

The State of Data Protection and Privacy in Nigeria

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Does Nigeria have a Data Protection Law?

NO !!!

Nigeria has absolutely no privacy and personal information laws. This lacuna is even more material in an internet world where information published on the web is open to a global audience.

The Presidential Powers – Cybercrime's Act

The most profound of these 'restricting' laws as it relates to the Internet is the Cybercrimes (Prohibition, Prevention, etc.) Act, 2015

"The Presidential Order made under sub-section (1) of this Section may prescribe Minimum Standards, Guidelines, Rules or Procedure in respect of -

c) access to, transfer and control of data in any critical information infrastructure..."

- Section 3(1)(c) of the Cybercrimes Act

Query: Can this provision be used by the President to shutdown the Internet by designating same as National Information Infrastructure and thereafter prescribing rules which restricts access on ground of national security? YES!

The Presidential Powers – Cybercrime's Act

Where there is restriction on the grounds provided under the Cybercrimes Act, can same be challenged as being an infringement of the Constitution?

The Constitution v. Exceptions (grounds for derogation).

Also, the supremacy clause – Section 1(3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended)

Every Nigerian has a right to privacy because of Section 37 of the 1999 constitution.

*“The **PRIVACY** of citizens, their homes, correspondence, telephone conversations and telegraphic communications s hereby guaranteed and protected”*

The Constitution is the most supreme law in Nigeria. The provision is not sufficient with the rapid manner in which technology evolves.

The constitution was designed without putting the internet into consideration



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Published December 5, 2017

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Again, gunmen invade Rivers communities, kill 12

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Two Nigerians stabbed to death South Africa



DATA COLLECTION LISTS

CHEAP!

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NUMBERS

DRIVER'S
LICENSE
NUMBERS

HOME
OWNERSHIP

INCOME

MARITAL
STATUS

INTERNET
HABITS

AUTO

FAMILY
STATUS

MEDICAL
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Nigeria GSM phone Number Database

Nigeria GSM Phone Number Database

Authentic GSM Phone Number Database in Nigeria, We have the Comprehensive list of GSM Phone Number Database of People living and working in Nigeria grouped according to States, Polling Units and each Local Government Area in Nigeria.

Nigeria GSM Number Database (State by State / Local Government by Local Government/Polling

Units) (Total. 50,871,496)

Cost: ~~N750,000~~ N120,000

Number	First Name	Last Name	State	LGA	Gender
08161118832			Abuja	MUNICIPAL	Male
08023399262			Abuja	MUNICIPAL	Male
08039491158			Abuja	MUNICIPAL	Female
08036252003			Abuja	MUNICIPAL	Male
08034024497			Abuja	MUNICIPAL	Female
08037860065			Abuja	MUNICIPAL	Male
08033215766			Abuja	MUNICIPAL	Male
08032212547			Abuja	MUNICIPAL	Male
08067078697			Abuja	MUNICIPAL	Male
08035917000			Abuja	MUNICIPAL	Male
07038930780			Abuja	MUNICIPAL	Female
08062506662			Abuja	MUNICIPAL	Female
08069792802			Abuja	MUNICIPAL	Male

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ions?
y to answer

- There are industry specific laws/rules but the most comprehensive NITDA Guidelines, NCC Internet code of conduct

According to a 2017 report, 97.2 million Nigerians are connected to the internet. How many of these Nigerians understand the concept called “Privacy” ?

Some organizations that collect personal data in Nigeria

* NIMC *INEC *Nig. Immigration Service *VIO/ FRSC *Airports

* Banks and financial institutions *Hospitals/HMOs

* Telcos *ISPs * Tech Companies e.g Truecaller, Uber, Taxify,

 Google, Facebook, Twitter

- The NIMC recently published and contractual EoI for private businesses and CSOs to help government collect data which is not supposed to be a global best practice.
Nigeria's Digital ID is scattered across different government agencies

Examples of the type of personal data collected in Nigeria

- *Name
- *Email address
- *IP address
- *Fingerprints
- *Facial photographs
- *Residential address
- *Health information
- *Clickstream data
- *Telephone number
- *Location information
- *Sexual orientation
- *Religious orientation
- *State of Origin
- *Birthdates



5 STAGES OF DATA PRIVACY GRIEF

DOESN'T AFFECT ME. I DON'T EVEN USE FACEBOOK THAT MUCH.



DENIAL

WHOA! HOW DO THEY HAVE 5GB OF DATA ON ME?

#DELETE



ANGER

IS IT WORTH LETTING COMPANIES COLLECT SO MUCH OF MY DATA FOR FREE SERVICES?



BARGAINING

FACEBOOK IS ONLY THE TIP OF THE ICEBERG.



DEPRESSION

I GIVE UP



ACCEPTANCE

The Digital Freedom Bill

Technically, the bill's objectives are:

- To guarantee the application of human rights offline and online within the digital space.
- To provide safeguards against abuse and provide opportunities for redress where infringement occurs.
- To ensure data privacy and safeguard sensitive citizens' data held by government and privacy institutions.
- To equip the judiciary with the necessary framework to protect human rights online.
- To safeguard the digital liberty of Nigerians now and in the future.

Taking a Peek into DRFB: Data and Information Privacy



In guaranteeing the confidentiality of Citizens' personal data, the Bill:

Assures due legal process before Citizens' data can be accessed



Mandates data-holding private entities in Nigeria to publish bi-annual reports on the nature and frequency of government requests

Recognizes international human rights framework as together with individual company privacy policies to safeguard against abuse

Taking a Peek into DRFB: Data in the Cloud



Addressing data stored in the Cloud, the Bill

Emphasizes the ownership of data by data owner irrespective of where it is stored



Ensures transferability of data by data owner if cloud provider packs up

Guarantees the right to know the status of cyber risk insurance and certification of cloud provider



Taking a Peek into DRFB: Right To Create Public Knowledge



In addressing e-governance and financial transparency, the Bill:

Strongly encourages an open, modernized e-governance system enabled by free-flow of information

Mandates the government to recognize the power of social media and the use of it to democratic advantage



Emphasizes the need for an effective, efficient and technology-supported national identification system

Taking a Peek into DRFB: Data Ownership



Addressing Data Ownership, the Bill:

Guarantees data ownership of data by person who creates it

Allows for the alienability of digital assets or data sets by data owner



Mandates service providers to protect the privacy rights of data owners

Taking a Peek into DRFB: Freedom of Expression Online



In guaranteeing the freedom of expression Online, the Bill:

Recognizes the freedom to express one's opinion including controversial ideas. It however addresses and prohibits hate speech

Defines media to include digital books, newspaper, pamphlets, banners, in any internet-based mode of expression



Recognizes professional journalists and bloggers as agents of the larger society of opinion-shapers and decision-makers for the purpose of democracy

Taking a Peek into DRFB: Freedom of Information Online



In addressing freedom of public information online, the Bill:

Emphasizes free access to government held information

Prohibits censorship or denial of access to Internet without providing adequate and acceptable reasons



Recognizes and Extends the provision of the 'Declaration of Principles on Freedom of Expression in Africa' to apply in Nigeria

Senator's Motivation

The screenshot shows the top of a SaharaReporters article. The header includes the logo, navigation links (SUBMIT A STORY, LOGIN, SIGNUP), social media icons, and a search bar. Below the header is a secondary navigation bar with categories like NEWS, OPINION, #NIGERIADECIDES, POLITICS, HEALTH, SPORTS, MORE TOPICS, VIDEOS, PHOTOS, and DOCUMENTS. The main headline is 'SaharaReporters Publishes Contact Information Of Nigerian Lawmakers'. The sub-headline reads: 'SaharaReporters on Wednesday on Twitter and Facebook published the telephone numbers of Nigeria's federal lawmakers as part of its ongoing efforts to enhance transparency and open government in the country.' Below the text is a byline: 'BY SAHARA REPORTERS, NEW YORK · APR 13, 2016' and a row of social sharing buttons: Facebook, Twitter, Email, and Share. At the bottom right of the article content, there is a 'TRENDING NOW' badge.

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SaharaReporters Publishes Contact Information Of Nigerian Lawmakers

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BY SAHARA REPORTERS, NEW YORK · APR 13, 2016

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BY LEKE BAIYEWU, BAYO AKINLOYE AND TOBI AWORINDE · APR 24, 2016

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Updated March 20, 2019

Buhari Declines Assent To Digital Rights And Freedom Bill, Four Others

President Muhammadu Buhari on Wednesday conveyed to the National

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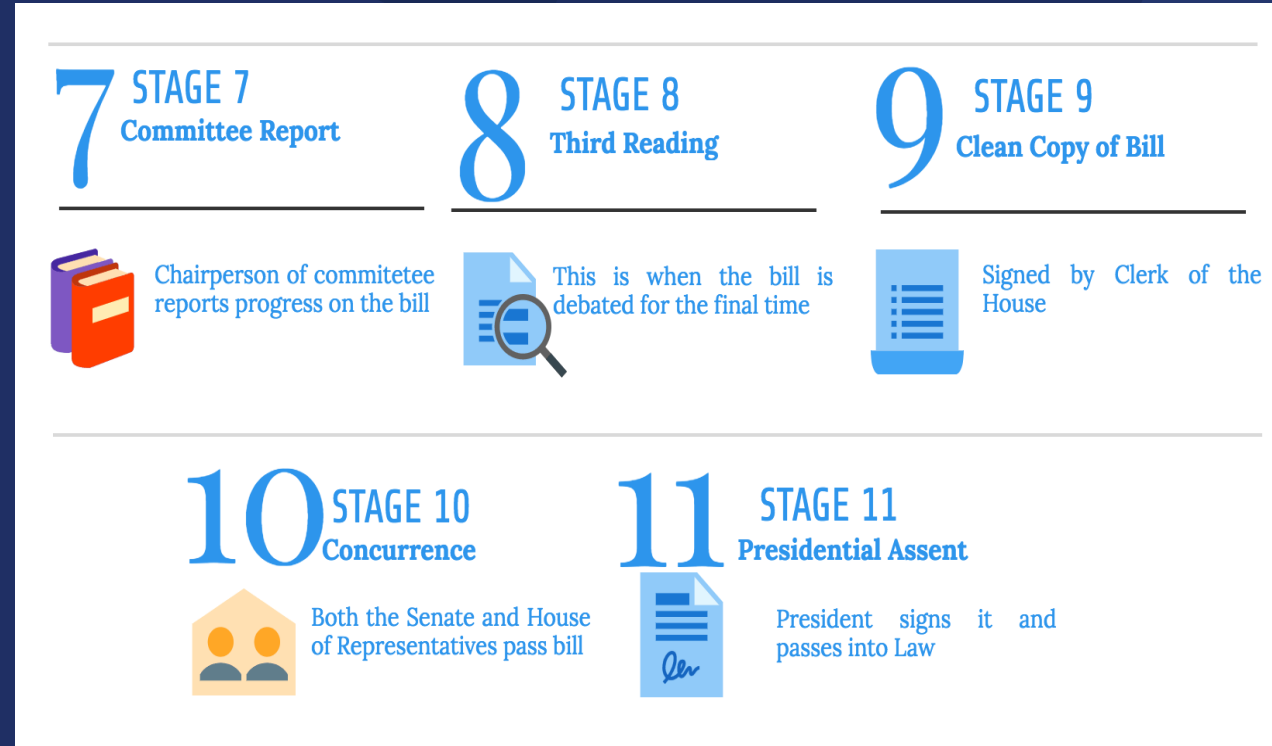
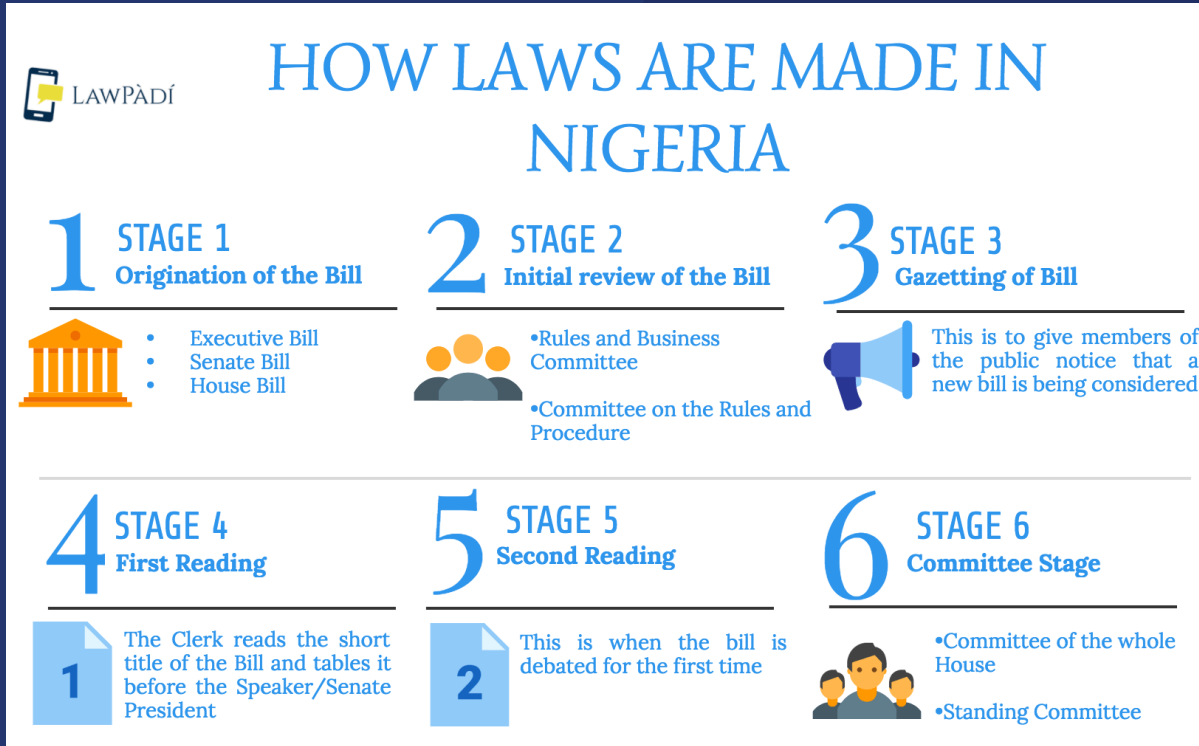
- President Buhari declined to assent to the bill on the grounds that it fails to address too many technical subjects and that some areas covered by the bill are also covered by 'various bills pending at the National Assembly'.
- **Net Coalitions Response:** "The various bills as referred to in the letter are still merely bills which may or may not become laws. For instance, the Data Protection Bill (HB. 02) has been pending at the National Assembly (NASS) for up to eight years. Why then would Mr President miss an opportunity to fill the lacuna for these subject areas when a bill duly passed by the NASS has been presented for assent? We make this assertion with the knowledge that no law or bill is perfect."



Gaps observed

- Conceptualisation of protection of personal information strictly as an ICT issue. Some offline / non- ICT issues intertwined with personal Information.
- Specific mention of IoT devices was exclude from the laws
- Child online protection was not emphatically sighted in the bill
- The use of “personal data” and “private data” interchangeably in various sections of the proposed legislation without defining them.
- Words such as “responsible party” require a more robust and comprehensive definition.
- The terms “service provider” is undefined by the proposed bill which added the tone of ambiguity to the section.
- Also, liability for a breach of data should be limited to such an extent that where a service provider has put in place reasonable security measures.
- Another frailty noted in the bill is the absence of any provision that addresses the obligations of Data  controllers, Processor and Service provider.

After Decline, What Next?



Bill will be re-introduced, lobbying and advocacy starts with ISOC NG joined the Paradigm Initiative and Net Coalition

Policy Recommendations

- ❑ Data collections from government agencies should be centralised and disaggregated
- ❑ When the Data protection laws are implemented, the question is will it be translated to the local languages for easy understanding of the citizens.
- ❑ Infusing data protection issues into State Reporting process of the African Commission Every two years States submit reports on steps taken to implement obligations under the African Charter.
- ❑ Dialogue/Government Engagement – Government agencies such as Attorney General, ONSA, NITDA, NCC should be pre-emptively engaged to understand the varying implications of data protection on the economy and breach of Fundamental Rights.

- ❑ By pushing for the adoption of legal provisions protecting the right to access and use the Internet within constitutional reviews.

- ❑ By reminding States their International obligation with regards to conventions on data protection.

- ❑ Action in Court – Civil society groups can institute court actions against the Federal Government in court under the Fundamental Rights Enforcement Procedure Rules (FREPR) rules in violation of Fundamental Human Rights.
- ❑ Name and Shame – Social Media Campaign

- ❑ Academia should not be laid back by writing researches or report but join in the fight to pressure government

➤ Legislative measure

Enact a data protection statute

Amend the National Identity Management Commission Act

Enact a Child Online Protection Act

➤ Judicial measure

➤ Even when the bill is passed into law, the judges will need training to understand the context and how to interpret these laws as precedence in law cases is not what data protection advocates should play with.

➤ Executive measure

➤ Signing the Digital Freedom bill

Enforcement by the National Human Rights Commission

Enforcement by the Consumer Protection Council

 Regulators to mandate data protection by design and transparency

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