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Nigeria Digital Rights and Inclusion Report

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NIGERIA DIGITAL RIGHTS AND INCLUSION 2021 REPORT

A PARADIGM INITIATIVE PUBLICATION

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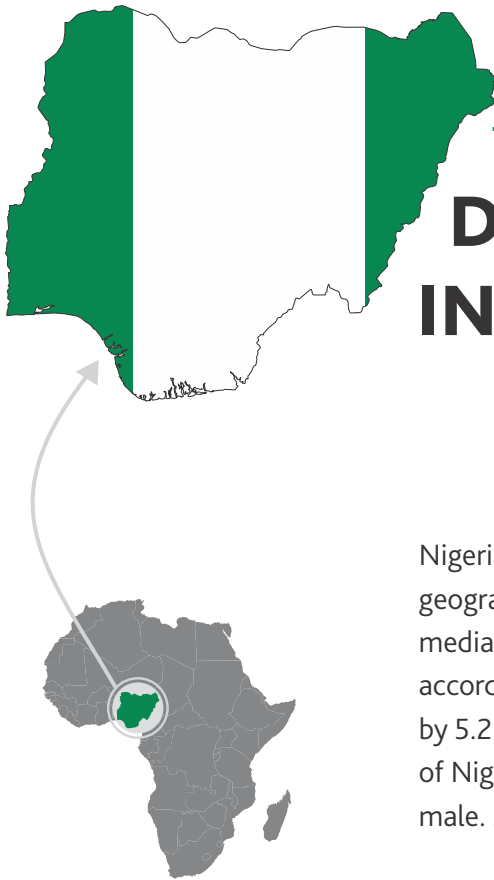
NIGERIA DIGITAL RIGHTS AND INCLUSION 2021 REPORT

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EXECUTIVE SUMMARY

This report focuses on the state of digital rights and inclusion in Nigeria in the year 2021, a country in West Africa with a diverse geography and people. The introduction provides a brief context into Nigeria's population and geography. The report further breaks down the state of digital rights and inclusion into five sub-themes. The first part analyses digital infrastructure and prioritisation of ICT, it breaks down the rate of internet penetration in the country and the next steps the government proposes to take in terms of penetration. The second theme addresses freedom of expression on the Internet and major events that were significant to it. One of such events was the suspension of Twitter. The third theme privacy, digital identity and surveillance analyses national policies and national budgeting that significantly affects the theme in question. The fourth theme was internet disruptions which highlight the network disruptions that were undertaken due to the security situation of the country. The final theme is Artificial Intelligence in Nigeria. As the first African country to establish a National Centre for Artificial Intelligence and Robotics it was important to spotlight this and the approach needed to be taken in terms of Artificial intelligence on the continent. The recommendations, amongst others, note that there is a need for a cost-benefit analysis of the cost of internet shutdowns by governments before undertaking it. Another recommendation identified the need for a comprehensive legislative framework for personal data protection in Nigeria, as well as the necessity for coordination between the government, experts, and relevant parties in enacting such legislation.





INTRODUCTION

DIGITAL RIGHTS AND INCLUSION IN NIGERIA

Nigeria, a country located on the western coast of Africa, has a diverse geography and diverse people with a population of 208 million¹. With a median age of 18 and as one of the world's youngest populations,² according to statistics by the Data Reportal,³ Nigeria's population grew by 5.2 million (+2.6%) between January 2020 and January 2021, 49.3% of Nigeria's population being female and 50.7% of its population being male. 52.3% of Nigeria's population lives in urban centres, while 47.7%

live in rural areas. Nigeria has 36 states⁴ and a Federal Capital Territory, administered by the Federal Government. Each of those states operate as a semi-autonomous political unit with its own executive, legislative, and judicial arms of government. These numbers and trends positioned Nigeria to have an interesting year in terms of digital inclusion and digital rights.



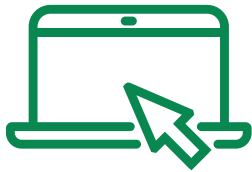
Transform Nigeria

**into a leading digital economy
providing quality life and digital
economies for all**

DIGITAL INFRASTRUCTURE AND PRIORITIZATION OF ICT

In June 2020, the country unveiled the National Digital Economy Policy and Strategy,⁵ to “transform Nigeria into a leading digital economy providing quality life and digital economies for all,” and is expected to be implemented in ten years through eight action points or pillars. The third pillar of the policy is the aim for “Solid Infrastructure” which will allow for “deployment of fixed and mobile infrastructure to deepen broadband penetration in the

1. World bank Data, <https://data.worldbank.org/indicator/SP.POP.TOTL?locations=NG>
 2. <https://www.statista.com/statistics/1121317/age-distribution-of-population-in-nigeria-by-gender/>
 3. <https://datereportal.com/reports/digital-2021-nigeria>
 4. List of states and Capital, <https://www.nigeriagallery.com/Nigeria/Nigerian-States-Capital-Governors.html>
 5. Find strategy here <https://www.ncc.gov.ng/docman-main/industry-statistics/policies-reports/883-national-digital-economy-policy-and-strategy/file>



104.4 MILLION

**NIGERIA INTERNET USERS
AS AT JANUARY 2021**



187.9 MILLION

**MOBILE CONNECTIONS
AS AT JANUARY 2021**

country". Resultantly or perhaps due to the impact of Covid-19 and the fast-growing pace of the world today, Nigeria saw an increase in mobile and internet penetration in the year 2021. Data Reportal⁶ highlighted 104.4 million internet users in Nigeria as at January 2021 and 187.9 million mobile connections. They further reported that the number of internet users in Nigeria increased by 19 million (+22%) between 2020 and 2021 while the number of mobile connections in Nigeria increased by 17 million (+10%) between January 2020 and January 2021. In terms of percentages related to internet penetration, these numbers came at 50.0% in January 2021 and mobile connection at about 90.0% of the total population. By December 2021, the National Communications Commission reported 195 million mobile subscribers,⁷ all suggesting that Nigeria is becoming increasingly connected – a level of connectivity that increases access and digital inclusion that allows more people to benefit from technology. There have been “significant correlations” between internet adoption and increases in GDP, living standards, and access to education and financial services.⁸

The country is set to increase its mobile market penetration after issuing a 5G license to two mobile operators, namely MTN Group Ltd.⁹ paving the way for the continent’s largest wireless carrier supplying faster internet to consumers and businesses. MTN is the West African country’s biggest wireless operator.¹⁰ The country approved its Nation 5G policy¹¹ in September 2021 where the Minister of Communications, Isa Pantami, stated that Nigeria aims to deploy 5G over major urban areas of the country and become Africa’s biggest network for the spectrum by 2025. “This technology will go a long way in supporting our security institutions, who will leverage it and ensure that we are all secure,” he said.¹²



***The number of mobile connections in Nigeria increased
by 17 million (+10%) between January 2020 and January 2021.***



6. <https://datareportal.com/reports/digital-2021-nigeria>
 7. <https://www.ncc.gov.ng/statistics-reports/subscriber-data>
 8. <https://www.itu.int/hub/2020/12/how-broadband-and-digitalization-impact-the-global-economy/>
 9. <https://www.mtnonline.com/>
 10. <https://www.statista.com/statistics/671676/mobile-subscription-share-in-nigeria-by-operator/>
 11. Find policy here, <https://www.ncc.gov.ng/accessible/documents/1019-national-policy-on-5g-networks-for-nigeria-s-digital-economy/file>
 12. <https://www.thecable.ng/pantami-5g-will-help-address-nigerias-security-challenges>

FREEDOM OF EXPRESSION

Section 39¹³ of the 1999 Constitution, Federal Republic of Nigeria, provides that “every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart information without interference.” This is in line with regional frameworks on freedom of expression.¹⁴ Although freedom of expression is a right, it has seen a steady decline in Nigeria since the passing of the Cybercrimes Act in 2015,¹⁵ with rights violations ranging from media sanctions¹⁶ to arrests of journalists and comedians.¹⁷ The country further saw an emergence of legislative attempts at the clampdown of free expression.¹⁸ This trend did not see a decline in the country in the year under review, as a Nigerian news website was blocked from access to the public.¹⁹ On June 5th 2021, the Federal Government of Nigeria announced the suspension of Twitter services²⁰ in the country. The suspension²¹ was announced by the country’s Minister of Information and Culture, Alhaji Lai Mohammed who claimed the ban came because of the persistent use of the platform for activities capable of undermining Nigeria’s corporate existence.

The Minister stated the Federal Government had also directed the National Broadcasting Commission (NBC) to immediately commence the licensing process of all social media operations in Nigeria. The suspension of Twitter in the country violated the rights to freedom of association, the right to freedom of expression, amongst others, and had economic impact according to a tool²² developed by the monitoring organization, NetBlocks, to calculate the economic impact of internet disruptions, mobile data blackouts or app restrictions.



13. Constitution of the Federal Republic of Nigeria [Nigeria], Act No. 24, 5 May 1999, available at: <https://www.refworld.org/docid/44e344fa4.html>

14. African Union. (1981). African Charter on Human and Peoples' Rights. Retrieved from <https://au.int/en/treaties/african-charter-human-and-peoples-rights>

15. CYBERCRIMES (PROHIBITION, PREVENTION, ETC) ACT 2015

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

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

18. <https://www.amnesty.org/en/latest/news/2019/12/nigeria-bills-on-hate-speech-and-social-media-are-dangerous-attacks-on-freedom-of-expression/>

19. <https://cpj.org/2021/02/nigerian-news-website-peoples-gazette-blocked-threatened-with-legal-action/>

20. An american microblogging and social networking site

21. <https://www.washingtonpost.com/world/2021/06/04/nigeria-suspends-twitter-buhari/>

22. <https://netblocks.org/cost/>

Many Nigerians who used Twitter to promote their businesses lost revenue. The effects however go beyond economic losses as the right to access to information had been affected as well. Before the indefinite suspension of the platform, the Nigeria Centre for Disease Control (NCDC) tweeted daily updates on the number of new cases, deaths and more, and it seemed to be the most preferred and reliable source of such information.

Several organizations²³ filed lawsuits against the government over the suspension, and against telecommunications companies that enforced it; these matters were filed in both local and regional courts, specifically under the ECOWAS court. At the time of writing, none of the cases had received a judgment and a pronouncement as to the legality, or otherwise of the suspension. The suspension was eventually lifted after 7 months, after Twitter agreed to several demands of the government, as stated in a statement by the Federal Government.²⁴

Some of the demands include the need for Twitter to set up an office in the country, pay taxes, appoint a representative and “*act with a respectful acknowledgment of Nigerian laws and the national culture and history*”.²⁵ The agreement, though not documented, poses human rights concerns, as it was reached without civil society oversight or contribution.

PRIVACY, DIGITAL IDS AND SURVEILLANCE

Nigeria’s National Identity Management Commission²⁶ (NIMC) operates a national identity database where digital identities are issued to everyone in the form of a national identity number (NIN). In December 2020, the Nigerian government released a statement mandating all Nigerians to not just obtain their National Identification Number (NIN) but to further link the NIN to Subscriber Identification Module (SIM) card numbers or else the use of unregistered phone numbers would be blocked. Predictably, there was an outpouring of Nigerians all over the country attempting to get their NIN before the deadline, at the end of 2020.

The directive caused a massive uproar amongst Nigerians because it was issued at the height of the COVID-19 pandemic. Since then, the deadline has been pushed back thrice to the end of 2021. The SIM card has become a crucial component for citizens to access many services supplied by telecommunications service providers, so the prospect of restricting access to the SIM card caused major concerns related to access.

As Nigerians continued to struggle with this, the Federal Government developed a revised version of the National Digital Identity Policy for SIM Card Registration²⁷ that initiated the process requiring every SIM to be linked to the NIN²⁸ in May 2021. The Federal Ministry of Communications and Digital Economy, in that policy, required the agency in charge “*to register and capture the International Mobile Equipment Identity (IMEI) of all mobile*

23. Some of those organizations include Paradigm Initiative, Socio-Economic Rights and Accountability Project (SERAP), Media Rights Agenda, Enough is Enough Nigeria, Premium Times Centre For Investigative Journalism International Press Centre, Tap Initiative For Citizens Development

24. <https://www.bbc.com/news/world-africa-59958417>

25. <https://www.independent.co.uk/news/world/africa/nigeria-twitter-ban-lifted-b1992259.html>

26. More about NIMC here <https://nimc.gov.ng/about-us/>

27. <https://www.ncc.gov.ng/docman-main/legal-regulatory/legal-other/988-revised-national-identity-policy-for-sim-card-registration/file>

28. <https://www.ncc.gov.ng/media-centre/public-notice/999-revised-national-identity-policy-for-sim-card-registration>

phones and other smart devices”²⁹ to a Centralized Equipment Identity Register (CEIR), otherwise known as Device Management System (DMS), managed by the National Communications Commission (NCC). Some of the reasons given for the Ministry's action include: curtailing the counterfeit mobile phone market, discouraging mobile phone theft, enhancing national security, protecting consumer interest, increasing revenue generation for the government, reducing kidnapping rates, mitigating the use of stolen phones to commit crime, and facilitating the blocking or tracing of stolen mobile phones and other smart devices. By incorporating IMEI data, they may be able to obtain real-time location data on everyone. Shortly afterwards, an uproar ensued where the Nigerian government responded with a statement saying it is not mandating the submission of IMEI numbers however noting that *“the system will capture IMEI automatically without any requirement for subscribers to submit the same.”*³⁰

The government is the biggest processor of data in the country, through its agencies such as the Immigration Service, Federal Road Safety Corps, National Youth Service Corps and the Central Bank, which initiated a Bank Verification Number system. All these agencies collect biometric data.

Despite all the data being processed, Nigeria does not yet have comprehensive data protection legislation, raising concerns about privacy rights and leaving Nigerians at the mercy of redress in the event of breach. Laws that exist on data protection are sector-specific.

A draft bill was tabled and reviewed by stakeholders in 2020 with hopes of reaching the National Assembly in 2021. However, the Federal Government has again called for consultations,³¹ despite the government's legitimate concerns and obligations to maintain public order and national security of its population. Nevertheless, any measure restricting freedom of expression or association to attain such goals must be proportional, legal, strictly necessary and reasonable to achieve a legitimate goal.

The Nigeria Data Protection Regulation (NDPR) seeking to fill the gap ahead of a potential legislation has not proved effective in the probing of personal data breaches by government agencies. A lot of effort seems to have been put into the data processing nature of the private sector. In the year under review, the National Information Technology Development Agency (NITDA), the agency that authored and is the self-appointed enforcer of the NDPR, issued its first fine³² against a loan company. The private sector is not exempt from data breaches. Many loan companies have been known to process user data so that in case of non-payment they can send threatening messages to the user's contacts, revealing sensitive personal data.³³

The lack of a federal law on data protection seems to have led individual states to attempt passing their own laws on the subject. By October 2021, Lagos State³⁴ had its own data protection bill that had passed second reading.

29. Page 23, part 3.5 Objective 1. <https://www.ncc.gov.ng/docman-main/legal-regulatory/legal-other/988-revised-national-identity-policy-for-sim-card-registration/file>

30. Press statement by NCC, <https://ncc.gov.ng/media-centre/news-headlines/1004-press-statement-subscribers-not-required-to-submit-international-mobile-equipment-identity-imei-number>

31. <https://www.premiumtimesng.com/news/top-news/495768-data-protection-indignation-as-fg-abandons-draft-bill-seeks-consultants-for-fresh-process.html>

33. <https://www.dataguidance.com/news/nigeria-nitda-issues-first-ndpr-fine-ngn-10m-against>

34. <https://www.premiumtimesng.com/news/headlines/499999-investigation-how-digital-loan-providers-breach-data-privacy-violate-rights-of-nigerians.html>



The lack of a federal law on data protection seems to have led individual states to attempt passing their own laws on the subject.

The Nigerian government has never publicly acknowledged its surveillance capabilities, but in August 2019, it passed and signed the Federal Mutual Assistance in Criminal Matters Bill into law, allowing it to conduct surveillance on citizens on behalf of foreign countries conducting criminal investigations.

The Nigerian government always has a worrisome amount for its security budget.³⁵ In the year under review, the country's National Intelligence Agency (NIA) budgeted 4.7 billion³⁶ to track, intercept and monitor calls and messages on mobile devices, including Thuraya and WhatsApp. This further raises privacy concerns.

INTERNET DISRUPTIONS

Across the world, the Internet has become a tool that cannot do without empowering states and individuals with facts and figures, information, and knowledge for personal, social and economic development. Yet, according to a study, deliberate internet shutdowns by governments throughout the world are becoming increasingly common and sophisticated.³⁷ In 2021, five states³⁸ across Nigeria shut down the Internet at different points. Sources reported that the decision was *“to enable relevant security agencies to carry out required activities towards addressing the security challenges in the state.”* The northern region of Nigeria has suffered various forms of insurgency and insecurity due to an extremist group called *Boko Haram* since 2009.³⁹ Although many governments have tried to contain the menace, there has been none that has been completely successful. This conflict has left many within the region displaced and impoverished. Among those states is Zamfara, which was, according to the National Bureau of Statistics (NBS), reported to have 2,177,431 active subscribers from 2,337,893 connected lines, while internet users are around 1.59 million.

The shutdown caused people to lose access to information about their loved ones, and connectivity, for weeks. Despite the government's legitimate concerns and obligations to maintain public order and national security for its population, any measure restricting the Internet in order to attain such goals must be proportional, legal, strictly necessary and reasonable to achieve a legitimate goal. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights are the main structures to consider when using the three-step test based on legality, legitimacy, and proportionality of government acts. They can work together to reduce the number of internet disruptions.

35. <https://guardian.ng/news/worsening-insecurity-seven-year-n8tr-defence-spending-fresh-n762b-loan-worry-senate-csos/>

36. <https://punchng.com/nia-gets-n4-87bn-budget-to-track-intercept-calls-messages/>

37. <https://jigsaw.google.com/the-current/shutdown/>

38. <https://guardian.ng/technology/sokoto-kebbi-three-others-witness-service-disruptions-as-zamfaras-2-1-million-phone-users-lose-access/>

39. <https://www.brookings.edu/blog/order-from-chaos/2020/04/21/as-conflict-intensifies-in-nigerias-north-east-so-too-does-a-reliance-on-troubled-militias/>



ARTIFICIAL INTELLIGENCE

Nigeria is the first African country to establish a National Centre for Artificial Intelligence and Robotics (NCAIR), as well as specific government entities encouraging a knowledge-based economy and AI research and development. AI-based technologies are gradually becoming part of the global debate and increasingly incorporated into the daily lives of many Nigerians, and it is thus important to think about how they affect Nigerians' fundamental rights. These concerns must begin with the initial design and continue through to the final implementation, as there are various ways in which AI might either help or hurt the human rights of Nigerians. For economic, health, educational, legal, and even cultural endeavors, Nigeria has become more reliant on digital technologies and networks. For instance, in the year under review, some judges in virtual court sessions had to rely on speech-to-text transcription.⁴⁰

The government's policy focus toward the promotion of science and technology is outlined in Section 18 (2) of the Nigerian Constitution. Many governments' policy objectives, both regional and global, include AI as one of their top goals because various state programmes emphasise the use of AI applications for development and economic progress. Nigeria has shown its willingness to establish a framework for AI research, development, application, coordination, and regulation as a weapon in Nigeria's transformation goal, which includes job creation, economic growth, and governance transparency, among other things. Nigeria has a long way to go in terms of Artificial Intelligence and other modern technologies affecting the global economy but with the correct government policies in place, and if they are implemented, significant progress can be made.

40. The Cable, "COVID-19: Lagos chief judge approves hearing of cases via Zoom, Skype" (April 28, 2020) < <https://www.thecable.ng/covid-19-lagos-chief-judge-approves-hearing-of-cases-via-zoom-skype> > ; Thisday Nigeria, "Osinbajo: Judiciary Needs to Embrace Technology, Innovation" (July 27, 2021) < <https://www.thisdaylive.com/index.php/2021/07/27/osinbajo-judiciary-needs-to-embrace-technology-innovation/> >

RECOMMENDATIONS

- Nigeria, with a median age of 18 years and a high unemployment rate, is in need of a drastic increase in technology upskilling and reskilling initiatives within the workforce, to leverage the potential of the fourth industrial revolution and to sustain the nation's labour market.
- Government must respect the right to freedom of expression forming the foundation of most democracies.
- Nigeria must pass data protection legislation and establish an independent Data Protection Authority that is able to call government agencies and private actors with personal data access to order.
- Governments should identify best practices to solve issues at their source, prioritising alternatives to internet shutdowns. Sharing experiences across and within various countries could lead to solutions that do not rely on access constraints.
- Governments should do a cost-benefit analysis of the cost of internet shutdowns. Network outages stifle productivity, undermine business confidence, and jeopardise both short- and long-term financial commitments. Individuals should learn more about how to circumvent network disruptions through tools like VPNs, as well as interact with the law and ensure that rights are upheld.
- Nigeria needs a national AI policy that prioritises adherence to Nigeria's democratic ideals, complying to the country's constitutional principles, and assisting the Nigerian people in meeting their socioeconomic demands. The policy should uphold algorithmic accountability, data security, the explainability of machine-learning decision-making, and the protection of citizens' human rights against infringement.
- Civil society organisations, along with other stakeholders, must continue to monitor the consequences of digital rights violations and play a key role in pressuring governments to be more accountable and transparent.

Londa 2021 expands on last year's report with findings from 22 countries, examining themes of privacy, freedom of expression, access to information, segmentation and exclusion, digital transformation, affordability, gender and others within existing legislative frameworks, and against the backdrop of a widening digital divide. This edition captures the gaps and proffers recommendations to achieve a digitally inclusive and rights - respecting Africa.



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