

An Appraisal of the Legal Regime of Internet Policing in Nigeria

IBRAHIM SHEHU PhD

Senior Lecturer, Faculty of Law, Usman Danfodiyo University, Sokoto

Abstract

The emergence of the internet has created so many opportunities, individuals, governments and business are legally availing themselves of the increasing sophistication and utility of the internet. The waves of this innovation have touched all spheres of human life. In spite all this, the cyberspace which is the creator of the internet has come with a number of challenges. It presents a new frontier for criminology by introducing a new form of deviance, crime and social control. Cyberspace is changing the nature and scope of offending and victimization. The police are powerless in addressing the challenges posed by the emergence of the internet, even though there are frantic efforts and measures taken especially by developed countries to arrest this menace through internet policing. In Nigeria, the situation is entirely different. Therefore, the focal point of this paper will unravel is to examine internet policing with particular reference to Nigeria. The paper will further unravel some of the challenges face via internet policing in Nigeria. The methodology to be adopted is doctrinal. The paper will conclude by making recommendation on how Nigeria will utilize internet policing in tackling crime.

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INTRODUCTION

The introduction of the internet into many aspects of everyday life has led to the development of the modern concept of the information society.¹ And at the same time it has also provided new possibilities for criminals who can exploit the same advantages offered by these technologies. The distribution of new technologies changes the criminal landscape and generates challenges for government and society with regard to the use of these instruments for criminal purposes.² The law enforcement in Nigeria performs an essential role in achieving our nation cyber security objectives by investigating a wide range of cybercrimes, from theft and fraud to child exploration and apprehending and prosecuting those responsible.³ Therefore cyberspace constantly remains the greatest source of different illegal activities that include not only new types of crime such as hacking or machines codes and programmes such as spam but also the migration of traditional crime such as child pornography, fraud and copyright infringements to the ICT networks.⁴ Therefore thus paper intends to examine internet policing writing the framework of Nigeria Law.

MEANING OF INTERNET POLICING

Internet policing is a collection of activities or strategies aimed at keeping the internet free of crimes.⁵ In other word, it is a generic term for police and government agencies, departments and other organizations in charge of policing internet in a number of countries.⁶ It is also seen as a means of enhancing the cyber divisions, investigative capacity to sharpen its focus on intrusions into government and private computer networks .⁷ The major purposes of internet police, depending on the state is fighting cybercrime as well as censorship and propaganda.

AN OVERVIEW OF INTERNET POLICING IN NIGERIA

In today's international governance systems, the security of lives and properties underlies the functioning of societies. The police is an organization with goals, task and powers associated with preserving public order and security.⁸

The Nigerian Police is the principal Law Enforcement Agency in Nigeria. It has staff deployment across the 36 state of the country and the Federal Capital Territory FCT.⁹ The Nigeria Police Force is commanded by the Inspector General of Police, who transfer inputs from the over eight bodies into progremes and guidance for

¹ Macro G, The Understanding Cybercrime: Phenomena, Challenges and legal response. An ITV publication a guide for developing countries. www.itv.int/itv-D/cyb/cybersecurity/legislation. Html accessed 5/3/20

² Tatiana T, Cyber policing: The role of the police in fighting cybercrime

³ <https://www/cisa.gov>combating cybercrime> accessed 5/3/20

⁴ Tatiana ^{above n2}

⁵ <https://www.urbandictionary.com> accessed 5/3/20

⁶ Internet police Wikipedia.en.m.wikipedia.org (<https://>) accessed 5/3/20

⁷ <https://www.fbi.gov>investigation> accessed 5/3/20

⁸ Temilayo I O & Abiyan A S, Digital policing technologies and democratic policing: will the internet, social media and mobile phone enhance police accountability and police – citizen relations for Nigeria; international journal of police service and management Vol. 1 (12) 2018

⁹ History of Nigerian Police – Nigerian Police Force <https://www.npf.gov.ng> accessed 18/4/20

Police managers to implement. ¹ The Nigerian Police Force has been trying to operate a means to ensure that the internal security of the country is maintained. ²

Note that, the introduction of ICT into many aspects of everyday life has led to the development of the modern concept of the information society.³ The use of technology in law enforcement and crime prevention is developing rapidly, from drones and productive analytics to biometric technology advances are particularly relevant for policing because they are seen to influence the organization and practices of police in the ways that intimately connect to the Police function of crime control.⁴ This will bring new and more efficient means of crime detection and control, communication among police and police transportation, all these influence police job of fighting crimes and affect the level of legitimacy information police receive from the public and relevant government bodies.

It is important to note that, police and policing are two different phenomena which are interrelated conceptually. For instance, police is an agency of state saddled with the responsibilities of crime detection and prevention while, policy is a measure and action taken by a variety of institutions and groups both formal and informal in society to regulate social relations and practices in order to secure the safety of members of community as well as conformity to the normal values of society.⁵

Therefore, in contrast to other forms of policing, police should focus more attention on societal challenges as opposed to incidents, such challenges can be recognized as collections of related incidents or as underlying conditions that give rise to societal disorder which citizens expect the police to address, by focusing more on challenges than incidents, preventive measures can be emphasized by the police to address crime causation rather than more symptoms.⁶

The high rate of crime i.e Kidnapping, Banditry, Armed Robbery, Cyber Fraud, Cyber stalking, Cyber Terrorists etc in Nigeria has forced the Nigerian Police Force to go digital by adopting internet policing.

In an effort to detect, control and prevent crime. The Nigerian Police established the Department of Information and Communication Technology (ICT) which is saddled with the responsibility of managing electronic databases and communication systems as global crime has become more sophisticated. It is also empowered to provide tools that will help accomplish efficient modern policing and to provide and maintain security for all levels by access and privilege to information systems and technology in all police formations.⁷

The above has helped in enhancing the capacity of the Nigerian Police to monitor and police criminal activities especially financial scam, spamming, credit card frauds, phishing, ATM frauds, and other forms of crimes facilitated through the use of the internet. ⁸

MEANS OF INTERNET POLICING IN NIGERIA

Information and Communication Technology in terms of policing has to do with the digital tools and methods of detecting criminal activities especially with regards to property crimes such as digital burglar, alarm systems, fingerprint detectors, close circuit television etc. ⁹

The use of ICT in the Nigerian Police Force has positively enhanced service delivery to the public and is noted as the only solution for bringing the effectiveness in the Police working conditions. Some of the means and methods of effective internet policing are as follows:

a) VIDEO ANALYTIC

This is the capability of automatically analyzing videos to detect certain objects, behaviours, spatial and temporal events. This is used in a wide range of domains, including entertainment, healthcare, surveillance, home automation etc.¹⁰ For instance closed circuit television (CCTV) cameras are installed in locations where there is a possibility of crime, places such as banks, shopping malls and other important places. CCTV is useful in monitoring traffic in public highways, used in conjunction with a facial recognition software and the criminal database to identify crime offenders thereby facilitating crime investigation. Note that, in the case of Maryam Sanda, the Police in FCT obtained CCTV footage

¹ Idris et-al, towards a Digital policing in Developing nations: The Nigerian context, international journal of innovative technology and exploring engineering (IJETEE) Vol. 8 issue 7C² 2019.

² Ibikunle F and Adefihan B, effectiveness of information and communication technology (ICT) in policing in Nigeria, Scottish journal of arts, social sciences and scientific studies <https://scotishjournal.co.uk>

³ Macro G Above n1

⁴ Oyeranmi A et-al, fortification of policing in Nigeria using ICT backbone model: Trends, challenges and prospects. A paper presented at international conference on science, technology, engineering and humanities at Lagos September, 2018

⁵ Above n⁹

⁶ Ibid

⁷ <https://www.npf.gov.ng> access 19/4/20

⁸ Ibikunle F & Ewenry O, Approach to cyber security issues in Nigeria: challenges and solutions, international journal of cognitive research in science, engineering and education Vol. 1 No. 1 2013 www.ijcrsec.com access 20/4/20

⁹ Joe P.S, The Police and the use of Information and Communication Technology (ICT) in prosperity Crime detection and control <https://project.com.ng> access 20/4/20

¹⁰ Edirm J W, Policing Nigeria with use of effective ICT <https://www.leadership.ng> access 21/4/20

showing the final moments of the murdered former PDP chairman's son Bilyaminu Bello which shows the suspect and three private security guards conveying the deceased into a vehicle from where he was rushed to the hospital.¹

b) **FINGER PRINTS SCANNER**

It serves multiple purposes in Police Operations. It is used for confirming the true identity of a criminal finger print sample saves in the database and applied as protection for digital devices and files.²

c) **VOICE RECOGNITION SOFTWARE**

This plays similar roles to finger print scanner, it uniquely identifies a criminal and used for protection of digital contents and devices from unauthorized access.³

d) **COMPUTERS AND SOFTWARE**

Some of the Nigerian Police department patrol cars, helicopters and other devices are all equipped with computers and software which assist police officers to view calls for service and access geo mapping technology at the same time too. Computer Aided Dispatch (CAD) is the backbone of most police department public safety answering point and helps the force improve situational awareness and reduce response times. Police CAD provide real time access to information. All data entered into CAD can be accessed and shared between mobile, reduce reputation data entry and streamline operations.⁴

e) **DNA AND FORENSIC**

DNA testing and validation can be used in order to identify suspects within a specific case if they are tied to the criminal database. The advance of DNA testing and validation within the Nigerian Police Force has allow for criminals to see justice and for the offender to face up to their crime committed. While forensic is the process in analyzing the DNA, the technology itself is used by those who are directly connected to this sector.⁵

f) **ALARMS & SENSOR**

This are used by the Nigerian Police Force to detect intrusion, it alerted silently whenever there is a presence of unwanted person in a particular location.

Note that, sensors are the main development which allow for individuals to be detected due to their motion, therefore this alarms and sensors are most efficient in preventing crime.⁶

THE LEGAL REGIME

Internet revolution has gained ground in Nigeria. It has permeated all sectors in Nigeria. However, there is no specific legislation on internet policing in Nigeria. What we have on ground are crops of legislation that are related to internet policing and this can be seen bellows:

a) **THE NIGERIAN CONSTITUTION 1999 AS AMENDED**

Section 214 of the Nigerian Constitution provides that there shall be Police Force for Nigeria which shall be known as the Nigerian Police Force. Therefore the Nigerian Police is the creation of the constitution of the Federal Republic of Nigeria.

b) **THE POLICE ACT 2004**

This Act empowered the Nigerian Police to prevent crime, detection and apprehension of offenders, prevention of law and order, protection of life and property and enforcement of all laws and regulations with which thing are directly charged.⁷

Though both the 1999 constitution as amended and the Police Act did not specifically mention internet policing, they have however created the Nigeria Police and empowered them to prevent crime, detect and prosecute offenders, and also to maintain law and order and protect the security of people and property.

THE NATIONAL INFORMATION TECHNOLOGY DEVELOPMENT AGENCY ACT 2007

The above agency is the clearing house for ICT in Nigeria. The agency is to create a framework for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation of information technology procedures, activities and systems in Nigeria. It is also empowered to advice this government on ways of promoting the development of information technology in Nigeria including appropriated information technology legislation to enhance national security and vibrancy of the industry.⁸

¹ Akashit O, Police obtain CCTV footage of ex PDP Chairs son <https://www.consize.ng> access 21/4/20

² Oyeranmi ^{above n12}

³ Ibid.

⁴ Edirin ^{above n18}

⁵ Oyeranmi. ^{Above n12}

⁶ Ibid.

⁷ Section 4 of the Police Act 2004

⁸ Section 6 of NITDA Act 2007

Looking at the above set, NITDA Act 2007 is by extension selected to internet policing, this is because NITDA is the clearing house of ICT in Nigeria.

CYBER CRIME (PROHIBITION, PREVENTION ETC) ACT 2015

The Cybercrimes (prohibition, prevention, etc) Act 2015 is the first Act enacted in Nigeria to regulated the conduct of persons in the cyberspace and cybercrime in Nigeria. The Act provides for the protection of critical national information infrastructure which are so vital to the country that this destruction of such systems and assets would have an impact on the security and safety of the country.¹

Sections 6 & 7 of the Act criminalized unlawful access to a computers and registrations of cybercafés respectively. Section 13 of the Act criminalizes the Act of computer related forgery, while section 14 provides for computer related fraud. Furthermore, section 18 criminalizes cyber terrorism while section 24 deals with the offence of cyber stalking. Section 25 and 30 deals with cybersquatting and criminalizing the act of a person manipulating an ATM machine in point of sales terminals. Section 33 of the Act deal with electron card and related fraud.

Note that, sections 45, 46, 47 and 49 of the Act empowered a law enforcement officer (Police inclusive) to Arrest, Search, Seized and Prosecute any person found breaching the provision of this Act. Therefore, the cybercrime Act has enhance the efficacy of the Nigerian Police Force in policing the internet.

NIGERIAN COMMUNICATIONS ACT, 2003

The primary objection of this Act is to create and provide a regulatory framework for the Nigerian Communications Industry and all matters related thereto.² The Act further applies to the provision and use of all communications services and networks in whole or in part within Nigeria or on a ship or aircraft registered in Nigeria.³

IT is important to note that, some of the ICT tools used by the Nigerian Police in policing the internet can by extension come under the NCC Act 2003.

THE ECONOMIC AND FINANCIAL CRIMES COMMISSION ESTABLISHMENT ACT 2004

The Act mandates the EFCC to combat financial and economic crimes, the commission is empowered to prevent, investigate, prosecute and penalize economic and financial crimes.⁴ The EFCC has recorded success in its fight against financial crime since its inception. The commission which is chaired by a Police Officer has been using internet policing as one of its mechanism in achieving its desired goals. In recent case of EFCC V Isma'il Mustapha alias Mompha, the commission arrested and arraigned one suspected internet fraudster and social media celebrity Isma'il Mustapha and his Lebanese accomplice for money laundering of the sum of N33 billion. According to the acting chairman of the commission, Ibrahim Magu the arrest of Mompha and his Lebanese friend is a landmark achievement for the EFCC in its fight against cybercrimes.⁵

ADVANCE FEE FRAUD AND OTHER FRAUD RELATED OFFENCE ACT 2006

The advance fee fraud seeks to prohibit and punish advance fee fraud and other related fraud offences.⁶ The Act principally prohibits the act of obtaining money or property by false pretense. The Act further prohibits the laundering of funds obtained from any unlawful action under the act.⁷

It is important to note that the EFCC is responsible for enforcing the advance fee fraud and other fraud related offences Act. In enforcing the provisions of this Act, the EFCC is vested with the powers to investigate any person or corporate body to determine whether an advance fee fraud has been committed. The EFCC has recorded several convictions on advance fee fraud cases, prominent among these were the trial and conviction of some Nigerian scammers who had successfully defrauded a Brazilian bank of US\$242 million.⁸

MONEY LAUNDERING (PROHIBITION) ACT 2011

The money laundering Act prohibit the crime of money laundering, laundering the proceeds of crime as well as prohibiting the financing of terrorism.⁹ In addition fraud institutions are required to imbibe the culture of due diligence by obtaining vital information and demanding for valid identification such as National ID, Driver's

¹ Sections 3 & 4 of the Cybercrime Act 2015

² Sec 1 of the Nigerian Communication Act 2003

³ Sec 2 Ibid

⁴ <https://effcnigeria.org> access 22/4/20

⁵ <https://www.channelstv.com> access 22/4/20

⁶ Section 2 of the Nigerian advance fee fraud Act 2006

⁷ Section 7 Ibid

⁸ Uchenna J O, Curbing advance fee fraud in Nigeria: An analysis of the regulatory framework and contemporary challenges international company and commercial law review <https://www.researchgate.net> access 22/4/20

⁹ Section 1 money laundering (prohibition Act 2011)

License etc.¹ Section 6 of the Act provides for a special surveillance on certain transactions, while section 11 prohibits of numbered or anonymous accounts.

Note that, the EFCC is responsible for the enforcing of the provisions of the money laundering Act. And in doing so, the commission has adopted internet policing in detecting, controlling and preventing money laundering in Nigeria.

NIGERIAN FINANCIAL INTELLIGENCE UNIT ACT 2018 (NFIU)

The NFIU is considered as the Nigerian arm of the global financial intelligence unit which was before now domiciled in the EFCC. The NFIU is empowered to received currency transactions reports, suspicious transactions report, currency declaration reports and other information relating to money laundering and terrorist financing achiest from financial institutions and designated non-financial institutions.² It is also empowered to maintain a comprehensive financial intelligence database for information collection, analysis and exchange with counterpart FIUs and law enforcement agencies around the world.

Note that, the current NFIU is domiciled in the Central Bank of Nigeria but remained autonomous and independent. The unit can also refer cases of non-compliance to law enforcement and regulating authorities when there is extensive non-compliance or little expectations of immediate or future compliance.³ Hence the internet policing has contributed immensely in monitoring and prevention of money laundering and terrorist financing in Nigeria.

CHALLENGES OF IMPLEMENTING INTERNET POLICING IN NIGERIA

Some of the challenges of implementing internet policing in Nigeria are as follows:

- a) **Absence of a comprehensive legal and regulatory framework on internet policing in Nigeria:**
Currently we don't have a specific legislation on internet policing in Nigeria, this has affected the development and operational use of this great innovation. All the laws discussed above are not directly or specifically on internet policing but by extension related to internet policing in Nigeria.
- b) **Lack of adequate ICT tools and manpower:**
The inadequacy of the ICT tools using in policing the internet is a great challenge in Nigeria. And hence the rate of crime kept increasing in the country. Also there are inadequate police officer or law enforcement officers that are highly experience on internet policing in Nigeria. This has affect the smooth running of internet policing in Nigeria.
- c) **Problem of power supply and network failure:**
This is a major challenge to internet policing in Nigeria.
- d) **Corruption**
This is one major virus affecting the Nigerian Police Force and other law enforcement. And this has actually affected the implementation of internet policy in Nigeria.

CONCLUSION

The only answer to the current cyber insecurity in Nigeria is the internet policing. The internet policing will help in detecting, controlling and preventing any cybercrime or securing threat by any group or individuals.

Therefore, the Nigeria government should as a matter of urgency transform the entire Nigerian Police Force and even other law enforcement into a fully ICT compliance by fully adopting internet policing in all command of the Nigerian Police Force. The National Assembly should also promulgate law specifically on internet policing which will help in enhancing the efficacy of policing the internet in Nigeria.

¹ Section 3 Ibid

² Olalekan A, Buhari Signs NFIU Act, separates unit from EFCC <https://punching.com> access 22/4/20

³ <https://www.nfiu.gov.ng> access 23/4/20