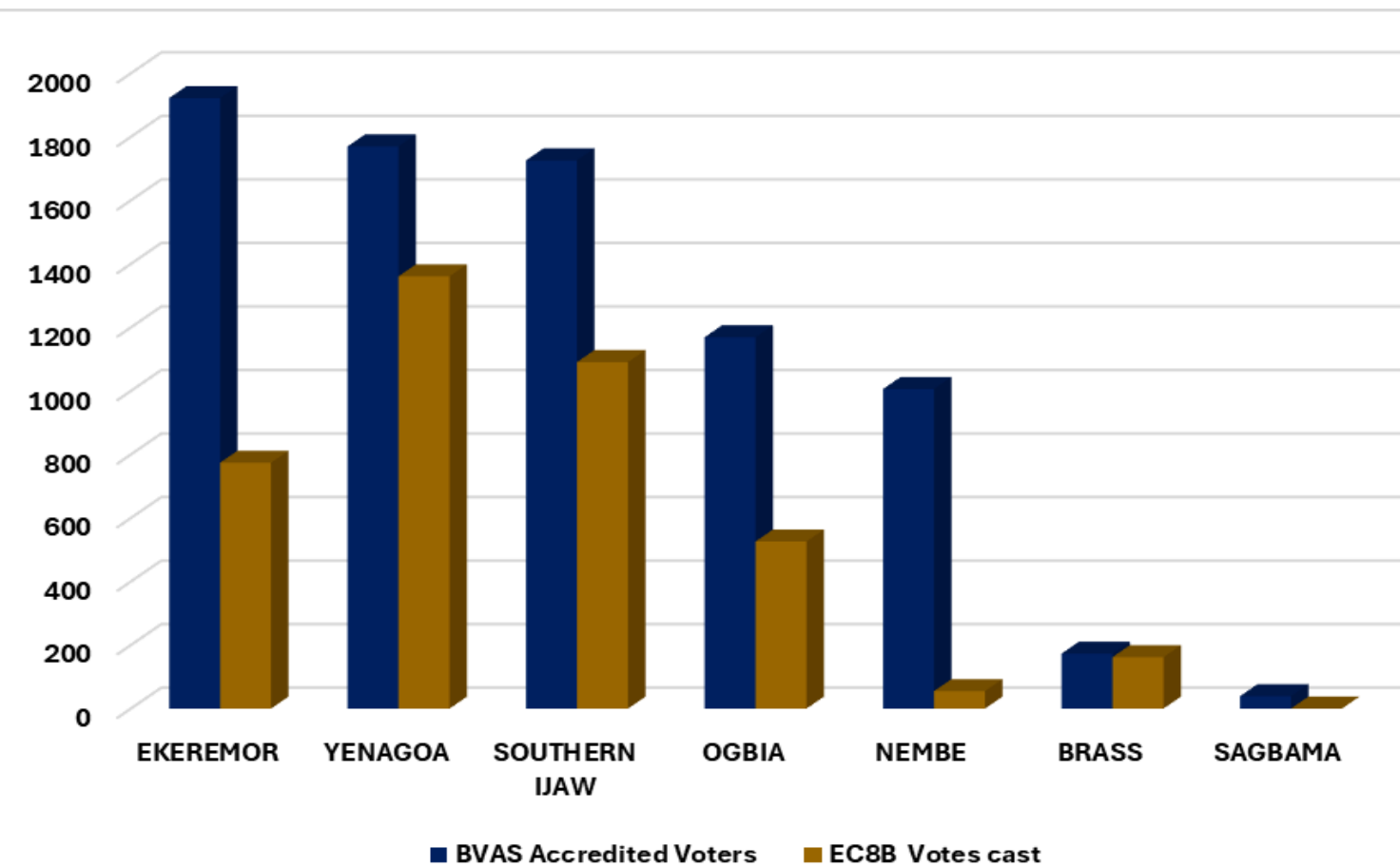
72.1% of the polling units with under voting are in three Local Government Areas

BASED ON THE ELECTORAL LAWS AND INEC GUIDELINES, 533 PUS SHOULD HAVE BEEN EXCLUDED FROM THE FINAL RESULT
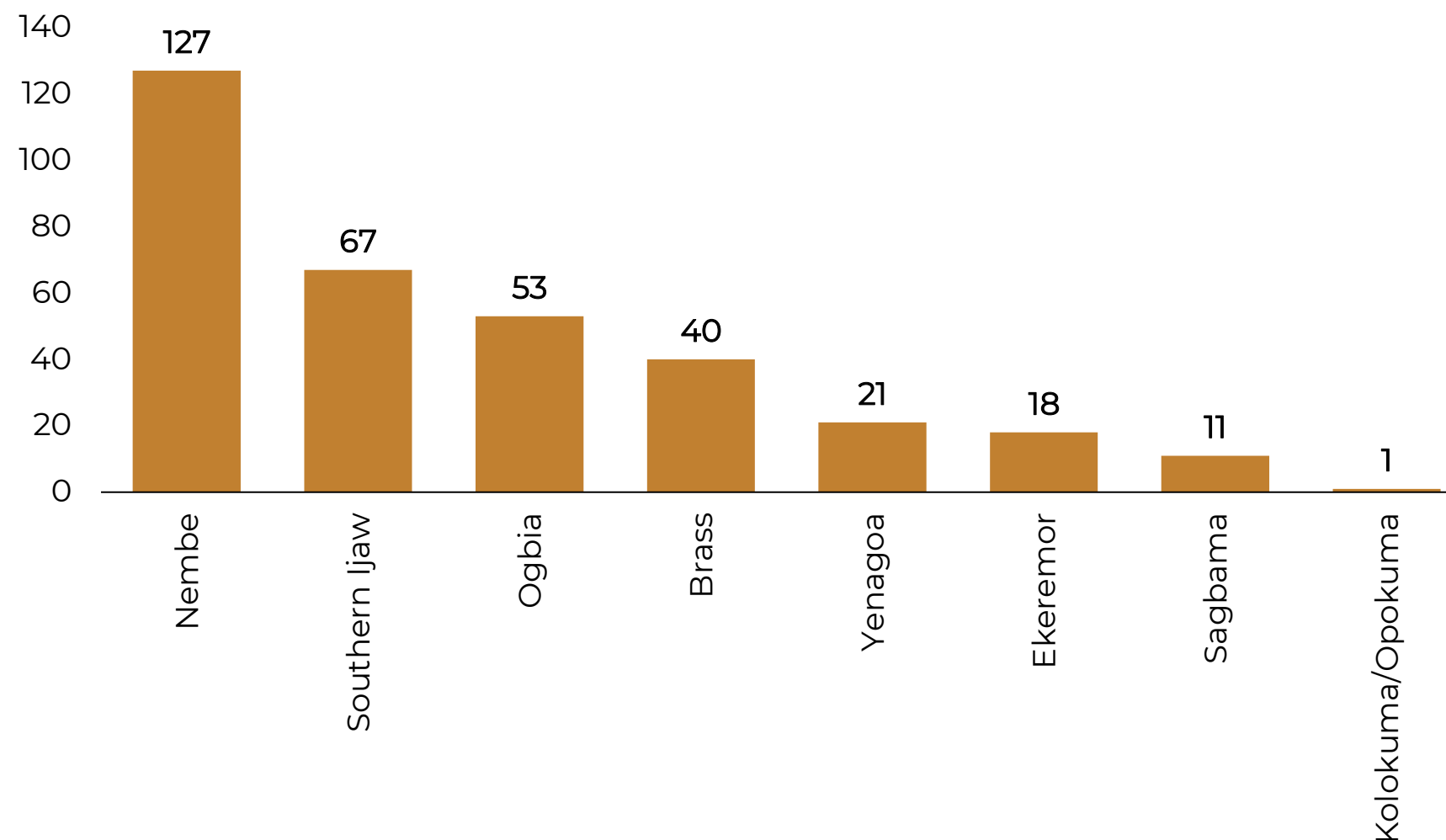
INEC NON-COMPLIANT PUS

Based on our analysis, **338** polling units across the 8 LGAs were INEC non-compliant, meaning BVAS Machine accreditation did not match with total votes cast in **15%** of the polling units.

*In arriving at this number of polling units, we have allowed tolerance of 5 votes to account for human error.

EXCLUDED PUS

195 PUs representing **8.6%** of the total PUs were excluded from the results by the electoral officers.

• Cancelled Election – 132 PUS
• No record – 46 PUs in form EC8B

*We excluded:
Illegible Results – 1 PU in form EC8B
16 PUs Incompletely filled form EC8B

NUMBER OF INEC NON-COMPLIANT PUs PER LGA

LGA	Count
Nembe	127
Southern Ijaw	67
Ogbia	53
Brass	40
Yenagoa	21
Ekeremor	18
Sagbama	11
Kolokuma/Opokuma	1

73% of the polling units where total votes cast did not match with BVAS Machine accredited voters are in **3** LGAS

OUR ANALYSIS SHOWED THAT PDP POLLED THE HIGHEST VOTES USING RESULTS FROM THE 1,905 (84.8%) INEC COMPLIANT POLLING UNITS

A tabulation of the results from these 1,905 polling units resulted in the following:

- **Total votes – 231,732**

- **PDP Votes: 161,757**

- **APC Votes – 63,630**

- **LP Votes – 539**

PDP got the highest votes and 25% and above in all the 8 LGAs

APC won majority of the votes in the INEC Non-Compliant PUs

DISTRIBUTION OF INEC COMPLIANT Pus VOTES BY
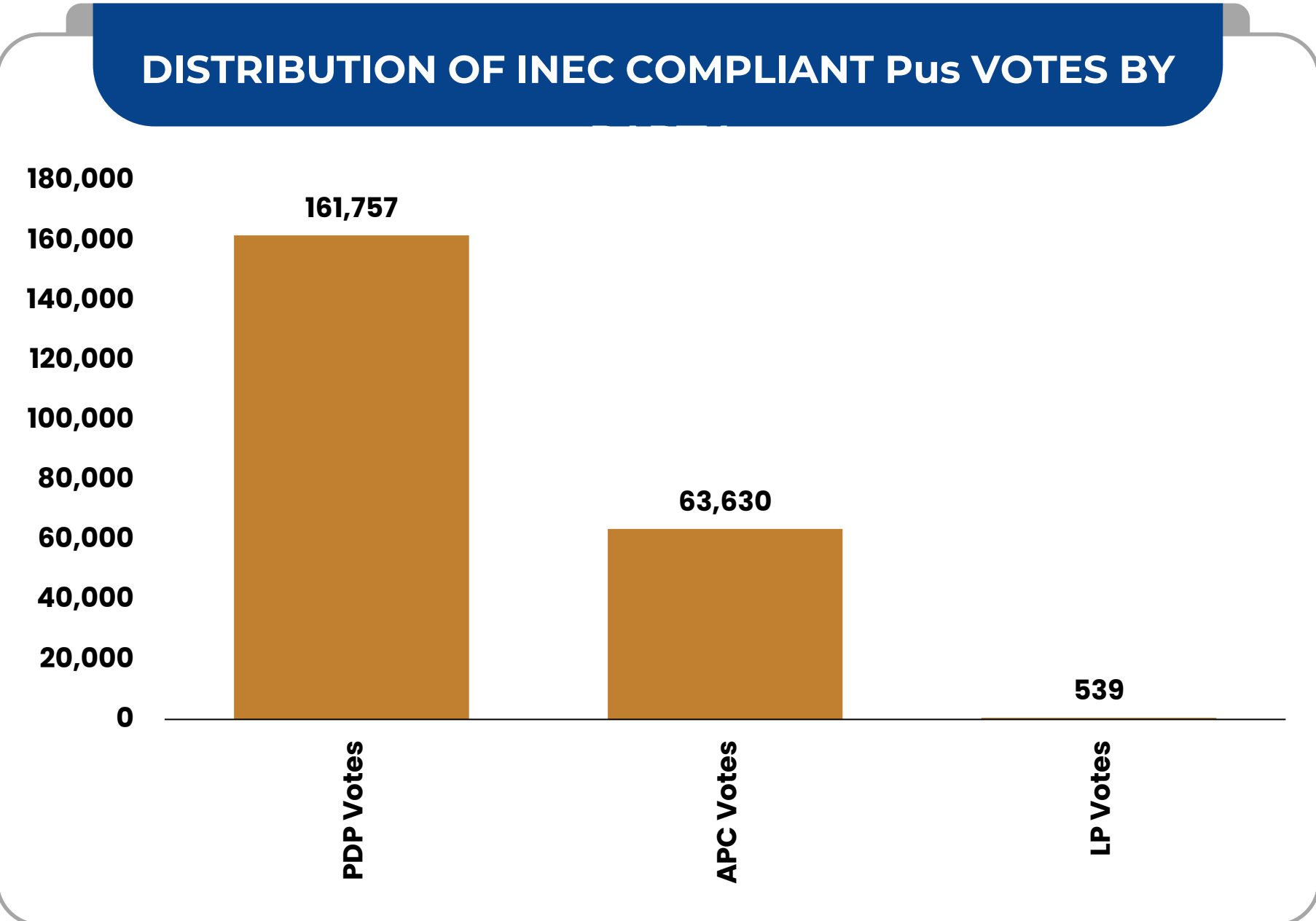
POLLING UNIT WITH OVER-VOTING RECORDED IN FORM EC8A BY THE PRESIDING OFFICER

LGA	Nembe
Ward	Bssambiri II
Polling Unit	Osain Polo/Pegi Polo Square
Delimitation Number	06-04-05-007
BVAS Machine ACCRED	71
EC 8A VOTES CAST	627
APC VOTES	622
LP VOTES	2
PDP VOTES	3
SDP VOTES	0
Overvoting	556

Osundeyi Omolara
Presiding Officer

Ward Level →

Dr. Oluchi Grace Nwosu
Collation Officer

Transferred the falsified result without reference to BVAS Machine.

EC 8B VOTES CAST	APC VOTE	LP VOTES	PDP VOTES	SDP VOTES
627	622	2	3	0
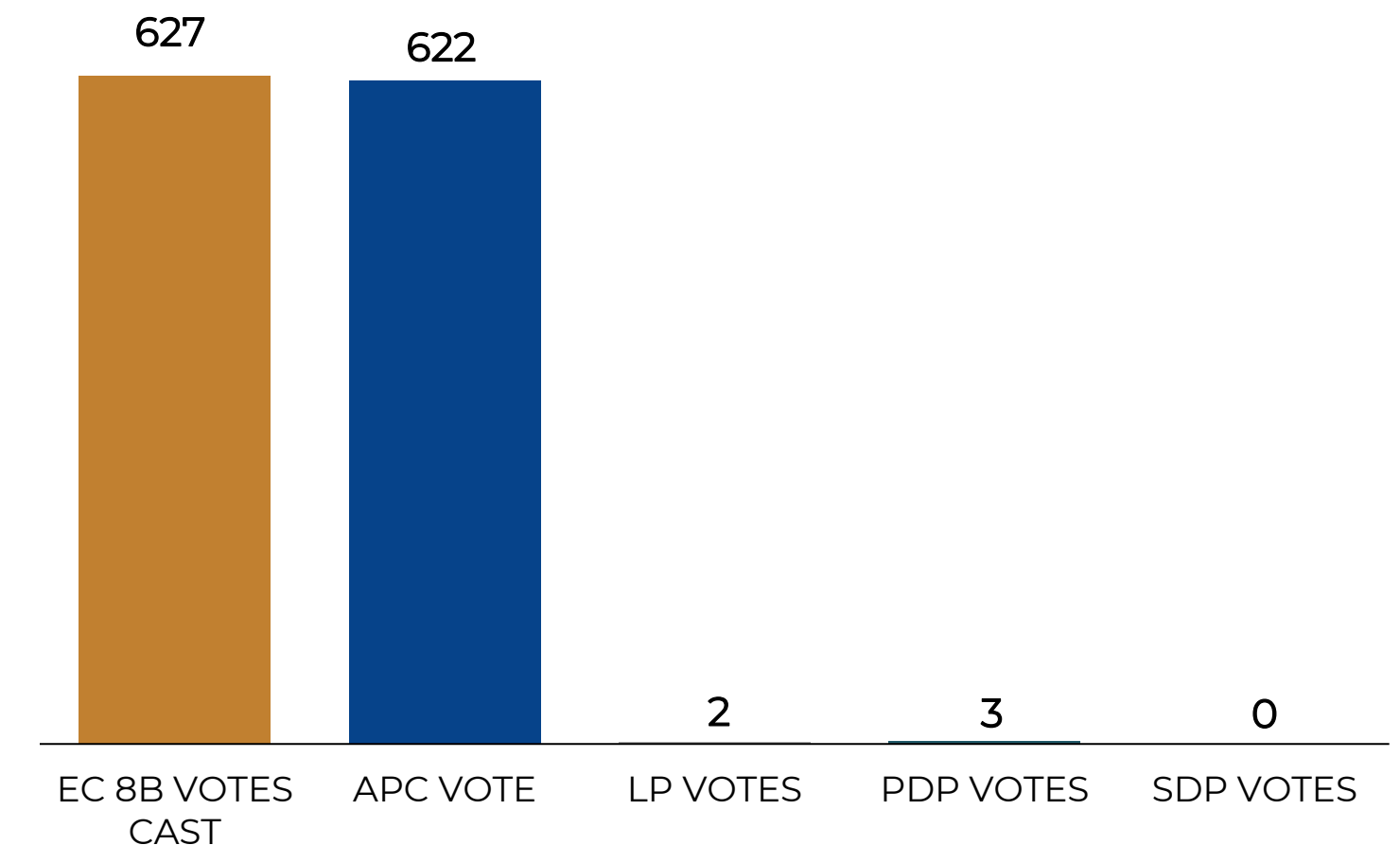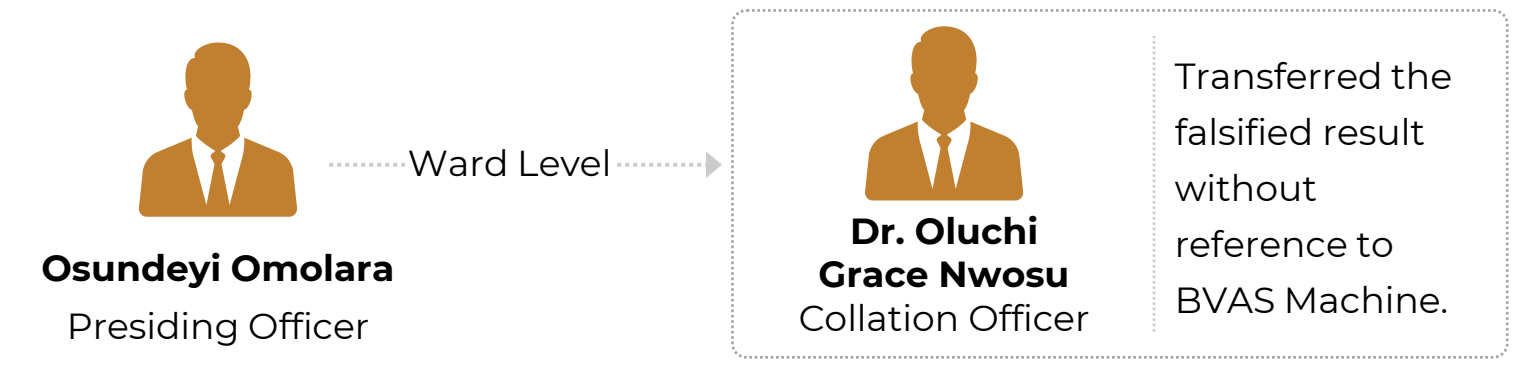
2 LGAs IN BAYELSA EAST SENTORIAL DISTRICT RECORDED THE HIGHEST INCIDENCES OF OVERVOTING AND CONTRIBUTED 85,419

NEMBE

- BVAS Machine Accredited Voters – **7,739**

- Total Votes Casts in EC 8B – **53,586**

- Winning Party - **APC**

BRASS LGA

- BVAS Machine Accredited Voters – **16,841**

- Total Votes Casts in EC 8B – **31,833**

- Winning Party – **APC**

The APC candidate is from Brass Local Government Area

RECOMMENDATIONS

POLLING UNIT

1 | Deepen the Use of Technology

The high level of compliance in BVAS Machine usage and consistency in total votes compared to BVAS Machine accreditation is commendable progress and presents an opportunity and roadmap to credible elections in Nigeria

2 | Improve Visibility and Accountability of Presiding Officers

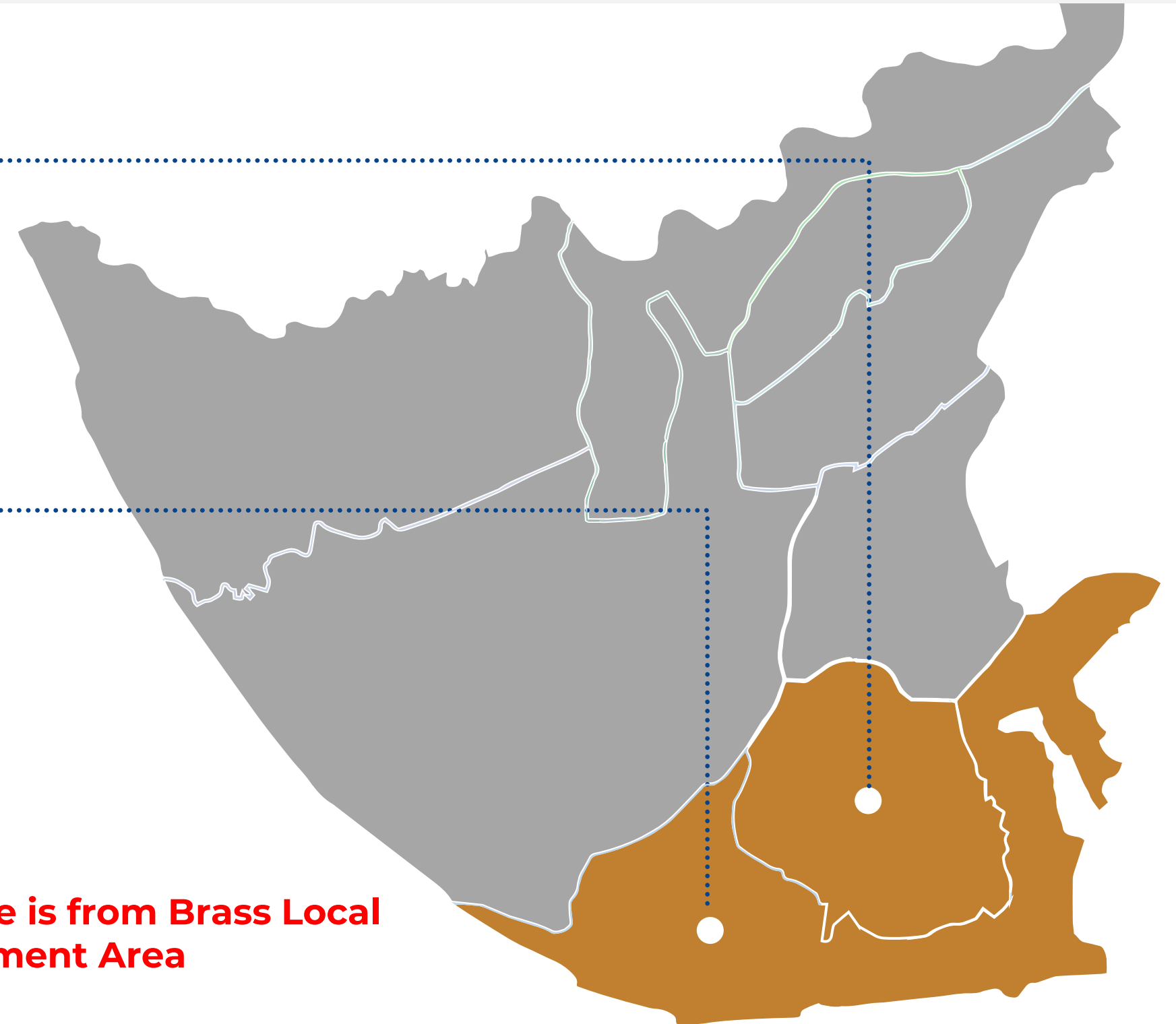- The role and activities of Presiding officers need more visibility and mechanisms for accountability. INEC should commend the presiding officers in the polling units with results compliant with BVAS Machine accreditation and uploaded from the polling units.
- INEC and the political parties or candidates should initiate the prosecution of the Presiding officers who recorded votes that did not match BVAS Machine accreditation in

3 | Activate The E-Collation System on the BVAS Machine

- INEC should deploy and activate the electronic collation software for the BVAS Machine to improve credibility, reduce human error, improve compliance and reduce the incidence of corrupt practices by Presiding officers.
- The recording of the results in the E-Collation system should precede the manual recording in the paper form EC8A.
- The E-collated copy and BVAS Machine auto-generated accreditation data should be uploaded to the IReV website.

RECOMMENDATIONS CONT...

COLLATION CENTRE

4 | Improve Visibility of Result Collation at Ward, LGA, State and National Centre

- Uploading the ward collation Form EC8B to the IReV website would improve the credibility of the electoral process and reduce the incidence of corrupt practices and human errors.
- Collation officers must review the BVAS Machine devices to confirm accreditation data before collation. Failure to review the BVAS Machine devices against INEC rules provided opportunities for collating non-compliant polling units
- The role and activities of Collation Officers need more visibility and enhanced mechanisms for accountability.
- INEC should commend the Collation Officers that collated only polling unit results that matched BVAS Machine accreditation
- INEC and the Political parties or candidates should initiate the prosecution of the Collation Officers that recorded unlawful votes without reference to BVAS Machine

RECOMMENDATIONS CONT...

BROADER ISSUES

5 | INEC'S Power to Review Results

Political parties should improve the quality, training and capacity of their polling unit and collation Agents to document infractions and report to INEC for review within the 7 days window provided by section 65 (1) Electoral Act (2022)

6 | Digital Scanning of Ballot Papers

- INEC should introduce Ballot Paper Scanners at the Local Government Offices for scanning all used ballot papers to ensure that votes recorded against each party is correct.
- Scanning of ballot papers will enhance transparency and form part of the digital documents candidates can inspect. The scanners should be able to read digital security codes on each ballot paper to ensure authenticity.

7 | Appointment of Election Auditors

- The law should be amended to allow for appointment of Election Auditors to supervise the distribution and return of election materials, scanning of ballot papers to ensure the vote tally is correct beyond consistency between total votes and BVAS Machine accreditation. The vote scanning and certification by the third-party auditors must be completed within the 7 days review period.

RECOMMENDATIONS CONT...

8 | Statutory Declaration by Electoral Officers on relevant Forms

- INEC should include a statutory declaration of the correctness of information entered by electoral officers on all the electoral forms upon which violation makes the electoral officers and party agents that signed the forms liable for prosecution.
- The Electoral Act (2022) should reflect this proposal.

9 | Introduction of Civil Action against Electoral Officers

- The Electoral Act (2022) should be amended to include the right of political parties and candidates to bring civil action against electoral officers and party agents who willfully falsify election results. This will serve as a deterrence and also provide parties and candidates with remedies if INEC refuse to prosecute the officers

10 | Revisit and Implement Key Recommendations of the Justice Uwais Report on Electoral Reforms, namely:

- Electoral Offences Commission: Create an Electoral Offences Commission to handle the prosecution of electoral offenders independently, ensuring accountability and reducing impunity in the electoral process.
- Proportional Representation: Introduce a modified form of proportional representation to make the electoral process more competitive and reflective of the proportion of votes won by political parties, thereby reducing post-election tension.
- Adjudication of Election Disputes: Ensure that all election disputes, particularly presidential and gubernatorial, are resolved before the swearing-in of elected officials. This involves amending relevant sections of the Constitution and the Electoral Act.

ADDENDUM

PROPOSED AMENDMENT TO THE ELECTORAL ACT 2022

We propose an amendment to section 26 of the Electoral Act (2022) to deter electoral officers and party agents from falsifying election results or any information related to the election process. The proposed amendment allows political parties and candidates to bring civil action against electoral officers, ensuring an additional layer of accountability and recourse beyond criminal prosecution.

By incorporating these changes into Section 26 of the Electoral Act 2022, the Act will be strengthened to ensure greater transparency, accountability, and integrity in the electoral process, increasing trust and credibility in Nigeria's elections.

SECTION 26: OATH OF NEUTRALITY BY ELECTION OFFICIALS

1 | Oath of Neutrality

All staff, electoral officers, presiding officers, returning officers, and security officials taking part in the conduct of an election shall affirm or swear to an oath of loyalty and neutrality as in the Second Schedule, indicating that they will not accept bribe or gratification from any person, and shall perform their functions and discharge their duties impartially and in the interest of the Federal Republic of Nigeria without fear or favour.

Any person who violates subsection (1), commits an offence and is punishable under section 120 (dereliction of duty).

ADDENDUM CONT..

2 | Statutory Declaration of Electoral Forms

- All electoral officers, including presiding officers and collation officers, must make a statutory declaration confirming the correctness and accuracy of the information entered on all electoral forms, including but not limited to Forms EC8A, EC8B, EC8C, EC8D, and EC8E.
- Party agents who sign any electoral form must also make a statutory declaration confirming the correctness and accuracy of the information contained in the forms they sign.

3 | Penalties for False Declaration

- Any electoral officer or party agent who knowingly makes a false declaration on any electoral form shall be liable to prosecution and, upon conviction, subject to:
  - A fine of not less than N1,000,000.
  - Imprisonment for a term of not less than three years.
  - Both such fine and imprisonment.

4 | Civil Action Against False Declaration

- Political parties or candidates may bring a civil action against any electoral officer or party agent who knowingly makes a false declaration on any electoral form. Such civil actions shall be filed in a court of competent jurisdiction, and the court may award damages or other appropriate remedies if the plaintiff prevails.

5 | Enforcement and Prosecution

- The Independent National Electoral Commission (INEC) shall be responsible for enforcing this section. Legal officers of the Commission or any legal practitioner appointed by it shall undertake prosecutions under this section.