

LEGAL AND INSTITUTIONAL CHALLENGES IN DIGITAL POLICY IMPLEMENTATION IN NIGERIA

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Abstract

The influence of Information Technology in the present world comes with challenges, but with more opportunities for today's generation. The Nigerian Government enacted various laws and policies, which became the roadmap in achieving full digitalisation of the economy, both in the private and public sectors. This study aims to examine the institutional, legal, and Regulatory Framework for Digital Economics and E- Governance in Nigeria, and also critically analyse the challenges hindering the implementation of digital policies in Nigeria. The methodology adopted is doctrinal and comparative. There would be a comparison between the Federal Republic of Nigeria and the Kingdom of Spain. The Spanish Digital Policies would be examined and the challenges would be identified. Recent Nigerian Court Cases on the effect of digital laws and policies are analysed. This study would make recommendations on national security, infrastructural development and investment, policy priority and harmonisation, learning and training in ICT for legal practitioners and other professionals, investment resources allocation, promote cryptocurrency and digital coins investment, and government control in the use of artificial intelligence.

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1.0 INTRODUCTION

The Governance and Innovation Network for Generating Enhanced Regulations (GINGER) argued that internet penetration is a critical driver for digital transaction and E- Commerce in Nigeria’s ecosystem. The Non-Governmental Organisation is of the opinion that the Internet provided the foundational infrastructure that allows individuals and businesses to engage in the digital economy, facilitating online transactions, digital communication and access to E- Services.¹

The Statement of Problem for this Study is to analyse the legal and institutional framework on Digital policies in Nigeria, identify the challenges in implementing these policies. The challenges identified are ineffective regulatory policies in the digital market economy, trade barriers, inefficient and costly training of professionals in the ICT sector, regional trade barriers, insecurity and lack of infrastructural maintenance.

This study adopts the doctrinal and comparative method through the use of primary and secondary sources of law. Additionally, there will be a comparison with the Kingdom of Spain.

2.0 HISTORICAL BACKGROUND

Ifeyinwa Virginia Awagu from the Institute of Humanities, the Pan-Atlantic University, Lagos, Nigeria in her Article titled: “Convergence

¹ The Governance and Innovation Network for Generating Enhanced Regulations (GINGER), “*Evidence Synthesis on the State of Nigeria’s Digital Economy and E-Governance Bill*”, September 2024, API Intelligence, 5, < <https://www.apiintelligence.org>. > Last accessed 23 January 2026.

of ICT Policies in the National Communication Systems in Nigeria”, explained that the historical development of Information Communication Technology (ICT) policies in Nigeria is multidimensional. To her, the starting point were sectional policies on specific branches in national communication and the media such as in films, telecommunication, news agency, print and electronic media.² The writer also traced the birth of ICT in Nigeria to the British colonial era of 1886 which aided colonial administration and by 1985, the ICT sector was made up of two registered departments which are Post and Telecommunication (P & T) department and the Nigerian External Telecommunications Limited (NITEL) and the Nigerian Postal Service (NIPOST).³

In examining digital transformation in Nigeria’s Public Sector, Ugochukwu D. Abasilim and Oshephiho J. Esisio from Covenant University, Ogun State, Nigeria, traced the digitalisation of Nigeria’s Public Sector to early 2000s. The writers also argued on the challenges faced in implementing digital laws and policies such as lack of infrastructure and enforcement, administrative delays and inadequate training.⁴

Another unique analysis on the historical background of digitalising Nigeria is how Dr Cosmas Luckson Zavazava, the Director of Telecommunication Development Bureau (BDT) and International

² Awagu Virginia Ifeyinwa, “*Convergence of ICT Policies in the National Communication Systems in Nigeria*”, 2nd International Conference on Research in Social Sciences and Humanities, Budapest, Hungary, 10- 12December 2020, 82, < <https://www.icrsh.org> > Last accessed 23 January 2026.

³ Awagu, ‘Convergence of ICT Policies in the National Communication Systems in Nigeria’, (n 2), 83.

⁴ Abasilim D. Ugochukwu and Esisio J. Oshephiho, “*Overcoming Barriers to Digital Transformation in Public Institutions in Nigeria*”, *Public Administrative Journal*, 2025, Issue 6, 7, < DOI:10.17323/1999- 5431-2025-0-5-97-116. > Last accessed 23 January 2026.

Telecommunication Union (ITU) examined the evolutionary progress of digital policies in Nigeria from Generation 1 to 5. He explained that the first generation (G1) called the Command and Control was introduced under Decree No 75 of 1992⁵ establishing the Nigeria Communication Commission (NCC).⁶

The next generation (G2) led to the establishment of the Nigeria Telecommunications Limited (NITEL) and Mobile Telecommunications Limited (MTEL) in 2001 which were privatised in 2014. By 2020, Nigeria was among the third generation known as (G3). The G3 promoted unified licensing and consumer protection.⁷ The fourth generation (G4) is an integrated regulation to promote socio- economic goals and objectives which was facilitated by the Nigeria National Development Plan (NDP) 2021- 2025. To the writer, Nigeria has evolved into the fifth generation called the G5.⁸

3.0 OPERATIONAL DEFINITION OF TERMS

This study would examine the definition of various terminologies in ICT digital transformation policies in Nigeria. These terms are: digital literacy, digital services, data protection, data privacy, cyber security, E- Governance and crypto assets.

The student portal of the University of the Potomac explained that digital literacy goes beyond the basic use of technology. It is the ability to effectively use digital tools and platforms to find, evaluate, create and communicate information. According to the American

⁵ Decree No 75, 1992.

⁶ Dr Zavazava Luckyson Cosmas, “*Collaborative Regulation: Accelerating Nigeria’s Digital Transformation*”, International Telecommunication Union Publications, 2023, 1, < <https://www.google.com>. > Last accessed 20 January 2026.

⁷ Dr Zavazava, ‘*Collaborative Regulation: Accelerating Nigeria’s Digital Transformation*’, (n 6), 1.

⁸ *ibid*, (n 5), 2.

Library Association (ALA), a digitally literate person is someone who possesses both technical and cognitive skills to process information in various formats, utilises different technologies effectively and engages in digital spaces to collaborate with others and contribute with others and contribute positively to society.⁹ Digital Service is any service that is delivered electronically over the internet and that customers can access in a self-service mode through a web or mobile interface.¹⁰

Under the Nigeria Data Protection Act (NDPA) 2023, Data Protection is not defined but the Act establishes a legal framework for data protection in Nigeria under Section 24.¹¹ Data Protection as defined by Science Direct, refers to a crucial solution used to safeguard the privacy and confidentiality of personal sensitive information, enabling individuals to control how their data is utilised, who can access it and for what purpose.¹² The legal frame work for data privacy is firmly established under Section 37 of the Nigerian Constitution,¹³ Section 24-26 and 34- 40 of the NDPA 2023¹⁴ and Section 12 of the Cybercrime (Prohibition, Prevention, etc.) Act 2015 now 2024 as amended.¹⁵

Cyber Security is the practice of defending computers, services, mobile devices, electronic systems, networks and data from malicious

⁹ UOTP Marketing, “*What is Digital Literacy? Definition, Skills and Importance*”, University of the Potomac, 26 October 2022, < <https://www.potomac.edu/what-is-digital-literacy/>. > Last accessed 24 January 2026.

¹⁰ Servity, “What is a Digital Service?” 2024, < <https://learn.servitly.com/docs/what-is-a-digitalservice>. > Last accessed 22 January 2026.

¹¹ Nigeria Data Protection Act 2023, Section 24.

¹² ScienceDirect, “Data Protection”, 2026, < <https://www.sciencedirect.com/topics/computer-sciences/data-protection>. >Last accessed 23 January 2026.

¹³ The Constitution of the Federal Republic of Nigeria 1999, 2023 as amended, Section 37.

¹⁴ The Nigeria Data Protection Act 2023, Section 24- 26 and 34- 40.

¹⁵ The Cybercrime (Prohibition, Prevention Etc.) Act 2015, Section 12.

attacks. It is also called information technology security or electronic information security.¹⁶

Electronic Governance, also known as E-Governance, is the application of Information and Communication Technologies (ICTs) for delivering government services through integration of various stand-alone systems between Government to Business (G2B) and Government to Government (G2G) Services.¹⁷ Crypto Assets are a type of private sector digital assets that depends primarily on cryptography and distributed ledger or similar technology.¹⁸

4.0 AIM AND OBJECTIVES OF THE STUDY

The aim of this Study is to examine and identify the challenges in implementing digital policies by critically analysing the legal and institutional framework of ICT in Nigeria.

The specific objectives of this Study are:

- i. To critically analyse the legal and institutional framework of digital policies in Nigeria.
- ii. To examine the challenges of implementing digital policies in Nigeria's ICT sector.

2.0 Literature Review

The importance of ICT to the digital economy of a country's Gross Domestic Product (GDP) cannot be overemphasised. Ifeoma Ann, in

¹⁶ Kaspersky, "What is Cyber Security? Definition, Types and Tips", 2026 Publication, < <https://www.kaspersky.com/resource-centre/definitions/what-is-cyber-security>. > Last accessed 25 January 2026.

¹⁷ Dasgupta Shankar Shib, "Cyber Capability Framework: A Tool to Evaluate ICT for Development Projects", Handbook of Research on ICTs for Human Centred Healthcare and Social Care Service, 2013, < https://www.igi-global.com/dictionary/cyber-capability-framework/8702#google_vignette. > Last accessed 25 January 2026.

¹⁸ Financial Stability Board, "Crypto-Assets and Global Stable Coins", 16 October 2025, < <https://www.fsb.org/work-of-the-fsb/financial-innovation-and-structural-change/crypto-assets-and-global-stablecoins/>. > Last accessed 27 January 2026.

her article on the “Challenges of Nigeria’s Digital Economy: Way Forward” admitted that the digital economy has become an integral part of a country’s GDP and to the global economy at large.¹⁹

The challenges observed by the writer are: poor infrastructural facilities, insufficient access to capital and credit, low sales due to economic recession, high-cost maintenance, constant devaluation of local currency, low power generation, low broadband penetration, negative and over regulation of the ICT sector, political instability and poverty.²⁰

Nabiebu Miebaka in his book titled: “Information Technology Law”, identified the regulatory challenges and policy considerations in chapter sixteen of his book. He observed and explained the challenges of information technology in Nigeria and globally as follows: ineffective data privacy and protection regulation which range from poor consent mechanisms, data breach notification requirements and cross border data transfers to safeguard individuals’ privacy rights.²¹

Another renowned article writer on Nigeria’s digital economy Uwadinma A., I, in his article titled “Data Privacy and Consumer Protection in Nigeria’s Digital Economy: A Legal Examination of the Nigeria Data Protection Act 2023”, explained the historical and evolutionary history of data protection and consumer protection in Nigeria. He further explained the institutional and enforcement mechanism under NDPA 2023. The writer was of the opinion that the

¹⁹ Oluwasemilore Ann Ifeoma, “Challenges of Nigeria’s Digital Economy: Way Forward”, *UCC Law Journal*, Volume 3, Issue 1, July 2023, 229- 260, < DOI: 10: 47963/ucclj.v3i1.1257. > Last accessed 25 January 2026.

²⁰ Oluwasemilore Ann, ‘Challenges of Nigeria’s Digital Economy: Way Forward’, (n 19).

²¹ Nabiebu Miebaka, “*Information Technology Law*”, Princeton & Associate Publishing Co. Ltd, September 2024, 663.

challenges of the Nigeria Data Protection Commission (NDPC) ranges from lack of infrastructural resources, staffing mechanism and broad powers on a vast economic system. The writer then argued that the European General Data Protection Regulation should be a bench mark for Nigeria.²²

5.0 LEGAL AND THEORETICAL FRAMEWORK

5.1 Institutional Framework

The following government Ministries, Departments and Agencies are known to have built the institutional framework for ICT sector in Nigeria:

5.1.1 Federal Ministry of Communications, Innovation and Digital Economy (FMCIDE)

The FMCIDE was established in 2011 and was formally known as the Federal Ministry of Communications Technology. The Ministry's objective is to foster a knowledge-based economy and information, facilitate ICT as a key tool in the transformation agenda in areas of job creation, economic growth and transparency in the government.²³

The agencies that function under FMCIDE are Galaxy Backbone, Nigerian Communications Commission (NCC), Nigerian Communications Satellite Limited (NigComSat), Nigeria Data Protection Commission (NDPC), Nigerian Postal Service (NIPOST),

²² Uwadinma A I, "Data Privacy and Consumer Protection in Nigeria's Digital Economy: A Legal Examination of the Nigeria Data Protection Act 2023", Admiralty University of Nigeria, Volume 1, No 1, 2025, 25- 41, < <https://journals.aun.edu.ng/index.php/aunijl>. > Last accessed 24 January 2026.

²³ Federal Ministry of Communications, innovation and Digital Economy, "About Us", < <https://fmcide.gov.ng>. < <https://fmcide.gov.ng>. > Last accessed 26 January 2026.

National Information Technology Development Agency (NITDA),
Universal Service Provision Fund (USPF).²⁴

5.1.2 Galaxy Backbone (GBB)

The GBB is an agency under the FMCIDE, it is a digital, network and sharing services provider to the government. The agency has been providing connectivity and network services to government institutions.²⁵

5.1.3 Nigerian Communication Commission (NCC)

The NCC is empowered to create an enabling environment for competition among operators in the industry as well as ensuring the provision of qualitative and efficient telecommunications services throughout the country.²⁶

The NCC on its official website observed and is currently investigating up to date challenges affecting data services in different regions in Nigeria. This challenges and incidents are: BNC fibre cut in Abuja, Abuja Municipal Area Council on 19th to 20th of January 2026, MTN power outage in Adamawa, Fufere, Ganye, Jaba, Mayo Belwa, Toungo affecting SMS, Voice and Data services on 27th January 2026, FibreOne Vandalism in Lagos, Kosofe local government, affecting data services in IKEDC on 27 January 2026, Fibre cut in Benue, Enugu, East, Igbo Etiti, Igbo Eze North and South, Isi Uzo, Nsukka, Ogba dibo, Okpokwu, Idenu, Uzo- Uwani affecting

²⁴ Federal Ministry of Communications, innovation and Digital Economy, “*Accelerating our Collective Prosperity through Technical Efficiency*”, <
<https://www.fmcide.gov.ng>. > Last accessed 27 January 2026.

²⁵ Galaxy Backbone, “*Galaxy Backbone Set to Upgrade Digital and Network Services Deployment Across MDAs*”, 3 September 2025, <
<https://galaxybackbone.com/galaxy-backbone-set-to-upgrade-digital-and-network-services-deployment-across-mdas/>. > Last accessed 27 January 2026.

²⁶ Nigerian Communications Commission, “*Who we Are*”, 2025, <
<https://www.ncc.gov.ng/about-ncc/who-we-are>. > Last accessed 25 January 2026.

data services, USSD and SMS on the 23rd January 2026, Layer 3 bush burning in FCT, Abuja Municipal Council affecting data services on January 9th 2026, Fibre One cut in FCT Abuja Municipal Area Council affecting data services on Jan 3, 4, 5, 15, and 16th of January 2026.²⁷

5.1.4 Nigerian Communications Satellite Limited (NigComSat)

The NigComSat was established on 4th April 2006. The government owned Limited Liability Company is responsible for the management and operation of Nigerian Communication Satellite (NigComSat- IR) a geostationary Satellite launched on the 19th December 2011. The Satellite specifically addresses connectivity in Africa, parts of Asia and Europe.²⁸

5.1.5 Nigerian Postal Services (NIPOST)

NIPOST is a government corporation under FMCIDE with the responsibility to provide, courier and allied financial services in Nigeria. NIPOST additionally provides logistics and E- Commerce Solution, Innovation Hub and empowering communities in community development programmes in rural areas.²⁹

5.1.6 National Information Technology Development Agency (NITDA)

The NITDA was established in April 2001 with the aim to implement National Information Technology Policies, Development and Regulate the Information and Technology Sector. The Agency also promotes digital literacy, cyber security and local content. NITDA was

²⁷ Nigerian Communications Commission, “*NCC Network Outages*”, 2026, < <https://www.uptime.com/statuspage/ncc>. > Last accessed 26th January 2026.

²⁸ NIGCOMSAT, “About NigComSat”, 2026, < <https://nigcomsat.gov.ng/about-us>. > Last accessed 28 January 2026.

²⁹ Nigerian Postal Service, “*Company Information*”, 2026, < <https://www.nipost.gov.ng/company-information/>. > Last accessed 25 January 2026.

established through the National Information Technology Act 2007 which created a legal framework for the planning, research, development, standardisation, application, co- ordination, monitoring, evaluation and regulation of Information Technology practices, activities and systems in Nigeria.³⁰

5.1.7 Universal Service Provision Fund (USPF)

The USPF which was created by the Federal Government of Nigeria aims to facilitate the achievement of national policy goals for universal access and universal service to Information and Communication Technologies (ICTs) in rural and underserved areas in Nigeria.³¹

5.1.8 Central Bank of Nigeria (CBN)

According to Dr Kingsley I. Obiora in his book titled: “Economics of Digital Currencies: A Book Readings”, he explained through the use of his various articles the role of digital currencies such as Crypto Currencies, Stable Coins, E- Currencies for payment of goods and services. The author enabled readers to understand that the CBN has played major roles in regulating the E- Naira and Fintech companies by fostering financial inclusion and promoting a cashless policy.³²

5.1.9 Federal Executive Council (FEC)

The FEC is also called the Cabinet. It is Cabinet of Ministers of Nigeria and is part of the executive branch of the Nigerian government. The role of the Cabinet is provided under the Minister’s Statutory Powers and Duties Act, which are: to serve as an advisory

³⁰ Kashifu Inuwa Abdullahi, “*From the Director General’s Desk*”, 2026, <
<https://www.nitda.gov.ng>. > Last accessed 28 January 2026.

³¹ Universal Service Provision Fund, “*Welcome*”, January 2026, <
<https://www.uspf.gov.ng>. > Last accessed 29 January 2026.

³² Dr Obiora I Kingsley, “*Economics of Digital Currencies: A Book Readings*”, Research Department of the Central Bank of Nigeria, 2023, <
<https://www.cbn.gov.ng>. > Last accessed 29 January 2026.

body to the Nigerian President, who is also the Chairman of the FEC. The FEC comprises of 24 Federal Ministries.³³

5.2 Legal Framework

The following laws and regulations are hereby examined:

5.2.1 Nigeria Data Protection Act (NDPA) 2023

The current President of the Federal Republic of Nigeria, his Excellency Bola Ahmed Tinubu in June 2023 signed the NDPA 2023. The objective of the Act is to safeguard the fundamental rights, freedoms and interest of data subjects as guaranteed under the 1999 Constitution of Nigeria.³⁴ The Nigeria Data Protection Commission replaced the Nigeria Data Protection Bureau (NDPB).³⁵

5.2.2 Cybercrimes (Prohibition, Prevention Etc) Act 2015 as amended 2024

According to Olarewaju and Abraham in their article titled: “A Critical Appraisal of the Cybercrimes Act, 2015 in Nigeria”, both writers explained that the aim of the Act is to provide an effective, unified and comprehensive legal, regulatory and institutional framework for the prohibition, prevention, detection, prosecution and punishment of cybercrimes in Nigeria.³⁶

³³ National Repository of Nigeria, “Bibliographies of Federal Executive Council: National Repository of Nigeria”, 2026, < <https://nigeriareposit.nlm.gov.ng>. > Last accessed 28 January 2026.

³⁴ Constitution of the Federal Republic of Nigeria, 1999, s 37.

³⁵ Anyanwu John and Agbaje Olaoluwa, “*Nigeria Data Protection Act 2023 Review*”, 2023, KPMG, < <https://222.google.com>. > Last accessed 28 January 2026.

³⁶ Onadeko Adesola Olanrewaju and Afolayan Femi Abraham, “*A Critical Appraisal of the Cybercrimes Act, 2015 in Nigeria*”, July 24- 28, 2016, Paper presented at the 29th International Conference of International Society for the Reform of Criminal Law (ISRCL) held at Halifax, Nova Scotia, Canada.

Before the amendments of Section 24 of the Cybercrimes Act 2015, Ogun Festus in his article titled, “Cyber security Awareness Understanding the Cybercrimes Law 2015”, lamented about Section 24(1) of the 2015 Act and how it was used to oppress and suppress Nigerian journalists, the media, political opposition members and influential persons. He explained that efforts were made to amend the section by contesting it before the Federal High Court, the Court of Appeal and the Supreme Court of Nigeria but the efforts were fruitless. It was through the Economic Community of West African States (ECOWAS) Court in 2020 in the case of SERAP v The Federal Republic of Nigeria³⁷ held that Section 24 of the Cybercrimes Act 2015 was arbitrary, vague and repressive and that it violated the right to freedom of expression and inconsistent with Article 9 of the African Charter on Human and Peoples’ Rights³⁸ and Article 19 of the International Covenant on Civil and Political Rights (ICCPR).³⁹

5.2.3 Nigeria Start up Act 2022

The official website of Oyebode and Aluko in the article titled: “Analysis of the Nigeria Start up Act 2022”, explained the aim of the Act is to drive the growth of Nigeria’s tech industry and contribute to development in IT based environments for Start-ups.⁴⁰

5.2.4 National Digital Economy and E- Governance Act (NDEEA) 2024

Stern and Blan Partners in December 2025 supported the NDEEA 2024 and explained that the Bill now an Act aims to provide clear

³⁷ SERAP v The Federal Republic of Nigeria Suit No: ECW/CCJ/APP/09/19.

³⁸ The African Charter on Human and Peoples’ Rights, Article 9.

³⁹ The International Covenant on Civil and Political Rights (ICCPR).

⁴⁰ Dottie Toritseju, Aliu Funmilola, Asolo Ajibola, Yinka- Gregg Gregorg and Nnamani Great, “*Analysis of the Nigeria start up Act 2022I*”, January 2023, Aluko and Oyebode, < <https://www.aluko-oyebode.com/insights/analysis-of-thengeria-startup-act-2022/>. Last accessed 30 January 2026.

legal backing for digital transactions, electronic signatures and e-governance.⁴¹

5.2.5 Strategic Blueprint 2023- 2027

The Federal Ministry of Communications, Innovation and Digital Economy, headed by Dr Bosun Tijani formulated the Strategic Agenda of 2023- 2027. The agenda is based on 5 strategic pillars which are knowledge, policy, infrastructure, innovation, entrepreneurship, capital and trade.⁴²

5.2.6 National Digital Economy Policy and Strategy (NDEPS) 2020- 2030

The NDEPS 2020- 2030 is a comprehensive roadmap developed by the FMCDE. The aim of the policy is to harness the power of digital technologies to drive economic growth, create jobs, enhance government services and improve the overall well- being of Nigerians.⁴³ The Young African Policy Research Hub (YAPORH) identified the following challenges such as funding constraints,

⁴¹ Stren & Blan Partners, “*E- Governance Unlocked: What Nigeria’s 2024 Digital Bill means for Businesses and the Government*”, 9 December 2025, < <https://www.strenandblan.com/e-governance-unlocked-what-nigerians-2024-digital-economy-bill-mean-for-businesses-and-the-government/>. > Last accessed 30 January 2026.

⁴² Layer3, “*Understanding the FMCoIDE’s 2023-2027 Digital Economy Strategic Agenda and how Technology providers can align to support and drive its Achievement*”, 4 October 2024, < <https://www.blog.layer3.ng/understanding-the-fincoides-2023-2027-digital-economy-strategic-agenda-and-how-technology-providers-can-align-to-support-and-drive-its-achievement/>. > Last accessed 30 January 2026.

⁴³ Young African Policy Research Hub, “*A Review of the National Digital Economy Policy and Strategy (NDEPS) 2020- 2030 of Nigeria*”, 1 July 2023, Digital Economy and Artificial Intelligence Research Team of YAPORH, < <https://www.youngafricanpolicyresearch.org/a-review-of-the-national-digital-economy-policy-and-strategy-ndeps-2020-2030-of-nigeria/>. > Last accessed 30 January 2026.

infrastructure challenge, digital divide, implementation capacity, cyber security and privacy concern.⁴⁴

5.2.7 National Digital Learning Policy (NDLP) 2023

The Athena Centre for Policy and Leadership observed that the NDLP 2023 with other coherent policies such as the National Policy on ICT in Education (NPICP) 2019 and the National Digital Literacy Framework (NDLF) 2023 faced challenges of implementation.⁴⁵

5.2.8 National Science Technology and Innovation Policy (NSTIP) 2022

Nwachukwu, Stephen and Chukudike in their article explained the objectives of the revised NSTIP from 1986 to 2012. In deriving the ideas of Ajoku, it was observed that the Science and Technology policy were generated by both the internal stakeholders and external stakeholders while successful implementation depends on the cooperation of all including the society.⁴⁶

5.2.9 Strategic Roadmap and Action Plan (SRAP) 2021- 2024/2027

The SRAP 2021- 2024/2027 is led by the National Information Technology Development Agency (NITDA) which focuses on transforming Nigeria into a sustainable digital economy by aligning IT

⁴⁴ Young African Policy Research Hub, ‘*A Review of the National Digital Economy Policy and Strategy (NDEPS) 2020- 2030 of Nigeria*’. (n 63).

⁴⁵ Athena Centre for Policy and Leadership, “*From Connectivity to Classroom Impact: Integrating Digital Literacy in Nigeria’s Education System*”, January 2026, Volume 3, Issue 2, 13- 19, < <https://athenacentre.org/from-connectivity-to-classroom-impact-integrating-digital-literacy-in-nigerias-education-impact-integrating-digital-literacy-in-nigerias-education-system/>. > Last accessed 31 January 2026.

⁴⁶ Tochukwu Nwachukwu, Stephen T and Udenze Chukudike, “*Science, Technology and Innovation (STI) Policy and the Technological Development of Nigeria: Prospects and Challenges*”, 2019, Department of Public Administration and Local Government, University of Nigeria, NSUKKA, < <https://www.google.com>. > Last accessed 30 January 2026.

initiatives with the NDEPS). The eight pillars of this policy are: developmental regulation, digital literacy and skills, solid infrastructure, digital service development and promotion, digital society and emerging technologies, indigenous content promotion and adoption.⁴⁷

5.3 Theoretical Framework

5.3.1 Cyber Realism Theory

According to Abdullah Ibrahim Altayyar from the Sussex University in the United Kingdom, Cyber Realism explains that internet can be regulated based on traditional jurisdiction and law.

The writer further argued from another legal scholar Lawrence Lessig who proposed that a Cyber Paternalistic approach to internet regulation is by re-reading the traditional regulatory performance with internet characteristics and architecture and relating this to the markets, law and norms around internet, it is possible to regulate the internet through state made laws.⁴⁸

5.3.2 Fundamental Rights Theory

The Fundamental Rights Theory is commonly known as the Rights Theory, it is a normative ethical framework that emphasises the moral importance of individual entitlements of claims often derived from legal, moral or human rights. It asserts that certain rights such as life, liberty and property are essential and inalienable, forming the

⁴⁷ Federal Ministry of Communications and Digital Economy, “*NITDA Strategic Roadmap and Action Plan (SRAP 2021- 2024)*”, 2021, < <https://www.nitda.gov.ng>, > Last accessed 30 January 2026.

⁴⁸ Abdullah Ibrahim Altayyar, “*The Concepts for better Regulation of Internet Platforms*” 5 April 2023, Academic Journal of Research and Scientific Publishing, Volume 4, Issue 48, 45, < doi.org/10.52132/Airp.en.2023.43.3. > Last access 26 February 2026.

foundation for social justice and legal systems globally. The right theory is a fundamental concept in the field of law, focusing on the principles that govern the basic rights individuals have within a society. The category of rights under the Rights theory are: Human Rights, Civil Rights, Political Rights and Economic Rights.⁴⁹

5.4 Why Both Theories are useful to this Study

Cyber Realism is useful for the study on digital policy implementation in Nigeria as it argues in favour of the Nigerian Government power to controlling, supporting, protecting internet users and creating a regulatory framework on E-Governance and digital policy in Nigeria. This protects the citizens, corporate businesses and government institutions. The Fundamental Rights Theory on the other hand, supports the rights of individuals, corporate organisations and government institutions on the principle of fiduciary relationship, confidentiality, and privacy of client data. The theory provides punitive measures where there is a breach of privacy by an enabling law.

6.0 EXAMINING RECENT COURT CASES ON DIGITAL AND E-GOVERNANCE IN NIGERIA.⁵⁰

The Federal High Court on the 22 of November 2024, delivered a landmark judgement in the case of *Frank Ijege v Nigeria Data Protection Commission*⁵¹, invalidating certain provisions of the

⁴⁹ Study Smarter, “*Rights Theory*”, 12 November 2024, <
<https://www.studysmarter.co.uk/explanations/law/comparative-law/rights-theory/>.
> Last accessed 27 February 2026.

⁵⁰ Abdullah Ibrahim Altayyar, ‘*The Concepts for better Regulation of Internet Platforms*’, (n 48).

⁵¹ *Frank Ijege v Nigeria Data Protection Commission*, Suit No: FHC/ KD/ CS/ 34/ 2024, judgement delivered on 22 November 2024.

Guidance Notice⁵² issued by the NDPC. The Applicant argued that Section 5 (d), 44 and 65 of the NDPA,⁵³ when considered with Paragraph 1(2) of the Guidance Notice, it exceeded the statutory powers of the NDPC and should be rendered ultra vires, null and void. The Honourable Court relied on two established principles which are: the principle of statutory interpretation, specifically the Literal rule reaffirmed in the Supreme Court decision of *Sani v President of the Federal Republic of Nigeria*⁵⁴ and the principle of Fiduciary Relationships. Paragraph 1(2) of the Guidance Notice was declared null and void.

In another Federal High Court Case before Honourable Justice Emeka Nwite in *Chukwunweike Akosa Araka v Ecart Internet Services Limited & Eat 'N' Go Limited*,⁵⁵ the Applicant sued the 1st and 2nd Respondent on grounds that the use of his personal data for direct marketing purposes violated his right to privacy and the purpose limitation, a declaration that the continued processing of his personal data despite his request for deletion breached his rights to reassure and right to object, exemplary damages of =N= 20,000,000.00 and general damages of =N= 100,000,000.00. Judgement was delivered against the 2nd Respondent under the NDPA 2023 and general damages of =N= 3,000,000.00 was awarded.

⁵² Guidance Notice on the Registration of Data Controllers and Data Processors, Paragraph 1 (2).

⁵³ The Nigeria Data Protection Act 2023, Section 5(d), 44 and 65.

⁵⁴ *Sani v President of the Federal Republic of Nigeria* (2020) LPELR- 50990 (SC).

⁵⁵ *Chukwunweike Akosa Araka v Ecart Internet Services Limited & Eat 'N' Go Limited* Suit No: FHC/ ABJ/ CS/ 195/ 2025, judgement delivered on 22 November 2024.

In *Tokunbo Olatokun v Polaris bank Limited*,⁵⁶ the Applicant had closed his bank account from the Respondent but the Respondent continued to send marketing emails causing emotional, psychological and mental injury, anxiety and discomfort. The legal argument was whether the continued emails were in breach of Section 37 of the 1999 Constitution⁵⁷ and the NDPA. The judgment was delivered in favour of the Applicant by awarding ₦= 1,000,000.00 damages against the Respondent.

In a human rights case of *Media Rights Agenda (MRA) v Nigerian Broadcasting Commission (NBC)*⁵⁸ the Federal High Court in Abuja formally before Justice James Omotosho and later Justice Rita Ailia Jumagobia made a landmark judgement in 2024. In this case, the Applicant challenged the Respondent's power to fine 45 media stations ₦=500,000.00 each in 2019 and 2022 on grounds of breach to fair hearing, freedom of expression and judicial powers which violates press freedom. The Court held that the Respondent had no statutory power to impose criminal sanctions like fines which violates the doctrine of separation of powers the Court relied on Section 6, 36 and 39 of the 1999 Constitution⁵⁹ and Article 7 of the African Charter of Human and People's Right (Ratification and Enforcement).⁶⁰

7.0 EXAMINING THE CHALLENGES IN IMPLEMENTING DIGITAL LAWS AND POLICIES IN NIGERIA

⁵⁶ *Tokunbo Olatokun v Polaris Bank Limited* LD/17392MFHR/2024, judgement delivered on 5 December 2024.

⁵⁷ Constitution of the Federal Republic of Nigeria 1999 and 2023 as amended, Section 37.

⁵⁸ *Media Rights Agenda (MRA) v Nigerian Broadcasting Commission* FHC/ABJ/CS/1386/2021.

⁵⁹ Constitution of the Federal Republic of Nigeria 1999 and 2023 as amended, Section 6, 36 and 39.

⁶⁰ The African Charter of Human and Peoples Right (Ratification and Enforcement) Law of Federation 2004, Article 7.

Ikechukwu Chime, from the Faculty of Law, University of Nigeria, Enugu Campus argued on the challenges affecting the implementation of digital laws and policies in Nigeria. Despite the foundational pillars of the NDEPS 2020- 2030, to him, the government has failed to keep the digital strategic plan alive. There is no extensive awareness and frequent updates, stakeholders are not committed. In addition, he explained that the NDEPS is more of an aspiration than an action-oriented plan of engagement. Furthermore, he was of the opinion that the digital learning system is not effective and efficient, there are multiple and overlapping goals, strategies and pillars which were created under pressure, lack of clear governance and implementation structure among Ministries, Departments and Agencies (MDAs).⁶¹

8.0 OVERVIEW OF THE DIGITAL AND E- GOVERNANCE POLICIES OF THE KINGDOM OF SPAIN

8.1 The Digital Spain Agenda Road Map 2026 and its Challenges

The Spanish government in July 2020 launched the Digital Spain Agenda (DSA) as a roadmap for the country's digitalisation process. This Roadmap is a recovery plan after the Covid 19 pandemic which focused on Infrastructure and Technology, Economy and People. The DSA implemented eight strategic plans which are: the Digital Infrastructure and Connectivity Plan for Society, Economy and Territories, Strategy for the promotion of 5G Technology, ENIA National Artificial Intelligence Strategy, National Plan for Digital Skills, SME Digitalisation Plan, Public Administration Digitalisation

⁶¹ Chime Ikechukwu, "Digital Economy Policy: The Case Example of Nigeria", 2022, International Journal of Innovative Finance and Economics Research, Seahi Publications, Volume 10, Issue 1, 189, < <https://www.seahipublications.org>. > Last accessed 31 January 2026.

Plan, Spain Audio-visual Hub of Europe and National Cyber Security Plan.⁶²

The Ministry for Digital Transformation and Civil Service launched the State Corporation for Technology Transformation (SETT), a public company focused on promoting investment in technology, semi-conductors, audio-visual and telecommunication. Spain's Ministry is funded by \$22 billion including funds from the Next Generation EU Group. Additionally, United States companies have invested in Spain's ICT sector.⁶³

According to the Minister for Digital Transformation and Civil Service, the following challenges were identified in a press conference delivered in February 2024: the necessary improvements to the ICT infrastructure, lack of Green Energy Supply, shortage in talent and uncertain policies regarding the use of data, inconclusive Artificial Intelligence (AI) and Taxation supervision. Overall, Spain and the European Union have a robust digital regulatory framework.⁶⁴

9.0 SUMMARY OF FINDINGS

The ICT sector has made significant influence and progress in the government administration and the lives of Nigerian citizens. The internet in Nigeria has provided a foundational infrastructure to promote a Digital economy and E- governance in Nigeria.

The article provided for definition of concepts such as digital literacy, digital services, data protection, cyber security, electronic governance

⁶² European Union Next Generation EU, “*Digital Spain 2026: Executive Summary*”, 2026, < <https://espanadigital.gob.es>. > Last accessed 2 February 2026.

⁶³ International Trade Administration, “Spain Digital Economy”, 20 September 2024, < <https://www.trade.gov/country-commercial-guides/spain-digital-economy>. > Last accessed 3 February 2026.

⁶⁴ International Trade Administration, ‘Spain Digital Economy’, (n 84).

and crypto assets. The aim of this study is to analyse the legal and institutional framework and identify the challenges in implementing digital policies in Nigeria.

The major challenges identified by various article writers and book authors are: poor infrastructure, lack of power supply, low skilled professionals, insecurity, lack of priority in achieving goals and objectives, overlapping policies, over restriction and over regulation on Fintech and Start-ups Companies, lack of enforcement, inefficient funds allocation to the ICT sector. This study adopted the doctrinal and comparative method of data collection.

Additionally, this study examined the legal, institutional, regulatory and theoretical framework for digital and E- governance for Nigeria and Spain. Also, the theories examined are Cyber Realism and Fundamental Rights Theory.

Recent decided court cases were examined such as: Frank Ijege v NDPC, Chukwunweike Akosa Araka v Ecrat Internet Services Limited & Eat 'N' Go Limited, Tokunbo Olatokun v Polaris Bank Limited MRA v NBC.

The Spanish Digital and E- governance policies and institutions were examined as well as their challenges. In a speech delivered by the Spanish Ministry for Digital Transformation and Civil Services shows that efforts were made to secure \$22 billion and to monitor Artificial Intelligence and the ICT sector.

10. CONCLUSION

In conclusion, the role of the ICT sector in Nigeria E- governance and digital economy has progressed within the past decade. More efforts need to be doubled in order for the Nigerian economy to be ranked with other developed economies of the world.

11. RECOMMENDATIONS

Having examined both the Nigerian and Spanish jurisdictions on Digital Economy and E- governance, a critical analysis of the institutional, legal and regulatory framework for Nigeria and Spain and the challenges both countries face, the following are recommended as follows. Firstly, both Spain and Nigeria face shortages in skilled professionals in the ICT field such as in Artificial intelligence, Cyber Security, Digital commerce and E- governance. The government of Nigeria must allocate resources in ICT training for various professionals. An example is the Online filing platform for Legal Professionals, Accountants, Chartered Secretary and Directors for Corporate filing to the Corporate Affairs Commissions, E- Case filing to the Magistrate Court, High Court and the Federal High Court in Lagos State, Nigeria. Many Lawyers are not well trained on E-filing systems and this has made some Senior lawyers to pressure the government introduce back the same manual filing which is cost consuming.

Secondly, there is an immediate attention to national insecurity in Nigeria. Form observation, the NCC informed the public about the vandalism of Fibre Optics Network cables, bush burning, and power outage in Network buildings which is currently affecting Network, internet and data services all over the country. There is need to station more security officers at the network stations to avoid constant network disruption.

Additionally, it has been observed that there are multiplicities in digital laws and regulations with overlapping goals and objectives. Nigeria's digital policies and laws need to be harmonised in other to prevent any shift in priorities. Furthermore, the Federal government

must promote local and foreign investment in order to secure the required funds for infrastructural development.

Finally, there must be more pro-activeness in the fight against cybercrime and fraudulent investment adverts on the internet. For example, the use of social media and YouTube adverts has misled many Nigerians into losing their finance to cyber criminals worldwide.