

Nigeria's Urgent Data Privacy Law Need

Introduction

Data privacy laws have recently emerged as a critical part of practice internationally. This global paradigm shift towards personal data protection is an inevitable recognition of individual identity and the right to privacy. With a population of 173.6million, Nigeria is the largest country in Africa, and this huge figure represents the volume of citizens' data scattered across different domains. However, the country does not have a comprehensive legislation that protects citizen data.

Necessity of Data Protection Legislation

The Nigerian Constitution provides that "the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications is hereby guaranteed and protected." The obvious lacuna in the legal instruments on data protection raises the fundamental issues of identity theft and related fraudulent activities.

These worrisome crimes are trending with impunity because there is inadequate legislation or punishment to deter identity thieves. A data protection legal instrument is needed to provide some form of protection to the citizens whose personal data is being collected and stored across different platforms.



The advent of consolidation in Nigeria's banking sector makes it even more crucial for customers' personal data to be kept confidential and private. Moreover, the ever-increasing subscription of customers to online services offered by financial, telecommunications and other companies in Nigeria is the more reason why there is no better time to take data protection issues more

seriously than now. The high level of trust required in such online transactions brings to the fore the need for data protection legislation to be revisited and rewritten to international standards.

Hence, enacting appropriate legislation to cater for data protection and identity theft will afford Nigeria the opportunity to partake in lucrative outsourcing deals which not only bring job opportunities but also the assurance that our legislative and technical services guarantee much-needed protection of citizen data.

As it stands now, many Nigerians are invariably barred from legitimate purchase of goods online due to credit card companies blacklisting Nigerian IP addresses for not implementing data protection legislation. The *casus belli* for this being the lack of evidence that appropriate technical and legislative measures are available to protect personal data.

The National Identity Card Scheme

The National Identity Management Commission (NIMC) recently introduced another National ID scheme, which compels all Nigerians to disclose their personal data. Under the NIMC Act, it is an offence if though eligible, anyone chooses not to register for a National Identification Number (NIN) and obtain the Nigeria National Identity Card. NIMC started issuing the current National Identity cards in August 2014 but this is not the first time that Nigeria will be implementing a National Identity Card Scheme. The new ID card was launched in May 2013. The first 13 million cards will be MasterCard branded and is designed to offer 13 different functions.

It would be recalled that the last time a National Identity Card Project was done, only a fraction of citizens had access to it. Many were unable to get their cards despite having their personal data captured by SAGEM of France, the company that handled the project. The project had to be discontinued and SAGEM was fined for being involved in bribery relating to the awarding of the contract.

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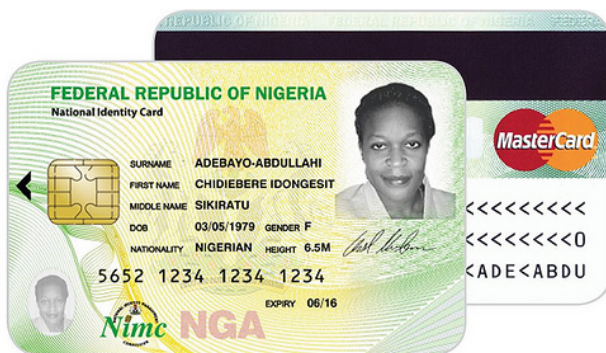


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This time around, NIMC and global information technology firms have plotted a roadmap that would ensure that citizens who have enrolled for their National Identification Number (NIN) to get their National ID cards on time.

The legal implications of such an action on privacy, with the current legal and regulatory environment, are enormous. To begin with, there is hardly any protection under the NIMC Act or any other law for citizens whose personal data (biometric) is collected and stored. Moreover, having the National ID Card with no effective data protection law poses some risks: it could result in identity theft and illegal peddling of personal data with no law to refer to for seeking proper legal redress.

In this age when many organisations are collecting data and storing them electronically, the fear of cyber breaches such as illegal collection and sale of data has become a legitimate concern that must not be taken for granted.



The black market of data has become a huge enterprise with hackers selling personal data of citizens. Without a functional and well-structured Data Protection law in Nigeria, the National Identity Card is a good project that could pose some serious threats. Besides, the NIMC Act does not provide penalty for the loss or misuse of data by the agency or agencies that they authorise to have access to personal data of Nigerians. A Data Privacy law would protect the cardholder.

Attempts at Data Protection Regulation

The damage caused by the lack of data privacy legislation cannot be overestimated, hence the need

for a legal framework to protect the data privacy of Nigerians. In view of this challenge, stakeholders have intensified campaign efforts toward the codification of a data privacy law for Nigeria as obtainable in other countries. As Nigerian businesses expand their participation in the global digital and online economy, the need for data protection becomes more pressing. Database management organizations and other government agencies have tried to establish data centres, however, there is no assurance for the confidentiality or security of their data.

Meanwhile, as a clearinghouse for Information Technology in Nigeria, the National Information Technology Development Agency (NITDA) published the "Guidelines on Data Protection Draft Version 4.0" in September 2013. The data protection guidelines contained in the document are meant to apply to all data controllers in the public and private sector as defined in the document. Although the NITDA document provides government wide guidelines on data protection, it has nonetheless remained a draft with no legal force. There is the need to turn this document into proper legislation in order for it to fulfill the desired aspirations of the drafters – to protect the data privacy of Nigerians.

In addition, the Data Protection Bill that NIMC has been promoting is still pending at the National Assembly. As the current 7th National Assembly exists, it could form the basis for much-needed work as the 8th Assembly resumes. The Digital Rights and Freedom Bill championed by Paradigm Initiative Nigeria in conjunction with the NetRightsNG coalition also has a section on Data Privacy, which, if passed, could address the need. Owing to the lacuna of a data protection legal instrument in the country, there is the need for concerted effort by all stakeholders towards realizing a Data Privacy law in Nigeria, especially now that the drive for a new national identity card project is on.

Prepared by **King James Nkum**, with support from **Ojeh Bikwa** and **Chukwuebuka Ogbodo**.

For further information, contact Paradigm Initiative Nigeria: info@pinigeria.org | www.pinigeria.org | [@pinigeria](https://twitter.com/pinigeria)