

REGULATORY OVERVIEW OF ARTIFICIAL INTELLIGENCE: POSITIONING AFRICA FOR ITS BENEFITS

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INTRODUCTION

Artificial Intelligence (‘AI’) does not have a universal definition; however, it could be briefly described as man-made synthetic intelligence that is powered by technology and trained to mimic human intelligence at various capacities for problem solving and task optimisation among other designated purposes. Over the last 4 years, the technology has experienced exponential utility across the world due to the emergence of AI consumer products such as OpenAI’s ChatGPT, X’s GrockAI, Meta’s Llama and Google’s Bard, to name a few.

Consequently, the widespread adoption of the technology triggered ethical concerns and discussions surrounding policy and regulatory controls. In response, different countries and multinational organisations have outlined various AI strategies, principles and legislation in some cases. The African Continental Free Trade Area (‘AfCFTA’) Agreement created the largest single market in the world, and it intends to leverage AI through its Digital Trade Protocol and the African Union’s AI strategy for its benefit.

This article will explore the latest regulatory and technical developments in AI across the world and identify the most suitable approaches for the AfCFTA and its member states to benefit from the technology’s potential to solve many of the continent’s longstanding problems.

BRIEF BACKGROUND

The history of AI was briefly covered in a previous article titled ‘Artificial Intelligence: What Does This Mean For Nigeria And Africa?’. However, it is important to note that since then, many developments have occurred, such as the creation of various AI strategies for adoption. AI strategies are detailed plans that outline how organisations or countries will use AI to achieve their business, development, social, and economic goals. As a result, the African Union (AU) developed a continent-wide AI strategy. The AU Continental Strategy on AI encouraged African nations to develop their own national AI strategies and governance mechanisms in line with its provisions to address AI-related risks and to maximise its benefits. Countries like Mauritius (2018), Tunisia (2018), Ghana (2022), Egypt (2021 first edition), Ethiopia (2020), Benin, Rwanda, and Senegal (2023) had already completed either draft or final AI strategies before this; meanwhile, Nigeria, Zambia, Egypt (2nd edition), Kenya, and Lesotho have published their drafts and final strategies afterwards.

Artificial Intelligence is built on existing datasets that are fed into a machine learning program which is trained by AI technology experts for expected outcomes. This process highlights the crucial importance of data to the technology’s utility and subsequent development; as such, data protection legislation and authorities are crucial establishments that African countries should have to safeguard against the misappropriation of the personal data of Africans by technology firms as they develop their AI models.

DATA PROTECTION AS A COMPONENT OF AI IN AFRICA

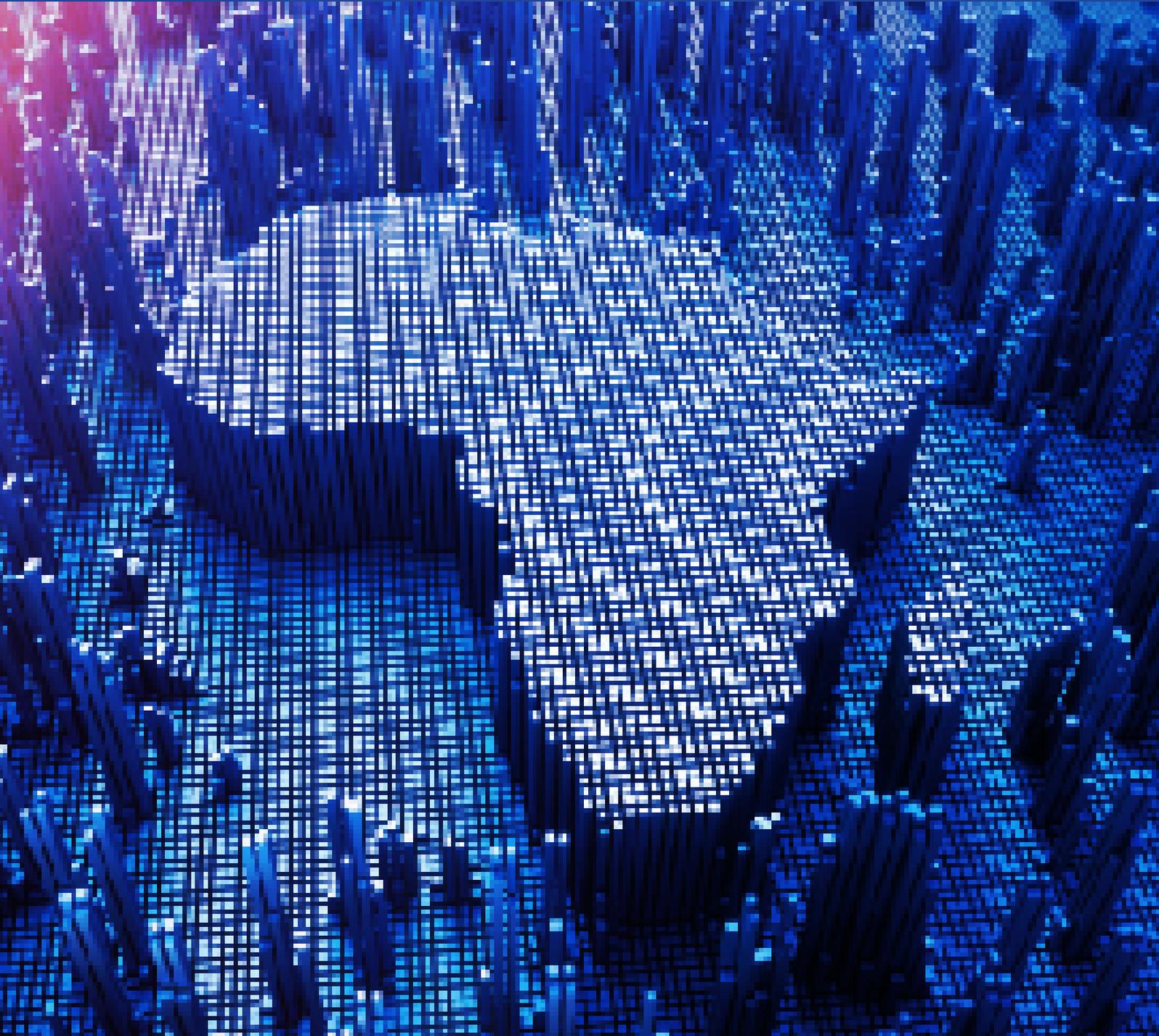
As referenced earlier, datasets constitute the smallest units of information used to train an AI model; and such data is collected and stored, after which it can be managed, processed or transferred. In the age of the 4th industrial revolution, data is considered an invaluable resource by several countries around the world, to the extent that they have data protection laws and institutions established to guide the collection, storage, management, processing or transfer of data flows from within and outside their territories.

Data as a component of AI technology adoption connotes the importance of data protection legislative Acts and data protection authorities in Africa, for the protection of the integrity of the datasets fed into AI systems. Personal data of citizens is the primary form of data that states regulate through their different data protection mechanisms. AU members vary in levels of development in this sector, which is reflective in 40 out of 55 African countries having data protection laws, while 34 of the 40 have established data protection authorities; and only 5 countries have data protection laws without authorities, while up to 15 countries remain without data protection laws².

The disparities in levels of integration and development in this sector present a challenge to the harmonisation of data protection laws across the African continent.

² Tech hive advisory 'Roundup on Data Protection in Africa – 2024 https://cdn.prod.website-files.com/641a2c1dcea0041f8d407596/67e51af4813be0d929d4b8ee_Roundup%20on%20Data%20Protection%20in%20Africa_%202024%20.pdf

THE AFRICAN UNION CONTINENTAL AI STRATEGY



In July 2024 the African Union (‘AU’) published Africa’s first continent-wide AI strategy, and it was developed with the continent’s context in mind by adopting an inclusive approach around five focus areas, namely, harnessing AI’s benefits, building AI capabilities, minimising risks, stimulating investment and fostering cooperation.

The strategy identifies fifteen (15) action areas to be considered by member states when adopting AI, some of which include:

- The establishment of AI governance systems and regulations at regional and national levels.
- The adoption of AI in the public sector toward efficient service delivery to citizens, businesses and others.
- The acceleration of the adoption of AI in line with core areas of Agenda 2063 and the Sustainable Development Goals (SDGs) and the sectors of socio-economic value and importance like agriculture, education, health, culture, climate change and adaptation.
- The adoption of AI for the private sector, including small and medium enterprises.
- the creation and facilitation of a conducive environment for a vibrant and inclusive AI startup ecosystem.
- An assurance of the availability of high-quality and diverse datasets for indigenous AI models to be built efficiently. Building the underlying infrastructure for AI, such as high-performance computing platforms like data centres and cloud services, while leveraging regulatory sandboxes for this purpose.
- The prioritization the integrity of information, media and information literacy.
- A focus on the promotion of AI skills and talent within education systems and workplaces within populations for upskilling and reskilling programmes and requirements for jobs at risk.
- The promotion of research and innovation in AI through partnerships between academia and the private and public sectors for the development of challenge-driven AI research in priority areas through collaboration between the research community and public and private sectors.
- The adoption and implementation of ethical principles for AI that respect human rights and international human rights law, diversity and inclusivity of African culture and values, the promotion and protection of children from the potential negative side-effects of AI as Africa is a young continent. As well as exact the responsible use of AI with respect for intellectual property rights and addressing potential societal and legal implications.
- The adoption and implementation of technical standards to ensure the safety and security of AI systems on the continent.
- The acceleration of public private investment in AI on the continent.
- The promotion and guaranteed support of regional cooperation and coordination by engaging stakeholders from academia, civil society, media, governments and the private sector to maximise the benefits and minimise the risks associated with adopting AI.
- The provision of accelerated African participation in global AI governance.
- The promotion of AI-related partnerships between Africa and the rest of the world toward acquiring financial and technical resources for AI development in Africa.

The AU's strategy allows for self-determination of AI adoption at the national and regional levels for the benefit of Africa, with the prioritisation of social and economic value-creating

projects on the continent. Furthermore, it gives due consideration to Africa's diversity and unique cultures in anticipation of their representation on the AI platform through integrous and indigenous datasets.

SOME AFRICAN COUNTRIES WITH AI STRATEGIES AND HOW THEY WERE DEVELOPED

Mauritania, through the Ministry of Digital Transformation, Innovation and Monetisation of Administration, developed the National AI Strategy for the period of 2025 to 2029. The strategy aims to promote the country as a key player in the AI field, promote economic growth, drive innovation, optimise public services, and enhance the competitiveness of the private sector.

The South African AI Strategy, developed through the Department of Communication and Digital Technologies, evolved a policy framework for developing a National AI Policy for the country, laying the foundation for a comprehensive National AI policy prioritising responsible and ethical AI development across all sectors.³

In August 2024, Nigeria, through the Federal Ministry of Communication, Innovation, and Digital Economy, in consultation with the National Centre for Artificial Intelligence & Robotics (NCAIR) and the National Information Technology Development Agency (NITDA), developed a draft National AI Strategy. The Strategy aims to leverage AI to address socio-economic challenges, drive economic growth and propel technological advancement.

Côte d'Ivoire have commenced the development of its National AI Strategy. Kenya, Mauritius, and Tanzania also commenced the development of their National AI strategies, policies, and guidelines, respectively. Furthermore, in April 2024, the Kenya Bureau of Standards (KEBS) launched the draft Kenya Standard Code of Practice for AI applications to assist organisations in developing and using AI responsibly. Similarly, the Tanzania Bureau of Standards (TBS) announced the development of AI Safety and Security Standards, which aim to address safety and security concerns related to AI.⁴

THE VALUE OF AI TO AFRICAN DEVELOPMENT UNDER THE AfCFTA

Under the African Continental Free Trade Area's (AfCFTA's) Protocol on Digital Trade, member states are committed to facilitating the adoption and regulation of emerging and advanced technologies, of which AI is listed as among those under Article 1 of the Annex on emerging and advanced technologies. Such adoption and regulations are subject to the distinct legitimate public policy objectives and essential security interests of member states, who are also to develop appropriate governance frameworks for the ethical, trusted, safe and responsible use of emerging and advanced technologies⁵. An overarching consideration of member states is the harmonisation of rules and adoption of common principles and standards for the seamless facility of digital trade on the continent.

³. Tesbee D. & Oloyede R. "Roundup on Data Protection in Africa – 2024" Tech Hive Advisory 2025

⁴. Ibid p.12

⁵. Protocol on Digital Trade, article 34



CHALLENGES AND RECOMMENDATIONS TOWARD THE ADOPTION OF ARTIFICIAL INTELLIGENCE IN AFRICA

The adoption of AI in Africa is not without its challenges, some of which include:

- **Insufficient Supporting Infrastructure:**

Critical digital infrastructure and other ancillary supporting infrastructure are currently insufficient to enable scalable AI solutions on the African continent.

Private sector investment along with support from foreign direct investment has the potential to significantly drive the development of the sector.

- **Data Availability and Bias:**

A significant number of African countries have difficulty with data collection and retention, which is critical to the development of AI, because they form the basis of quality datasets that are used to train AI⁶. Data scarcity, integrity and bias can lead to inaccurate predictions and perpetuate existing societal inequities.

The enactment and enforcement of data protection laws, regulations and standards across all stages of the data lifecycle among AU member states, has

the potential to solve the data availability issue. Further attempts at harmonizing data protection regimes regionally and continent-wide would play a significant part in solving this problem.

- **Skills Gap:**

A shortage of skilled AI professionals, including programmers, data scientists, and ethicists, is a major hurdle to AI advancement in Africa.

In view of the continent's challenge with retaining talent in STEM, government incentives could be made available to encourage talent.

- **Regulatory and Ethical Concerns:**

Ambiguous regulatory frameworks and ethical guidelines around AI use that lack context for the African narrative can create uncertainty and hinder adoption.

Intellectual property experts/professionals working alongside academia as part of a broader stakeholder engagement approach to defining Africa's narrative of AI would be a step in the right direction in this regard.

⁶ <https://mo.ibrahim.foundation/news/2020/addressing-data-gap-africa-ensure-progress-towards-achieving-agendas-2063-2030>

- **Cost of Adoption:**

The high cost of AI infrastructure and software, along with the need for specialised training, can be a barrier for many businesses and organisations, especially in developing nations.

While AI is considered capital-intensive, recent consumer models such as DeepSeek have proven that high capital expenditure is no longer necessary to leverage the technology's benefits. These mitigated thresholds significantly mitigate Africa's barrier to entry in.

- **Digital Divide:**

Unequal access to technology and internet connectivity, along with varying digital literacy levels, exacerbate existing inequalities and hinder AI adoption in underserved areas.

Such disparities while evident by varied degrees of internet penetration across various AU member states, among other factors.

- **Data Privacy and Security:**

Concerns about data privacy and security, particularly in the context of sensitive information like healthcare data, can create hesitancy towards AI implementation.

- **Lack of Policy and Governance:**

The absence of comprehensive AI

policies and governance frameworks can create uncertainty and hinder the development of AI ecosystems.

- **Job Displacement:**

Concerns about AI-driven automation and potential job displacement, particularly in industries with high unemployment rates, need to be addressed to ensure a smooth transition and create new opportunities.

Through upskilling the existing workforce, members of the workforce can afford to mitigate job displacements by acquiring skills in AI by learning how to use AI tools that optimise their work performance, among other things.

- **Energy Insufficiency:**

AI operates via a power-driven mechanism. Most African States are confronted with inadequate electrical supply, which in turn affects the level of productivity to be gained from the use of Artificial Intelligence.

International Public-Private Partnerships (International PPPs) present the most logical and collaborative solution to resolving Africa's long-standing energy problems. More so, with due consideration of renewable energy efforts, of which Africa has abundant resources.

CONCLUSION

Artificial Intelligence is nascent, yet it possesses the transformative potential for the development of Africa. Recent application of it across the agricultural, supply-chain logistics, pharmaceutical and financial sectors underscores AI's versatility as a tool capable of solving longstanding issues. To the extent that African countries adopt flexible policies, possess digital and energy infrastructure, sufficient funding and the soft skills to manage these resources efficiently, AI technology can become a force for good on the continent.

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