

4. Techno Legal Support for E-Governance and Implementation Challenges in Ghana

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Abstract:

The Government of Ghana has taken various steps and initiative to provide speedy and quality services to Ghanaians through e-governance but in our legalistic societies, the success of e-governance depends of the availability of legal frameworks and policies. The objective of the study to review and understand the various legal policies and framework that support e-governance in Ghana as well as the challenges of implementing e-governance initiatives. To satisfy the objectives, secondary data were retrieved, reviewed and used for the study. The findings of the study indicate that several polices and frameworks support e-governance in Ghana but their implementations are burdened with social, cultural, political and legal constraints. The study provides some recommendation that is necessary to tackle the challenges of e-governance implementation.

Keywords:

E-governance, policies, legal frameworks, Ghana, Government of Ghana

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Introduction:

The internet has had tremendous impact on societies of today. It has served as catalyst and sped up innovation, coordination, collaboration and creativity (Misuraca et al, 2012). The internet has provided development opportunities in economic, social-cultural, political and environmental aspects of modern society (Bonsu, Misuraca et al, 2012). The European Commission expressed that the internet and its relative importance in society today could not have been predicted in the past two decades. The internet has enhanced connectivity all around the globe (European Commission, 2009).

Bhatnagar (2014) defines e-governance as the application of Information and communication Technology (ICT) as a means to improve governance. E governance is defined by Backus (2001) as the application of electronic means in the interaction between government and citizens and government and businesses, as well as in internal government operations to simplify and improve democratic, government and business aspects of Governance. E-governance goes beyond just a government website on the Internet (Backus, 2001). Gupta and Jana in evaluating the importance of e-governance suggested that, for any country to have better governance, e-governance must be considered as a necessity and not just as an option (Gupta and Jana, 2003). This explains the relevance and need for implementing e-governance particularly in developing countries.

According to Norris (2001), e-governance has led to simplicity in government processes and has improved the effectiveness of these processes. Transparency and participation in governance has seen tremendous improvement with the inception and adoption of e-governance (Norris, 2001). For Rubel (2014), e-governance promotes simple, moral, accountable, responsive and transparent (SMART) governance. The advantages enjoyed for the implementation of e-governance include the opportunity to: (i) computerize governance tasks and procedures in order to support the integration of staff experiences and organizational knowledge and goals; (ii) enhance interactions and information sharing between government and citizens as well as between government and corporate organizations; (iii) reform public services to improve efficiency and simplicity of internal government operations; (iv) improve transparency and efficiency in the delivery of government products and services; (v) decrease bureaucracy, reduce corruption and increase trust between the public and government Schuppan (2009).

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Schuppan (2009) opines developing countries do not enjoy the full benefit of e-governance as they have not taken the advantage of implementing e-governance. To him, most developing countries are in the initial state of e-governance implementation. The complex political administrative systems; demographic and social factors such as poverty and illiteracy; as well as lack of essential resources such as computers, the Internet and electricity infrastructure impedes the implementation of e-governance in developing countries (Schuppan, 2009). Nevertheless, some developing countries have made headways in the implementation of e-governance (UN, 2014). Tanzania, Kenya and Ghana have made significant strides in the application of e-governance for advancing their governance systems (Schuppan, 2009; UN, 2010; UN, 2008).

In our legalistic societies, laws are framed to regulate the activities of man in relation to one another and the environment. In the same view, there are legal laws, policies and framework that underpin the implementation of e-governance and e-governance initiatives. According to Sharon (2008), policies frameworks that support e-governance serve as the legitimizing foundation of e-governance. Thus, the strength of e-governance depends of the availability of legal policies and framework. Legal policies and frameworks provide the goals of e-governance determine the responsibilities of stakeholders and authorities and allocate resources. According to Sharon (2008), policies are essential as they give direction to e-governance by spelling out the goals, specifying the conditions and rules for gathering, using, sharing and protecting of information by individuals, government and the private sector. The objective of this study is to review and understand the various policies and frameworks that support e-governance in Ghana and the challenges with respect to the implementation of e-governance.

Methodology:

The objective of the study is review, assess and understand the legal policies and frameworks that serve as the bedrock on which electronic governance is implemented in Ghana. Secondary data forms the main component and content for the analysis of the study. For review of literature, various secondary sources of data include websites of the Government of Ghana, magazines, journals and newspapers were referred.

Policies and legal frameworks supporting e-governance in Ghana:

To ensure the effective implementation of e-governance activities, appropriate policies and laws are required. These ensure the appropriate definition of roles and responsibilities for officials involved in the delivery of e-governance services as well as what would be expected of the populace who might access the information provided (Gant, 2008). The Parliament of Ghana as well as various government ministries have taken steps to support the smooth and successful implementation of e-

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governance projects in the country (Frempong, 2010). Notable examples of policies and laws regulating e-governance activities in Ghana include the following:

- National Telecommunication Policy (2005)
- National Information Technology Agency Act (2008), Act 771
- National Communication Authority Act (2008), Act 769
- Electronic Transaction Act (2008), Act 772
- Electronic Communication Act (2008), Act 775
- Ghana Information and Communication Technology for Accelerated Development (ICT4AD)
 Policy (2003).

The sections that follow will discuss these specific policies and legal frameworks and how they have helped to advance e-governance in Ghana as well as the challenges of implementing e-governance.

National Telecommunication Policy (2005):

The National Telecommunication Policy, established under the Ministry of Communication in 2005, has the primary objective of providing to citizens, businesses and public entities high quality and affordable Internet and communication services with the hope of making Ghana a knowledgebased society with technology-driven economy (Ministry of Communications, Ghana, 2004). It sets out the framework to be adopted to help the communication sector to achieve the vision and mission of the policy. The specific objectives outlined in the policy touches on key areas such as the universalization of access to telephone, Internet and multimedia services to all communities and population groups in Ghana by 2010 (Ministry of Communications, Ghana, 2004). Although some advancement has been made with regards to the objectives of the policy, a large number of the population still do not have access to the Internet and telephone. Another objective had to do with increasing the national penetration of universal telecommunication service to reach 25% of the population including at least 10% in rural communities by 2010. This was to make the Internet available to all schools, hospitals, government offices as well as public and community broadcasting stations at affordable prices especially to the low-income sections of the population (Ministry of Communications, Ghana, 2004). It was also to make the telecommunication sector serve as a profitable investment opportunity for businesses in all segments of the markets so as to make Ghana a first-class hub for international telecommunication and information industry investment and a leader in the transformation of Africa (Ministry of Communications, Ghana, 2004).

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Liberalization in the telecommunication industry also gained much significance in this policy. It sought to pave way for private entities to penetrate into Ghana's telecommunication market thereby boosting competition and quality of services to the customers. Furthermore, the establishment of the Ghana Invest Fund for Telecommunication was to enhance and promote the objective of universal access to universal services through financial contributions from the telecommunication sector licensees. Areas such as consumer protection, fraud prevention and privacy protection were all considered in the policy (Ministry of Communications, Ghana, 2004).

National Information Technology Agency Act (2008), Act 771

The NITA Act was passed into law by the Parliament of Ghana to constitute a legal framework supporting the establishment of NITA to regulate ICT activities in the country (National Information Technology Agency, Ghana, 2008). This Act established the Agency as an institution exhibiting all characteristics of a corporate body such as the right to sue and be sued. The regulation of ICT activities, and the promotion of standards of efficiency and quality service provisions are the main objectives of NITA (National Information Technology Agency, Ghana, 2008).

For the achievement of the aforementioned objectives, NITA acts as the certifying body under the Electronic Transaction Act of 2008. NITA also oversees the implementation of the nation information communication policy, by issuing trading licenses and ensuring fair competition among license holders. The agency also deals with matters concerning domain names especially those that have to do with domain name registration. The agency, after its establishment, has helped to enhance the pace of technology development in Ghana as well as promote standards in the quality of services delivered by the operators (National Information Technology Agency, Ghana, 2008).

National Communication Authority Act (2008), Act 769

Enacted by the Parliament of Ghana, the NCA Act provides a foundation for regulating the future of the ICT industry in Ghana. The NCA, which was established by this Act, is the central body for the licensing and regulation of ICT activities and services in the country (National Communication Authority, Ghana, 2008c). NCA was established as a corporate organization to perform specific functions to promote the communication sector. These functions include: (i) establishing, monitoring and implementing communication standards and compliance; (ii) granting communication licenses and formulating strategic plans; (iii) classifying communication services into groups such as closed user group services, private communication services, value added services, and any other services designed and published in Gazette (National Communication Authority, Ghana, 2008c).

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Other functions of the NCA include frequency authorisation for radio stations, establishing frequency plan and monitoring frequency of the communication industry, ensuring compliance with the principle of good corporate governance and establishing and managing a national numbering plan for networks and application services (National Communication Authority, Ghana, 2008c). NCA also serves as the body responsible for resolving grievances between communication service operators and users.

Electronic Transaction Act 772 and Electronic Communication Act 775 (2008)

These Acts were enacted by the Parliament of Ghana to regulate specific functions in the field of telecommunication. The Electronic Transaction Act (ETA) was aimed at providing a legal framework for the regulation of electronic communication and related transactions (National Communication Authority, Ghana, 2008b). On the other hand, the Electronic Communication Act was enacted to regulate electronic communications, electronic broadcasting, the use of electro-magnetic spectrum and related issues (National Communication Authority, Ghana, 2008a).

The objective of the ETA was to facilitate electronic communication and related matters in the interest of the public and to remove barriers to that effect. Moreover, the Act promotes public confidence in the use of electronic communication and transactions, as well as promote egovernment service usage in public and private institutions and also by the citizens (National Communication Authority, Ghana, 2008b). Importantly, the ETA aims to: (i) develop a safe, secure and effective environment for the consumer, businesses and the government to use electronic resources; (ii) promote the development of electronic transaction services responsive to the user; (iii) promote compliance with accepted international technical standards in the development and provision of electronic communication transactions (National Communication Authority, Ghana, 2008b).

Ghana Information and Communication Technology for Accelerated Development (ICT4AD) policy (2003)

The ICT4AD policy was developed for the realization of the vision to transform Ghana into an information-rich knowledge-based society and economy through the development, deployment and exploitation of ICT within the economy and society (National Communication Authority, Ghana, 2003). The policy takes into account aspirations and provisions of key socio-economic development frameworks in the country, including Vision 2020, the Ghana Poverty Reduction Strategy (2002-2004) as well as the 2003-2012 Co-ordinated Programme for the Economic and Social Development of Ghana (National Communication Authority, Ghana, 2003).

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The ICT4AD policy statement defines a broad roadmap for developing ICT environments in Ghana and also provides a basis for promoting socio-economic development in the emerging information, knowledge and technological age (National Communication Authority, Ghana, 2003). The specific objectives outlined in the policy statement include the following: (i) to create the enabling environment to facilitate the deployment, utilization and exploitation of ICTs in the economy and society; (ii) support the development of viable knowledge-based ICT industry to facilitate the production, manufacturing, development, delivery and distribution of ICT products and services; (iii) to aid a process of the development of national human resource capacity research and development to meet the changing needs and demand of the economy (National Communication Authority, Ghana, 2003).

Others include: (i) the development of educational systems that use ICT to enhance the delivery of education services at all levels; and (ii) the effective implementation of ICT in health service delivery. The ICT4AD policy considers ICT as an enabler of government administration and service delivery, as well as a facilitator of e-government and e-commerce initiatives. The policy also acknowledges the important roles of ICT in the provision of government services, helping to bridge the gap between the government and the people and facilitating the implementation of government decentralization programmes (National Communication Authority, Ghana, 2003).

It also demonstrates a commitment of the government to use ICT to support the operation and development of civil services and the provision of services to the citizens. All government ministries, departments and agencies, public sector organisations, and trade and labour organisations have been identified as key stakeholders in the implementation of this e-governance project. Overall, the ICT4AD policy statement is an important initiative helping to promote the implementation of e-government activities in Ghana (National Communication Authority, Ghana, 2003).

Challenges of implementing e-governance in Ghana:

Policy implementation is an important element in the policy process (Dye, 2016; Lindblom and Woodhouse, 1993) and bridges the gap between policy statement and policy operations. It has objective of transforming the goals and objectives of the government as outcomes and outputs. According to Dye (2016), the success of public administration and governments depends on policy implementation. He stressed further that irrespective of how good the political system prevailing, sound administrative systems coupled with nobleness of policy goals, a policy is bound to fail if its implementation does not correspond with the intentions and ideas of the policy makers (Dye, 2016).

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Notwithstanding the relative importance of policy implementation, several challenges are met in the implementation of policies. For Wimmer and Bredow (2002), the challenges confronted during the implementation phase of e-governance can be discussed under the political, socio-cultural and legal challenges. Similar approaches to the challenges for e-governance implementation were outlined by Hwang et al. According to their definition, as in agreement with the views of Wimmer and Bredow, the challenges could be legal, cultural and political and they go a step further to include the technical challenges encountered in the implementation of e-governance (Hwang et al, 2004). According to Dye (2016), the constraints of policy implementation can be grouped into three. These according to him include insufficient autonomy and flexibility, bureaucratic tendencies and the lack of skills on the part of the bureaucrats and finally institutional challenges such as lack of resources and personnel (Dye, 2016).

In his seminar presentation on 'the challenges of taking baby steps: advancing e-governance beyond readiness in Sub-Saharan African', Boateng (2012) expressed that though some success have been achieved in the implementation of e-governance, there is still more to be done as there exist a wide gap between the policy statement and what is actually implemented. He accounted for this gap to be as a result of the challenges in the effective implementation of e-governance (Boateng, 2012). These challenges according to him include; insufficient resource of implementation agencies, poor public awareness and knowledge as a result of poor promotion and marketing of e-governance projects and initiatives (Boateng, 2012).

In the context of the Ghanaian society, the prevalence of high illiteracy, bureaucratic tendencies of implementation agencies, poor mass awareness of e-governance project, poor citizen participation and lack of interest hinder the effective implementation of e-governance initiatives. Other challenges are; insufficient resources and lack of skill personnel/ technical know-how, the culture of the Ghanaian society and the politicization of e-governance projects also serve as obstacles to the implementation and achievement of policy objectives that pertains to e-governance in Ghana. Low compliance on the part of the public and leniency on the part of the implementation authorities also pose a challenge to the effective implementation of e-governance initiatives and associated policies.

Conclusion:

The need for governance to meet the needs of citizens and provide speedy and high quality services to citizens has resulted in a dynamic shift in governance particularly in the democratic settings. Egovernance, the new phase of governance has the objective of enhancing simple, moral, accountable, responsive and transparent governance. For the achievement of the objectives of e-governance, legal

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policies and framework are essential to serve as the bedrock for the effective implementation of e-governance initiatives. The findings of the study indicate that several policies and frameworks that pertain to e-governance exist in Ghana but their implementations are burdened with constraints which need to be addressed to fully reap the benefits of e-governance.

The study recommends that implementation agencies must be well resourced in material, financial and personnel resources, mass awareness must be generated through promotion and marketing of egovernance initiatives and policies, the need to educate citizens on e-governance policies and initiative to increase citizen participation and interest, extension of information and communication technology infrastructure to the rural poor who serve as the mass of the population.

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