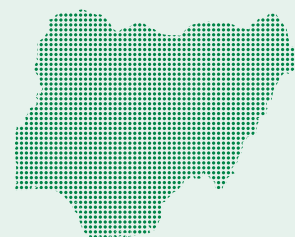


# LONDA

## NIGERIA DIGITAL RIGHTS AND INCLUSION

A PARADIGM INITIATIVE PUBLICATION

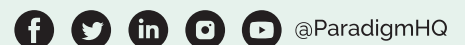


# 2020 REPORT

[www.paradigmhq.org](http://www.paradigmhq.org)



PARADIGM  
INITIATIVE



# LONDA

## **NIGERIA DIGITAL RIGHTS AND INCLUSION 2020 REPORT**

A PARADIGM INITIATIVE PUBLICATION

### **Published by Paradigm Initiative**

374 Borno Way, Yaba, Lagos, Nigeria

Email: [media@paradigmhq.org](mailto:media@paradigmhq.org)

[www.paradigmhq.org](http://www.paradigmhq.org)

Published in April 2021

Report written by Adeboye Adegoke and Judith Takon

Editorial Team: 'Gbenga Sesan, Kathleen Ndongmo, Koliwe Majama, Margaret Nyambura Ndung'u,

Mawaki Chango, Nnenna Paul-Ugochukwu and Thobekile Matimbe.

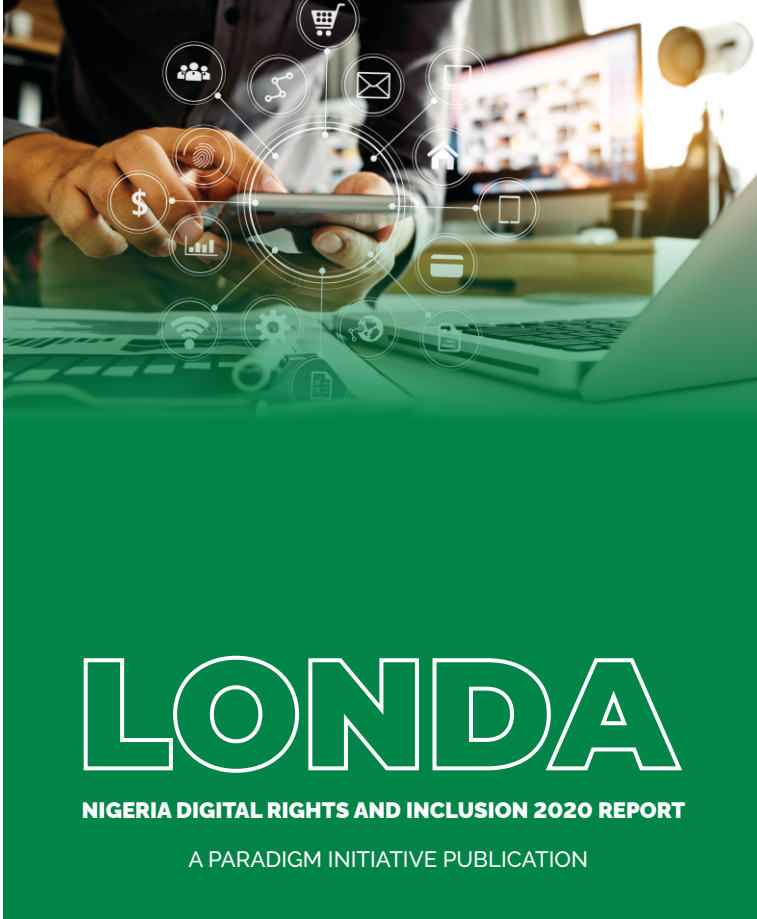
Design & Layout by Luce Concepts

This publication may be reproduced for non-commercial use in any form provided due credit is given to the publishers, and the work is presented without any distortion.

Copyright © 2021 Paradigm Initiative



Creative Commons Attribution 4.0 International (CC BY 4.0)



# LONDA

**NIGERIA DIGITAL RIGHTS AND INCLUSION 2020 REPORT**

A PARADIGM INITIATIVE PUBLICATION

Civil society organizations continue to work to advance digital rights and inclusion in Africa, ensuring best practices are adopted into policy and legislation. This report analyses the state of digital rights and inclusion in Nigeria, examining violations and gaps, investigating the use and application of policy and legislation, highlighting milestones and proffering recommendations for the digital landscape in Nigeria. This edition captures among other issues, the digital divide worsened by the COVID-19 pandemic and unearths infractions on different thematic areas such as privacy, access to information, and freedom of expression with the legislative and policy background well enunciated.

## CONTENTS

INTRODUCTION	1
DIGITAL ECONOMY POLICY AND STRATEGY	2
IMPACT OF COVID-19 REGULATIONS ON DIGITAL RIGHTS	3
PRIVACY, DIGITAL IDs AND SURVEILLANCE	4
FREEDOM OF EXPRESSION ONLINE IN 2020	6
THE EXTENT OF DIGITAL EXCLUSION AND ITS IMPACT ON HUMAN RIGHTS	8
CONCLUSION AND RECOMMENDATIONS	9
CASE STUDIES	10



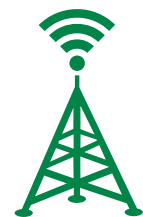


## INTRODUCTION

# DIGITAL RIGHTS AND INCLUSION IN NIGERIA

Over the years, the country's economy has been heavily dependent on revenue from crude oil, however, with the declining global oil prices in recent times and its ripple effect, compounded by rising poverty and insurgency, the country has focused on diversifying the economy with the spotlight on its non-oil sector, especially agriculture, financial services and telecommunications/ICT. The downturn in crude oil prices and oil production shortages significantly contributed to the country's recession in 2016,<sup>5</sup> the first since 1991.

The impact of COVID-19 on the Nigerian economy has been vast and though most industries recorded immense losses, the ICT/ Telecommunications industry is one of the few that have not only survived the effects of the pandemic, but saw rapid growth due to increase in demand.<sup>6</sup> Statistics from the Nigerian Communications Commissions (NCC) show that the telecoms industry contributed 14.3% to the Nigerian GDP as at Q2 2020, up from 10.6% in Q4 2019.



**14.3%**  
was contributed by  
the telecoms industry  
to the Nigerian GDP  
as at Q2 2020

1. <https://www.bloomberg.com/news/articles/2020-03-03/nigeria-now-tops-south-africa-as-the-continent-s-biggest-economy>.

2. Official exchange rate as at the 18th of December 2020 - 1 USD = 388.520

3. National Bureau of Statistics. "Nigerian Gross Domestic Report (Q3 2020)".

4. <https://www.worldometers.info/world-population/nigeria-population/>

5. According to the Nigerian National Bureau of Statistics GDP Q4 2016 Report, there was a steady decline in the economy from Q1 2015 to Q4 2016.

6. According to statistics from the Nigerian Communication Commission, active internet subscriptions increased from 128,723,188 in January 2020 to 136,114,413 in March 2020 to 147,148,307 by July 2020 when some states in the country began easing restriction measures, [shorturl.at/elCGP](http://shorturl.at/elCGP) [Accessed 7 January 2020]

This growth is understandably so, as the industry has seen a spike in demand for internet and telecommunication services. This points to the reliance of these telecommunication tools to mitigate, to an extent, the consequences of COVID-19, especially as it is related to the business environment and social interactions. Apart from their importance to businesses and general social interactions during this period, digital technologies have generally been instrumental in the transfer of information, entertainment, financial services, advocacy, and other activities in Nigeria.

The reliance on these digital tools has demonstrated their importance to Nigeria. With an increasing list of possible interactions in the digital space, the importance of proper legislative governance cannot be over emphasized. The presence of Nigerians in the digital world means the exposure to new kinds of threats to their rights, the likes that would render pre-established laws insufficient. In order to protect the interests of Nigerians online, the legislative houses and relevant government agencies have been making measured efforts towards creating the appropriate legal atmosphere.

Along with the conversations on the protection of Nigerians rights online arises the importance of inclusion. With all the recognizable benefits of the digital economy, barriers to access means exclusion from these benefits. For a developing country like Nigeria, with nearly 40% of the population living below the poverty line, the discussion around digital inclusion should be an important topic. All these and more make the conversations around digital rights and inclusion important to the democracy and the economic strength of Nigeria.



## DIGITAL ECONOMY POLICY AND STRATEGY

In October 2019, the Nigerian government renamed its Communications Ministry as the Ministry of Communications and Digital Economy in a move that suggested that the country has realised the importance of the digital economy to the overall well being of its economy. In June 2020, the country released a national digital economy policy and strategy to “transform Nigeria into a leading digital economy providing quality life and digital economies for all”. However, in what seems like conflicting actions, Nigeria has taken measures, within the same time, to restrict the digital space. The country has been pushing for regulation on social media. As at the time of writing this report, there are two proposed regulations aimed at curbing “hate speech”<sup>7</sup> and fighting “fake news”<sup>8</sup> in Nigeria. These two bills, as observed by the Committee to Protect Journalists, serve to restrict civil liberties in Nigeria. The Protection from Internet Falsehood and Manipulation Bill, for example, gives the government, through the Nigeria Police Force, the power to restrict access to internet services and determine the falsity or otherwise of information shared by Nigerian citizens on digital platforms.

7. The Hate Speech (Prohibition) Bill 2019 has passed the first reading <https://www.nassnig.org/documents/bill/10613>.

8. The Protection from internet falsehoods and manipulation and other related matters Bill 2019 has passed the second reading, <https://placbillstrack.org/view.php?getid=6649>

Digital inclusion has become a digital rights issue. This position became amplified with the COVID-19 pandemic realities and the limitations imposed by the pandemic. The ability to learn, engage, work and do business relied on internet connectivity and ability to use digital devices and platforms. Those who could not afford internet access or who could not use digital devices may have had their life come to a halt. At the beginning of the implementation of lockdown measures, leaders of Nigeria's federating units, the Nigerian Governors Forum, began to implement an earlier agreement with communications stakeholders to reduce the cost of right of way (RoW).<sup>9</sup> The cost of RoW has long been identified as one of the impediments to ensuring reliable broadband internet connectivity in the most remote areas of Nigeria.<sup>10</sup>

According to the Nigerian Communications Commission (NCC), Nigeria needs about 120,000 km of fiber cables to achieve its goal of ubiquitous broadband access but only about 38,000 km of cables have been laid.<sup>11</sup> Internet connectivity became a key infrastructural need to ensure students continue learning as schools were closed as part of the lockdown measures, with impacts on the right of students to education.



**Digital inclusion has become a digital rights issue.**

The importance of digital inclusion cannot be over emphasized. The United Nations' Sustainable Development Goals (SDGs) 2020-2030<sup>12</sup> includes digital inclusion<sup>13</sup> as part of the plan towards global prosperity, especially fostering inclusion in least developed countries. A report published by the Nigerian Bureau of Statistics in May 2020 highlights that 40% of the total population, or almost 83 million people, live below the country's poverty line of 137,430 naira (\$381.75) per year.<sup>14</sup>

Therefore, inclusion is important in order to achieve the economic potential of Nigeria. Digitally excluded Nigerians could lack the skills, confidence and motivation, along with having limited or no access to equipment and connectivity. This creates additional layers of social exclusion and exacerbates social and economic problems.

## IMPACT OF COVID-19 REGULATIONS ON DIGITAL RIGHTS

To contain the spread of and cushion the effect of the COVID-19 virus, the federal government of Nigeria implemented a number of health, social, and economic measures including travel bans, movement restrictions and deployment of food supplies and financial assistance, among others. In essence, the declaration of measures aimed at curbing the spread of the coronavirus seem to have provided the ground to breach digital rights including rights to privacy and freedom from unlawful surveillance. Increased levels of surveillance, circumvention of freedom of speech

9. <https://nairametrics.com/2020/01/25/state-governors-finally-agree-to-reduce-row-charges-for-telcos/>

10. <https://www.nigeriacommunicationsweek.com.ng/right-of-way-issues-frustrate-broadband-penetration/>

11. <https://www.thecable.ng/ncc-need-120000km-optic-fiber-network-38000km-covered>

12. The 2030 Agenda for Sustainable Development seeks to build on the Millennium Development Goals, a United Nations agenda geared to meet the needs of the world's poorest by the year 2015. The 2020 agenda sets out to achieve sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner by the year 2030.

13. Target 9.c: Access to ICT - Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020.

14. <http://nigerianstat.gov.ng/download/1092>



“  
**The importance of digital inclusion cannot be over emphasized. The United Nations’ Sustainable Development Goals (SDGs) 2020-2030 includes digital inclusion as part of the plan towards global prosperity, especially fostering inclusion in least developed countries.**

and mismanagement of private information/data are some of the violations Nigerians have had to deal with during this period. For example, the Nigerian Minister of Communications and Digital Economy is reported to have cited data mining, based on SIM registration data, as a way to identify the financial status of Nigerians in order to provide adequate aid.<sup>15</sup> In another instance of the undisguised violation of privacy, the Minister of Humanitarian Affairs and Disaster Management, Sadiya Farouq, at a press briefing at the State House, disclosed plans to provide financial aid to Nigerians using information directly sourced from Biometric Verification Number (BVN) linked to bank accounts and confidential data provided to mobile networks.

## **PRIVACY, DIGITAL IDs AND SURVEILLANCE**

Section 37 of Nigeria’s 1999 Constitution guarantees the privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications.<sup>16</sup> The right to privacy in Nigeria is underpinned by the Universal Declaration of Human Rights (UDHR) and Article 17 of the International Covenant on Civil and Political Rights (ICCPR). Although the provision in the constitution does not specifically mention “data”, it is arguable that information on homes, correspondences and telephone conversations are captured in the definition of personal data.<sup>17</sup>

15. <https://www.icirigeria.org/covid-19-controversy-trails-ministers-decision-to-mine-data-of-phone-users-without-consent/>

16. Lfn

17. Olumide Babalola, Data Protection And Privacy Challenges In Nigeria (Legal Issues), March 9, 2020, available at <https://www.mondaq.com/nigeria/data-protection/901494/data-protection-and-privacy-challenges-in-nigeria-legal-issues->

Nigeria's National Identity Management Commission (NIMC) declared plans to develop a digital ecosystem to create an enabling environment for the effective and efficient mass enrolment of Nigerians and legal residents in Nigeria. The system would be a centralized and secure national identity database where digital identities are issued to everyone in the form of the National Identification Number (NIN).<sup>18</sup> This process has continued despite the lack of sufficient legal protection for personal data. Although a Nigerian Data Protection Regulation (NDPR) was issued by the National Information Technology Development Agency in 2019, it does not reflect a comprehensive data protection

framework as it does not establish an independent data protection commission.

Even though the International Principles on the Application of Human Rights to Communications Surveillance<sup>19</sup> stipulates when limits apply to the right to privacy, the body of legislation in Nigeria<sup>20</sup> contains a number of provisions on the state's legal right to surveillance, and the Nigerian government has a history of extrajudicial surveillance on its citizens.

**Therefore, inclusion is important in order to achieve the economic potential of Nigeria.**



An investigative report by Citizen Lab, an interdisciplinary laboratory based at the Munk School of Global Affairs and Public Policy at the University of Toronto in Canada reported that Nigeria had acquired Signaling System 7 (SS7), a protocol suite developed for exchanging information and routing phone calls between different wireline telecommunications companies.<sup>21</sup>

Unfortunately, this is not a once-off occurrence<sup>22</sup> in Nigeria. Government-led extra judicial surveillance is a contravention of the state's duty to preserve the intrinsic right to privacy, and the protection from arbitrary interference with its citizens' privacy.

18. NIMC website, <https://www3.nimc.gov.ng/digital-identity-ecosystem/>

19. Section 45 of the 1999 Constitution, the Terrorism (Prevention) Act (Ammended 2013) and the CyberCrime (Prevention) Act, 2015

20. Full investigative report available at

<https://citizenlab.ca/2020/12/running-in-circles-uncovering-the-clients-of-cyberespionage-firm-circles/>

21. DSS Bugs 70% Of Mobile Phones In Abuja, <https://www.independent.ng/dss-bugs-70-mobile-phones-abuja/>

22. DSS Bugs 70% Of Mobile Phones In Abuja



## FREEDOM OF EXPRESSION

### ONLINE IN 2020

The right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference is constitutionally backed by Section 39 of the 1999 Nigerian Constitution.<sup>23</sup> The provision goes further to establish that every person is entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions.<sup>24</sup> In consideration of this, government-backed violations of the right to expression online is a dissension from its mandate to protect this right. A notable example of this violation is the imposition of sanctions by the National Broadcasting Commission on three Nigerian television stations, Channels TV, Arise TV and Africa Independent Television for transmitting footage obtained from “unverified and unauthenticated social media sources”.<sup>25</sup>

There have also been multiple reports of arrests arising from the use of social media platforms. Babatunde Olusola, a university student, was arrested for allegedly operating a parody account in the name of Nigeria’s former President, Goodluck Jonathan, on Twitter.<sup>26</sup> Twitter rules state that users are allowed to create parody, newsfeed, commentary, and fan accounts on the social media platform, provided that the accounts follow certain requirements, including stating that the account is unaffiliated with the target of the parody.<sup>27</sup> Babatunde Olusola followed this rule by having ‘Not GEJ’<sup>28</sup> on the bio of the twitter parody account, as a declaration of its non affiliation with the former president but he was still arrested. There were also multiple arrests<sup>29</sup> of Nigerian citizens for protesting against police brutality as part of youth-led protests held in October 2020, tagged **#EndSARS protests**.

Backed by the right to expression online, Nigerians are using social media and online platforms to speak on pertinent issues in the country. The earlier referenced **#EndSARS movement**



23. 1999 constitution

24. Section 39(2) of the Constitution. The exemption to this right is the right to own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

25. <https://www.premiumtimesng.com/news/more-news/423162-endsars-nbc-imposes-n3m-sanction-each-on-ait-channels-arise-tv.html>

26. Story available at punch newspaper online

<https://punchng.com/student-arrested-for-opening-jonathan-parody-account-denied-access-to-lawyers/> accessed

27. Twitter rules on Parody accounts, <https://help.twitter.com/en/rules-and-policies/parody-account-policy>

28. The initials of Former President Goodluck Ebele Jonathan

29. There were multiple reports of indiscriminate arrests of Nigerian citizens protesting against the Special Anti-Robbery Squad. Report available at <https://cutt.ly/SjkXezw> [Last accessed 8 January 2021]

which recommenced in 2020 after an unconfirmed video of a SARS police officer shooting a young Nigerian went viral, received widespread support, financial and otherwise from Nigerians, Nigerians in diaspora and the international community. Digitally supported movements such as this are not unfamiliar in Nigeria. In 2012, along with physical protests, Nigerians took to social media to magnify their rejection of the removal of fuel subsidy by using the hashtag #OccupyNigeria.<sup>30</sup>

The #BringBackOurGirls<sup>31</sup> hashtag brought attention to the campaign for the return of 276 schoolgirls abducted from Chibok, a village in Borno State, Nigeria, by a group of militants known as Boko Haram on the 14th of April, 2014. The online campaign hashtag #NotTooYoungToRun was used by Nigerians to advocate for greater youth inclusion in legislative houses in Nigeria, a campaign that culminated in the passing of the Age Reduction Act, popularly known as the Not Too Young to Run Act.

The use of social media as a tool for activism to highlight these and other issues in Nigeria can not be understated.

In an attempt to regulate the online environment in Nigeria, the legislative houses are attempting to pass the Protection from Internet Falsehood, Manipulations and other Offences Bill,<sup>32</sup> nicknamed the Social Media Bill.<sup>33</sup> The provisions of the bill seek to criminalise the transmission of ‘false statements’ as defined in the bill with the intention of curbing the spread of misinformation and fake news. Critics of the bill have pointed out that the provisions contained are an attempt to suppress free speech online and silence dissenting voices by the government.<sup>34</sup>

Conversely, the 2019 Digital Rights and Freedom Bill has, as part of its objectives, the protection of freedom of expression, assembly and association online. The bill was passed by both houses of the National Assembly in 2019, however, the President declined signing the bill on the grounds that it “covers too many technical subjects and fails to address any of them extensively.”<sup>35</sup> The bill has since been revised, but would have to go through the legislative processes all over again before it can get a chance to be signed into law. Signing this bill into law would be a positive step forward in protecting free expression online, giving citizens a more comprehensive legal framework for seeking redress in the event of violations.

***Conversely, the 2019 Digital Rights and Freedom Bill has, as part of its objectives, the protection of freedom of expression, assembly and association online.***

”

30. Occupy Nigeria Protest, available at <https://cutt.ly/2jzrl76> [Last accessed 9th January 2021]

31. Chibok Schoolgirls Kidnapping, available at <https://cutt.ly/pjzelSO> [Last Accessed 9th January 2021]

32. Protection from Internet Falsehood, Manipulations and Other Offences Bill

33. The bill has passed second reading in the Senate but the report of a March 2020 Public Hearing has not been released.

34. There is currently a petition to kill the bill

<https://www.change.org/p/the-national-assembly-of-the-federal-republic-of-nigeria-stop-the-social-media-bill-you-can-no-longer-take-our-rights-from-us>

35. President Buhari in his letters to the Senate on his decision to decline the Digital Rights and Freedom bill mentioned that the bill covers too many technical subjects and “fails to address any of them extensively. News available at <https://cutt.ly/NjkThwv> [Last accessed 8 January 2021]

## THE EXTENT OF DIGITAL EXCLUSION AND ITS IMPACT ON HUMAN RIGHTS

The concept of social inclusion entails equal access to tools and resources by members of the society. On the other hand, social exclusion conceptualises the exclusion of members from access to these tools. In the 21st century, digital tools have become an integral part of human lives, from economic globalization to revolutionising social interactions.

As earlier stated, the telecommunications industry alone contributed up to 14.3% to Nigeria's GDP in the first half of 2020. Certainly, with all of the benefits of the digital revolution, exclusion from access opposes the important theory of social inclusion. All of the positive contributions of the internet manifest themselves after the technology is accessible and the population has learned how to use the technology at least on a very basic level.<sup>36</sup> Highlighting the importance of digital inclusion, Sustainable Development Goal 9 establishes 'increasing digital inclusivity in developing countries<sup>37</sup> as a target'. Nigeria is considered as a developing country, with up to 40% of the entire population living below the poverty level.<sup>38</sup>

Apart from access to economic benefits as provided by access and usage of digital tools, digital exclusion disconnects certain groups of people from enjoying some basic human rights such as the right to participate in government and free elections, right to education, the right to adequate living standards, and the right to social security in today's context. For instance, the proposed digital ecosystem in Nigeria would mean the digitally illiterate/marginalised might not have the tools to vote, open bank accounts or receive certain information. Several factors are responsible for digital exclusion, including disability, literacy levels, poverty, culture and language. Digitally excluded people can lack skills, confidence and motivation, along with having limited or no access to equipment and



connectivity. This can create additional layers of social exclusion and exacerbate social and economic problems.<sup>39</sup>

Internet penetration in Nigeria stood at 42% in January 2020.

36. The Digital Divide and Human Rights - What the EU should do at the World Summit on Information Society, (2005) Anne Peacock, a doctoral researcher in the Law Department of University of Essex, available at <https://cutt.ly/9hTDNfi>

37. Sustainable development Goal 9c - Significantly increase access to information and communications technology and strive to provide universal and affordable access to the Internet in least developed countries by 2020, <https://sdgs.un.org/goals/goal9>

38. Statistics from the National Bureau of Statistics, available at 2019 POVERTY AND INEQUALITY IN NIGERIA.cdr - National ...nigerianstat.gov.ng > download [Accessed 9 December 2020]

39. Missing footnotes

The National Digital Economy Policy Strategy 2020-2030<sup>40</sup> targets 70% broadband<sup>41</sup> penetration in 4 years.<sup>42</sup> Some of the strategies for achieving this goal would include developing effective regulation of the ICT and digital sector in a way that enables development, improving digital literacy, deployment of fixed and mobile

infrastructure to deepen the broadband penetration in the country and supporting government digital services. The success of this strategy will attract benefits such as greater digital inclusion.

## CONCLUSION AND RECOMMENDATIONS



In the 21st century, digital tools have become an integral part of human lives, from commercial globalization to revolutionising social interactions. As earlier stated, the telecom/ICT industry alone contributed up to 14% to the Nigerian GDP. The industry attaining this level of influence with a penetration of only 42% is a strong indicator of its economic benefit to the Nigerian economy. As earlier posited, with all of the benefits of the digital revolution, exclusion from access opposes the important theory of social inclusion. Also, it has been acknowledged that ICTs offer a range of fundamental and methodological contributions that empower sustainable development and implementation of the Sustainable Development Goals.<sup>43</sup> With the established link between the economy, social inclusion and ICT/ digital tools, efforts towards digital inclusion, protection of rights online and investment in the ICT/ telecom industry by the Nigerian government and stakeholders in the industry is of paramount importance.

Promoting the utilization of ICT/ telecommunication tools will not be complete without re-emphasizing the State's responsibility to preserve the rights of its citizens on these platforms. The point of enacting laws and subsidiary legislation that adequately protect the digitally connected and foster digital inclusion cannot be overemphasized. There is also a general sense of distrust in law enforcement agencies and in the judicial system in Nigeria by the public, especially the underprivileged. Along with this distrust is the level of illiteracy which inadvertently affects the understanding of rights, impeding the ability to assert these rights.<sup>44</sup> In fostering or increasing trust in judicial processes, Nigeria would benefit from awareness campaigns on human rights, offline and online, directed especially at those who may have been deliberately misinformed about their rights, or those who are uninformed about the same, and ensuring access to justice when violations occur.

40. About digital inclusion and exclusion, Citizens Online Webpage, <https://www.citizenonline.org.uk/digital-inclusion/> [Accessed 9 December 2020]

41. The National Digital Economy Policy Strategy 2020-2030, developed by the Nigerian Communications Commission,

42. 2020 – 2024 Nigeria's National Digital Economy Policy and Strategy

43. How ICT Can Accelerate the Implementation of the Sustainable Development Goals by Darine Ameyed, November 8, 2018. Available at <https://cutt.ly/ojczSZW>. [Last Accessed 10 January 2021]

44. There is a link between literacy and the assertion of human rights in Nigeria as posited by Apeh, Elaigwu Isaac (Ph.D) in his paper 'Literacy Promotion for Human Rights Awareness and Protection - The case for Nigeria', available at <https://cutt.ly/fjcs8AS> [Last accessed 9th January 2020]



## Case Study: The looming threat to data privacy for Nigerians in a pandemic

Compiled by Khadijah El-Usman

Nigeria recorded its first COVID-19 case in February 2020 and like many other countries, had to scramble to put resources together to tackle the ensuing effects. And with unprecedented times came unprecedented measures. Governments had to rapidly identify and ensure care for cases, trace and quarantine their contacts and monitor disease trends. Countries like Belgium, Malaysia and Singapore developed web applications and used mobile devices to keep track of their citizens.

Nigeria, on the other hand, has a controversial history with health surveillance with little to no regard for the rights to personal privacy. This was evident from the Governors' Forum trying to use mobile companies like MTN to trace movements, to applications like Stay-SafeNG being developed for contact tracing for COVID-19.

For the average Nigerian affected by COVID-19, their experiences with contact tracing and health surveillance were small scale but helped to give a bigger picture of the problem at hand. For Dr Ade (name changed), after he and a few of his colleagues had come down with COVID-19 like symptoms and eventually tested positive, the hospital undertook contact tracing for him and his colleagues. He described the procedure as “making venn diagrams of clusters of patients we had all seen” and eventually found that all the doctors in question had seen the same patient.

The hospital had its own COVID-19 unit reporting back to the Nigeria Centre for Disease Control (NCDC) who did the contact tracing. Ade noted, “My hospital has the privilege of having all patient information digitized so it was very easy to get contact information of the patients involved,” meaning different organizations and the COVID-19 unit had access to patient information without their consent. He alluded further that from his knowledge of epidemiology, “when dealing with a highly infectious disease, you can access patient information pertinent to that issue, meaning address and phone number.”



With that in mind, is it questionable why in Lagos State, the Nigerian Institute of Medical Research developed a seven-page Google form to be filled by all those who required testing for COVID-19 at the peak of the pandemic. The form required various details, including office address and next of kin. Eventually, if the person tested was positive then the contacts were traced. There were COVID-19 centers in each local government area with health workers equipped with mobile devices ready to assist those who did not have access to digital tools, although most of these workers were not trained on the principle of confidentiality.

The data of people who tested negative or were never infected, including that of their next of kin, were uploaded into a third party database, leaving the question of who stores this data, and how long it will be kept in light of the lack of data protection laws, unanswered.

On the other hand, Dayo, another respondent in Abuja, had a different experience when the NCDC came to test him and his colleagues. There had been an outbreak in his office and everyone had to get tested. Dayo noted that the process was not very digitized; “it was a very manual process.” The NCDC representatives came with numerous forms that posed various questions and to Dayo, “many of the questions did not seem necessary but they came with a counselor to seek your consent. Even though it felt like an invasion of privacy, I could see the point”. To Dayo, it did not seem like any of the information being taken was going to be inputted into a system or database. Dayo shared that if this information were to indeed be inputted into a system, he would be worried about his privacy and the stigma that could come with certain information. Dayo went further to report that this fear had many of his colleagues inputting fake information on the NCDC forms. Should there be any abuse of privilege in the near future, Nigeria's lack of comprehensive data protection laws leaves Dayo and others like him vulnerable.

Public health data is usually personally identifiable and sensitive, often revealing details about a person's lifestyle, behaviors, and health. With not only the government involved, but also third-party actors including application creators and pandemic volunteers being privy to the data of Nigerians, there needs to be a call for accountability. There is a need to address the right to personal privacy, especially related to public health issues, and utilising a human rights approach in creating policies that have the capacity to not infringe on people's rights.



## Case Study: Covid-19 Digital Contact

### Tracing: Lessons From A Nigerian Experience

Compiled by Adeboye Adegoke, with support from Temitope Opeloyeru

Much of our lives now revolve around the use of technology, which makes our work easier and faster, but technology is never a substitute for the quality of work required in its application.

In the wake of the COVID-19 pandemic, the world looked towards technology for succor as different stakeholders were working to stem the tide of the pandemic, to protect lives and revive the global economy. While the virus was spreading rapidly in 2020 with no effective antiviral therapy or vaccine, the world focused on managing the pandemic by containment. It is therefore understandable that technology was considered useful to facilitate pandemic containment strategy. Google and Apple, two of the world's leading technology companies, announced a partnership, on COVID-19 contact tracing technology and were quick to assure privacy protection in their proposed rollout, affirming that user privacy and security are central to the design. There is documented evidence of privacy protection in the adoption of contact tracing applications in managing COVID-19 by European governments. Those efforts may have contributed to the eventual flattening of their incidence curves, despite challenges with low adoption, and privacy and security concerns.

In Nigeria, like many African countries, the government announced lockdowns, proposed the use of mobile data for COVID-19 surveillance, introduced new legislation and more. Notably, there was news of the development of digital contact tracing applications by both State and non state actors. These are measures with clear implications for digital rights, particularly the right to privacy. In order to understand the extent to which contact tracing measures were deployed by the Nigerian government, I carried out a survey to provide much-needed insight. This article is centered on stories from key informants who are either health professionals or COVID-19 survivors in Abuja, Nigeria.

Dr. Olajumoke Precious works for the Nigeria Center for Disease Control (NCDC) in Abuja. She has never tested positive for the virus but she interacts with patients. Her description of the contact tracing measure employed by



NCDC is completely manual. She recognises that contact tracing is for surveillance, which involves identification, listing, and following up on certain persons who may have had contact or been in the immediate vicinity of the infected person. According to her:

“We do this by interrogating the activities of the case, or activities and roles of the people around the case, since the onset of symptoms. We also probe for places visited within 2-14 days prior to the onset of symptoms. We extract contact information like where the person lives, people around them, the family of the carrier and in cases where the person is dead, we visit the health facilities where the deceased was admitted before he or she died”.

From a survivors’ perspective, Joseph Nikoro, a multi-level marketer and farmer, provided the phone numbers of people he remembered he came in contact with, to health officials, and they told him to call them to ask if they have come in contact with any other persons. Available evidence clearly shows that technology was barely leveraged in all of these measures despite the hype around the efficacy of contact tracing measures, including digital contact tracing methods, and evidence that such apps were introduced in Nigeria.

Looking at the digital rights landscape in Nigeria, it is worrying to see the application of similar digital tracing technology during protests such as the October 2020 #EndSARS protest. While the Nigerian government struggles to demonstrate the effectiveness of the application of technology to fight criminality, terrorism, or stem the tide of a pandemic that represents an existential threat to humanity - which are the reasons usually avowed for buying these technologies - it has never failed to apply these technologies in targeting human rights defenders, critics and protesters. The Nigerian government’s failure to trace bandits and terrorists, who are at the epicenter of the country’s security challenges, remains a mystery despite huge investments in surveillance technologies. The sum of 9 billion naira (US\$22.8 million) was budgeted in 2020 for surveillance-related activities and equipment.

The swiftness with which government critics and protesters are digitally traced and arrested gives a clear indication of the danger of giving a government that has a history of clamping down on dissenting voices more intrusive power to further sinister objectives. These technologies barely serve legitimate purposes other than being a tool for intimidation and harassment of those who





hold dissenting opinions. Eromosele Adene is still facing trial after being tracked, arrested, and charged for his involvement in the #EndSARS protests. Salihu Tanko Yakasai was tracked, arrested and sacked for criticising the President's handling of security issues in the country in a series of tweets, in which he asked the President to resign.

Technology is not a magic wand and is more likely to be used as a tool of intimidation by governments that have clampdown agendas. It is a tool that finds its most noble use in serving the objectives of diligent and competent actors so a governance structure that is bedeviled by incompetence and other anti-democratic tendencies will not effectively deploy surveillance tools for progressive uses. Rather, such governments will find technology tools useful in closing the civic space and shutting down opposition voices. This is why it is important for the technology and civic ecosystem to insist on a proper legislative framework, judicial accountability, and mandatory transparency in the application of surveillance technology.

# LONDA

**NIGERIA DIGITAL RIGHTS AND INCLUSION 2020 REPORT**

A PARADIGM INITIATIVE PUBLICATION



**Paradigm Initiative**

374 Borno Way, Yaba, Lagos, Nigeria

Email: [media@paradigmhq.org](mailto:media@paradigmhq.org)

[www.paradigmhq.org](http://www.paradigmhq.org)

     @ParadigmHQ