

**THE EXISTENCE OF DIGITAL RIGHTS
IN NIGERIA VIS-À-VIS PRIVACY OF CITIZENS
AND THE DATA PROTECTION POLICIES**



INTRODUCTION

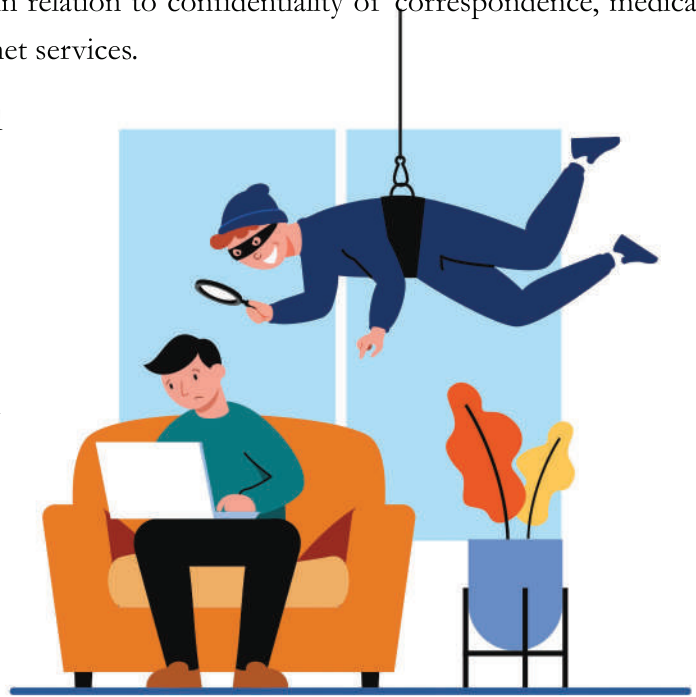
With current technological realities, increased internet usage and more activities than ever before being carried out online, the world appears to be moving towards a digital globe. The right to privacy is therefore not limited to privacy within a physical space, but cuts across privacy in relation to confidentiality of correspondence, medical information, and personal lifestyle, while accessing internet services.

Section 37 of the 1999 Constitution of the Federal Republic of Nigeria provides:

“The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.”

In addition, Article 12 of the Universal Declaration of Human Rights provides that:

“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”¹



The right to privacy seeks to protect what an individual considers “private” to him including digital rights. Digital rights are defined as human and legal rights as related to media and technologies.² While many people have a premonition that the word “digital” aligns only with online or internet related transactions, there are non-internet related matters that still qualify as digital matters, such as the biometric data collections cited below.

An offshoot of digital engagements has been an unprecedented increase in cybercrime rates, thereby resulting in a need for the government to collect personal data of persons in a bid to combat this; for instance, by requiring mobile phone users to register their biometric credentials with their telecom service providers while linking up the ownership of SIM cards and phone numbers with their fingerprints and identity details³. Registration of such biometric credentials with government agencies and institutions has been on the increase lately; for instance, with the introduction of bank verification numbers (BVN), National Identity Management Commission (NIMC) and other processes requiring some sort of biometric registration, citizens, and non-citizens in some instances, have had to divulge personal and private details.

¹Article 17 of the International Covenant on Civil and Political Rights

²Fatimah O. Kasali et al. “Unraveling the Concept of Digital Rights Law in Nigeria.” Retrieved from:

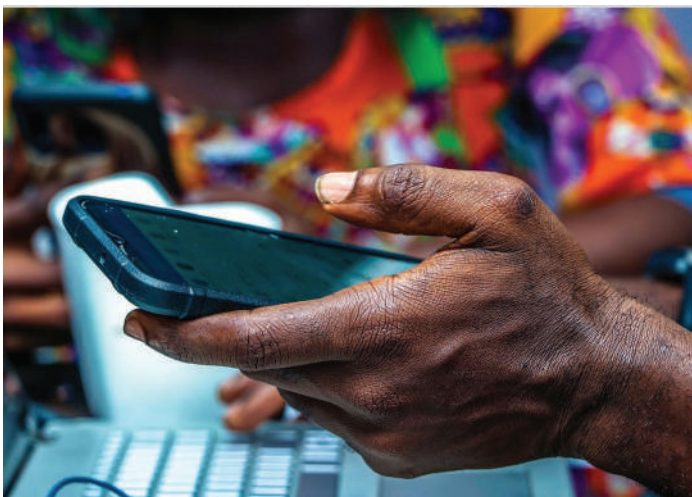
<https://digitalrightslawyers.org/wp-content/uploads/2021/01/UNRAVELING-THE-CONCEPT-OF-DIGITAL-RIGHTS-GROUP-5-POWERPOINT.pdf> on 25 February 2021.

³Adeboye Adegoke. 2020. “Digital Rights and Privacy in Nigeria.” Retrieved from:

https://ng.boell.org/sites/default/files/2020-08/Digital%20Rights%20and%20Privacy%20in%20Nigeria_0.pdf on 15 February 2022.

An attempt at a digital rights and freedom bill was aborted when President Muhammadu Buhari refused to sign the bill on the ground that some specific terminologies/technical subjects were not clearly explained.⁴ The United Nations, in 2012, 2014 and 2016 agreed that people's offline rights should also be protected online, meaning that the UN's contemplation of digital rights would mean an extension of the existing human rights to cyber space.⁵

While there is no express provision in any law as at today that grants digital rights to citizens, one cannot deny the tangibility of these rights with current trends and realities; as such, these digital rights may be borne by virtue of other existing rights such as the right to access information, right to association, right to privacy and right to freedom of expression.⁶ From several quarters, there have been complaints against the recent collection of data of Nigerians in central systems; for instance, in 2018, it was observed in a report co-authored by the Piracy International Paradigm Initiative that mandating persons to register sim cards; establishing central database for collecting people's mobile phone information and the compulsory retention of people's data by internet service providers are all in breach of international human rights standards.⁷



Alarmingly, despite the collection and retention of citizens' data in such centralized systems, no corresponding measures or at best only poor measures are in place to protect data collected. In fact, from digital existence, several devices are in use that track people's movements, preferences, and other information.⁸ For instance, a person who follows a shoe vendor on the internet or who likes a post by a shoe vendor will find several other shoe vendors suggested by the app. There have also been allegations of privacy breaches by social media platforms; for instance, Facebook has been accused of violating users' privacy- where administrative staff can erase messages while users themselves do not have same controls over their own information.⁹

⁴Fatimah O. Kasali et al. Supra

⁵Ibid.

⁶Toyin Akinniyi. 2021. "Digital Rights in Nigeria: Emerging Issues and Opportunities." Retrieved from:

<https://luminategroup.com/posts/blog/digital-rights-in-nigeria-emerging-issues-and-opportunities> on 15 February 2022.

⁷Paradigm Initiative and Privacy International, Stakeholder Report Universal Periodic Review 31st Session March 2018. Adebayo Adegoke. "Digital Rights and Privacy in Nigeria." Paradigm Initiative. Retrieved from: https://ng.boell.org/sites/default/files/2020-08/Digital%20Rights%20and%20Privacy%20in%20Nigeria_0.pdf on 21 February 2022.

⁸Dr. Keith Goldstein, Dr. Ohad Shem Tov and Mr. Dan Prazeres. "The Right to Privacy in the Digital Age." 2018. Retrieved from:

<https://www.ohchr.org/Documents/Issues/DigitalAge/ReportPrivacyinDigitalAge/PiratePartiesInternational.pdf> on 22 February 2022.

⁹Constine Josh. "Facebook Retracted Zuckerberg's Messages from Recipient's Inboxes." Tech Crunch.

<https://techcrunch.com/2018/04/05/zuckerberg-deleted-messages/> Retrieved from: Dr. Keith et al. Ibid.

CONCLUSION

While one may be pushed to say that some of the policies passed by the Nigerian government in recent times have in no little way contributed to the data privacy breaches suffered by different persons/entities, it is indisputable that the government of every country, including Nigeria, is the one saddled with responsibility of protecting the rights of persons within its territory. The Nigerian Government, while trying to measure up with current trends in other countries, by collecting data in a centralized database must put in place, structures and policies for protecting the privacy of citizens and that are in the best interest of the citizens. It is said that “the right to privacy in the digital age demands a united, multinational alliance that will ensure all individuals in the world share an inalienable right to protect their identities.” The import of this is that Nigeria must be ready to work with other countries as well as relevant agencies to ensure that there is an effective operation of rights in the digital age that we are in.

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