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Policy Brief

# **Towards A Rights-Respecting Artificial Intelligence Policy for Nigeria**

By Jake Okechukwu Effoduh  
November 2021

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## I. Key Points

Nigeria can be considered an artificial Intelligence (AI) champion on the African continent, being the first country in the region to institutionalize a National Centre for AI and Robotics (NCAIR); and the establishment of dedicated government institutions who are fostering a knowledge-based economy and promoting the research and development of AI systems in Nigeria. Nigeria is set to produce its first National AI strategy or policy.

A human-centric approach to data governance is imperative for a standardized set of data-protection rules, and to address ethical concerns around the collection, holding and processing of citizens' data. Nigeria's Data Protection Regulation (NDPR) provides a legal framework for the use and exchange of electronic data. Also, Guidelines for the Management of Personal Data by Public Institutions in Nigeria was also introduced by the National Information Technology Development Agency (NITDA). Whilst these are progressive rules, there is a need for a comprehensive National data legislation and an ombudsman for Nigeria's data governance.

A National policy on AI should prioritize the regard for Nigeria's democratic values; comply with Nigeria's constitutional principles; and help to meet the socioeconomic needs of the Nigerian people. The policy should maintain standards of algorithmic accountability, data protection, explainability of decision-making by machine-learning models, and the protection of the citizens' human rights from infringements. Nigeria's AI policy should emphasize the fundamental human rights provisions of the Nigerian constitution, particularly the right to privacy, non-discrimination, and the protection of the dignity of Nigerians. The policy should also align with supranational rights-respecting AI norms and standards that promote equality, inclusion, diversity, safety, fairness, transparency, and algorithmic accountability.

The sudden resort to AI and other digital technologies because of the COVID-19 pandemic has created new vulnerabilities for the data of Nigerians to be commercialized and even weaponized. Therefore, issues of algorithmic bias, loss of privacy, lack of transparency, and the overall complexity in getting Nigerians to understand how they are interacting with AI, require policy considerations. AI assessments by themselves should not be a basis for decisions due to the probabilistic nature of the predictions. Nigeria's AI policy should be critical about the extent that AI systems can be relied on in certain public sectors and should limit or justify the use of such technology in areas of law enforcement, criminal justice, immigration, and national security.

Nigeria should focus on the creation of easily accessible and affordable digital infrastructure, one that includes a spectrum of secure networks, computers, and storage capabilities which are required for the successful delivery of AI applications and services. The use of locally developed AI systems should be promoted whilst ensuring a transparent procurement process for AI systems from abroad. Such procurement process, if needed, should focus on mechanisms of algorithmic accountability and of transparency norms, with the opportunity for local knowledge transfer and long-term risk valuation.

With a median age of about 18 years, and a high unemployment rate, Nigeria should massively expand technology upskilling and reskilling efforts within the workforce to leverage the opportunities of the fourth industrial revolution, and to sustain the nation's labour economy.

## II. Background

Nigeria is set to produce its first National (AI) strategy. This strategy will activate Nigeria's desire to transform the nation by using AI for sustainable development as well deploying the technology's power to foster innovation, national productivity, and human welfare. Nigeria can be considered an AI champion on the African continent, being the first country in the region to institutionalize a National Centre for AI and Robotics (NCAIR);<sup>1</sup> and the establishment of dedicated government institutions who are fostering a knowledge-based economy, and promoting the research and development of AI systems in Nigeria.<sup>2</sup> The country also possesses a thriving pan-African AI ecosystem with several private actors, businesses and startups evidencing the use, deployment, and development of AI systems in Nigeria.<sup>3</sup>

Like the European Union's General Data Protection Regulation (GDPR),<sup>4</sup> Nigeria has its Nigeria Data Protection Regulation (NDPR)<sup>5</sup> to provide a legal framework for the use and exchange of electronic data. The Regulation seeks to capture international best practices regarding safeguarding the rights of natural persons to data privacy; fostering safe conduct of transactions involving the exchange of personal data; preventing manipulation of personal data; ensuring that Nigerian businesses remain competitive in international trade through the safeguards afforded by a just and equitable legal regulatory framework on data protection; and, ensuring that the Nigerian data protection framework is consistent with global best practices. A Guidelines for the Management of Personal Data by Public Institutions in Nigeria was also introduced by the National Information Technology Development Agency (NITDA)<sup>6</sup> in 2020. These regulations have provisions that directly or impliedly

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1 The National Centre for Artificial Intelligence and Robotics (NCAIR) was commissioned in Abuja on the 13th of November 2020 as a response to the directive for all agencies under the Ministry of Communications and Digital Economy to formulate practical strategies for enhanced implementation of the digital economy. NCAIR is now a digital laboratory for advancing skills development and innovation in AI. It is a special purpose vehicle under National Information Technology Development Agency (NITDA) to accelerate AI development in Nigeria.

2 The Ministry of Communications and Digital Economy, formerly known as Ministry of Communication Technology, was created to foster a knowledge-based economy and information society in Nigeria. The Ministry was created to facilitate ICT as a key tool in the transformation agenda for Nigeria in the areas of job creation, economic growth, and transparency of governance (Ministry of Comm Tech: <<https://www.comtech.gov.ng/the-ministry/about-the-ministry.html>>). The Federal Ministry of Communications and Digital Economy, in January 2020, partnered with IBM to provide Nigerians with over 280+ hours of free learning & 85+ courses on key emerging technologies like Artificial Intelligence and Blockchain. They launched a website viz: <https://www.digitalnigeria.gov.ng/> where Nigerians can register to learn Technology related courses to develop the capacity of Nigerians to use AI to solve problems in Nigeria. The Ministry published its National Digital Economy Policy and Strategy 2020 – 2030 (NDEPS), which is based on eight pillars for the acceleration of the Nigerian digital economy, namely: 1) Developmental regulation 2) Digital literacy and skills 3) Solid infrastructure 4) Service infrastructure 5) Digital services development and promotion 6) Soft infrastructure 7) Digital society and emerging technologies 8) Indigenous content development and adoption. Artificial Intelligence is referred to under Pillar 7: Digital Society and Emerging Technologies, as one of the emerging technologies that the ministry will act on. The focus under this pillar is to tie the development of the digital economy using AI with indices of well-being in the lives of ordinary citizens. In this respect, the strategy document outlines policy objectives and implementation strategies.

3 As of September 2021, there are about seventy-five (75) private organizations in Nigeria (businesses, start-ups, etc.) that are using, creating, or adopting Artificial Intelligence systems in their work. Paradigm Initiative, "Fact Sheet on Artificial Intelligence in Nigeria" (Jake Okechukwu Effoduh, September 2021) <<https://paradigmhq.org/report/factsheet-on-artificial-intelligence-in-nigeria/>>

4 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons about the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation). The GDPR was put into effect on May 25, 2018, and it addresses the transfer of personal data even outside the European Union (EU) and the European Economic Areas (EEA).

5 Developed by Nigeria Information Technology Development Agency, an agency of the Federal Government responsible for implementing the Information and Communication Technology (ICT) Policies of the Federal Ministry of Communications and the Digital Economy of the Federal Republic of Nigeria. They developed the NDPR to provide a legal framework for the use and exchange of electronic data. The NDPR was created pursuant to Section 32 of the NITDA Act, 2007. The Regulation seeks to capture international best practices regarding "Safeguarding the rights of natural persons to data privacy; Fostering safe conduct of transactions involving the exchange of personal data; Preventing manipulation of personal data; Ensuring that Nigerian businesses remain competitive in international trade through the safeguards afforded by a just and equitable legal regulatory framework on data protection; and, Ensuring that the Nigerian Data protection framework is consistent with global best practices." The Regulation applies to all transactions which require the processing of personal data irrespective of how the data is processed or intended to be processed in respect of natural persons in Nigeria; and natural persons residing in Nigeria or residing outside Nigeria but of Nigerian descent.

6 National Information Technology Development Agency (NITDA) was created in April 2001 to implement the Nigerian Information

extend to several aspects on the use of AI in Nigeria.<sup>7</sup>

Nigeria is entering into an era of “AI normative emergence”<sup>8</sup> as it is perhaps beginning to formulate more laws, policies and guidelines that will regulate the use and application of AI in Nigeria. Considering these proposed developments, Paradigm Initiative<sup>9</sup> is engaging key stakeholders in this area on the need for a rights-respecting AI policy for Nigeria.<sup>10</sup>

There is currently no national policy specifically dedicated to regulating AI in Nigeria. However, NITDA is leading some work in this area through the NCAIR and other stakeholders. There are however several federal ministries, departments, and agencies in Nigeria whose work engages the use of AI or other new technologies. They include the Ministry of Communication and Digital Economy;<sup>11</sup> the Federal Ministry of Science and Technology;<sup>12</sup> National Board for Technology Incubation;<sup>13</sup> National Information Technology Development Agency;<sup>14</sup> National

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Technology Policy and co-ordinate general IT development in the country. The Act (National Information Technology Development Act (2007) mandates NITDA to create a framework for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation of Information Technology practices, activities, and systems in Nigeria. Their role therefore is to develop, regulate and advise on Information technology in the country through regulatory standards, guidelines, and policies. Additionally, NITDA is the clearing house for all IT projects and infrastructural development in the country. It is the prime Agency for e-government implementation, Internet governance and general IT development in Nigeria. NITDA states that it is poised to actualize its mammoth mandate through strategic and inclusive stakeholder management, local and international partnership, and efficient utilization of resources in the interest of Nigeria. <<https://nitda.gov.ng/>>

7 For instance, Rule 2.1a of the Guidelines provides for the processing of personal data. It generally provides that, public institutions are under a duty to protect personal data in the event of processing, whether by automated means or not. By implication, a public institution employing AI-enabled automation to process personal data in its care may be held liable for any harm occasioned. Rule 2.3f introduces the requirement of consent before a data controller can make a decision that affects a data subject significantly, based on an automated decision system. Rule 2.9d provides that the privacy policy of public institutions should describe technical methods used to collect and store information. Finally, Rule 3.1b provides that no person shall be subject to automated decision making without a law of the National Assembly or the person’s consent.

8 Effoduh Okechukwu Jake, “7 Ways that African States are Legitimizing Artificial Intelligence” (OpenAIR, October 2020) online: <<https://openair.africa/7-ways-that-african-states-are-legitimizing-artificial-intelligence/#>>

9 Paradigm Initiative works to connect underserved young Africans with digital opportunities and ensures protection of their rights. Across regional offices in Cameroon, Kenya, Nigeria, Senegal, Zambia, Zimbabwe and beyond, Paradigm Initiative works to connect under-served African youth with improved livelihoods through digital inclusion and digital rights programs. <<https://paradigmhq.org>>

10 These stakeholders include experts on AI, law, human rights, and policy. The experts were invited from several government institutions and parastatals, academia, civil society, entrepreneurship hubs and think tanks. Paradigm Initiative is doing this through its Artificial Intelligence and Human Rights Project.

11 The Ministry of Communications and Digital Economy, formerly known as Ministry of Communication Technology, was created to foster a knowledge-based economy and information society in Nigeria. The Ministry was created to facilitate ICT as a key tool in the transformation agenda for Nigeria in the areas of job creation, economic growth, and transparency of governance (Ministry of Comm Tech: <<https://www.comtech.gov.ng/the-ministry/about-the-ministry.html>>). The Federal Ministry of Communications and Digital Economy, in January 2020, partnered with IBM to provide Nigerians with over 280+ hours of free learning & 85+ courses on key emerging technologies like Artificial Intelligence and Blockchain. They launched a website viz: <https://www.digitalnigeria.gov.ng/> where Nigerians can register to learn Technology related courses to develop the capacity of Nigerians to use AI to solve problems in Nigeria.

12 “The Federal Ministry of Science and Technology, established to centrally coordinate Research and Development (R&D) activities in Nigeria has the following broad mandates: 1) Formulation, monitoring and review of the National Policy on Science, Technology and Innovation to attain the macro-economic and social objectives... ; 2) Acquisition and Application of Science, Technology and Innovation contribution to increase agricultural and livestock production; 3) Increasing energy reliance through sustainable Research and Development (R&D) in nuclear, renewable and alternative energy sources for peaceful and development purposes; 4) Promotion of wealth creation through support to key industrial and manufacturing sectors; 5) Creation of Technology infrastructure and knowledge base to facilitate its wide application for development; 6) Application of natural medicine resources and technologies for health sector development; 7) Acquisition and application of Space Science and Technology as a key driver for economic development; and 8) Ensuring the impact of R&D results in the Nigerian economy through the promotion of indigenous research capacity to facilitate technology transfer.” FMST, “About the Ministry”, online: Ministry of Information, Communications and Technology <<https://ict.go.ke/about-the-ministry/>>.

13 National Board for Technology Incubation (NBTI) was established by the Federal Government of Nigeria to implement Technology Incubation Programme (TIP) in all the 36 states of the federal government. The Technology Incubation is a programme that involves business development process, and infrastructure for commercialization of new technologies. The NBTI is an agency under the Ministry of Science and Technology (<<https://www.nbti.gov.ng/>>)

14 National Information Technology Development Agency is a public service institution established by NITDA Act of 2007 as the ICT policy implementing arm of the Federal Ministry of Communication of the Federal Republic of Nigeria. The National Information Technology Development Agency (NITDA) is empowered, by Section 6 (a) of the National Information Technology Development Agency (NITDA) Act of 2007 to create a frame work for the planning, research, development, standardization, application, coordination, monitoring, evaluation and regulation

Office for Technology Acquisition and Promotion;<sup>15</sup> and the Nigeria Communications Commission.<sup>16</sup> Cross-River State, one of the country's thirty-six states, has also established its Ministry of Robotics and AI.<sup>17</sup>

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of Information Technology practices, activities and systems in Nigeria and by virtue of this, NITDA issued a Nigeria Smart Policy Framework to implement the Nigerian Smart Initiative whose primary aim is to ensure that smartly generated data within the country are maximally harnessed for Nigeria's digital transformation.

15 The Transfer of Technology in Nigeria is governed by the National Office for Technology Acquisition and Promotion Act. The Act established the National Office for Technology Acquisition and Promotion (NOTAP). The principal function of NOTAP pursuant to the provisions of the Act is to monitor the transfer of foreign technology to Nigeria. It also coordinates Nigeria's initiatives in technology transfer, evaluation and registration of technology transfer agreements, promotion of innovation, patenting and intellectual property, technology advisory and support services, commercialization of research and development results, research-industry linkage, production of compendium management information system, publication of project profiles on results, among others.

16 The Nigerian Communication Commission has a department called the Digital Economy department whose purpose is to promote the digital economic agenda of the Federal Government of Nigeria. The department is guided by the National digital economic policy and strategy which was developed to transpose the Nigerian Economy to take advantage of new technological advancements: National Digital Economy and Policy Strategy (June 1, 2020) <<https://www.ncc.gov.ng/docman-main/industry-statistics/policies-reports/883-national-digital-economy-policy-and-strategy>>. The policy has eight pillars which are intended to accelerate the growth of Nigeria's digital economy. Pillar seven (7) the Digital Society and Emerging Technologies pillar, focuses on developing digital economy to improve the well-being of people with emerging technologies including AI to attain the SDG goals.

17 In 2019, the Governor of Cross-River (a state in the southern part of Niger) announced the creation of the Ministry of Robotics and Artificial Intelligence. The purpose of ministry is to give exposure to innovative young people in the state to widen the scope of the Ministry of Science and Technology. (<<https://diutocoinnews.com.ng/governor-ben-ayade-of-cross-rivers-state-creates-new-minister-for-robotics-and-artificial-intelligence-in-the-state/3348/>>; <<https://www.premiumtimesng.com/regional/south-south-regional/369967-governor-ayade-creates-for->

## Why a Rights-Respecting AI Policy is Fundamental for Nigeria

AI-based technologies are becoming increasingly integrated into the modern life of many Nigerians and there is need to consider the ways in which such technologies impact on the fundamental rights of Nigerians. From the initial design; to the sale of the technology to Nigerians (where applicable); and then its ultimate end use, there are several ways that the use of AI may advance or undermine human rights protections in Nigeria.

Section 18 (2) of the Nigerian constitution stipulates the government’s policy direction towards the promotion of science and technology.<sup>18</sup> AI is one of the top priorities of policy agendas for many countries at both regional and international levels. This is because several State initiatives focus on using AI applications for their development and economic growth. Nigeria has demonstrated readiness to create a framework for the research, development, application, coordination, and regulation of AI systems as a tool in the transformation agenda for Nigeria in the areas of job creation, economic growth, and transparency of governance etc.<sup>19</sup> A National policy on AI is critical for the country and therefore it behooves the Nigerian government and other relevant stakeholders to think carefully about how this policy can be created to support an AI economy that will maintain standards like algorithmic accountability, data protection, explainability of decision-making by machine-learning models, and the protection of the citizens’ human rights from infringements, etc. The formulation of this AI policy requires an understanding of how AI and other related technology developments can be used to achieve Nigeria’s national goals and help solve a myriad of local problems ranging from food security to healthcare. Nigeria with its teeming youth population needs a policy that will manage the risks of potential job displacements and then conversely guide ways in which young people can participate in the new AI economy.

AI will have an impact on commercial transactions, and on how enterprises produce; how consumers consume; and how the Nigerian government will deliver services to citizens. The outbreak of COVID-19 has highlighted Nigeria’s dependence on digital technologies and networks for economic, health, educational, judicial, and even cultural endeavours. For example, in the past year alone, some judges had to resort to speech-to-text transcription in Zoom court sessions.<sup>20</sup> More broadly, Nigeria’s Federal Ministry of Aviation acquired two robots with AI features for use in improving passenger safety.<sup>21</sup> The robots are responsible for the identification and screening of passengers.<sup>22</sup> The sudden resort to AI and other digital technologies has also created new vulnerabilities for the data of Nigerians to be commercialized or weaponized.<sup>23</sup> Issues of algorithmic bias, loss of privacy, lack of transparency, and the overall complexity in getting Nigerians to understand how they are interacting with AI (and to trust the technology), require relevant policy considerations.

With so much at stake, it is essential that a rights-respecting AI policy is created to prioritize Nigeria’s democratic

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eign-affairs-ministry-for-cross-river.html Accessed on 26/08/2020>

18 Constitution of the Federal Republic of Nigeria, 1999.

19 Thisday Nigeria, “Enhancing Government Service Delivery with Technology” (October 14, 2021) <<https://www.thisdaylive.com/index.php/2021/10/14/enhancing-government-service-delivery-with-technology/>>

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

21 “Abuja Airport Deploys AI Robots To Scan Passengers, Take Body Temperature”, (28 June 2020), online: HumAngle <<https://humangle.ng/abuja-airport-deploys-ai-robots-to-scan-passengers-take-body-temperature/>>.

22 “Deploying identity management for air travel- The Nation Nigeria News”, (29 July 2020), online: Latest Nigeria News, Nigerian Newspapers, Politics <<https://thenationonlineng.net/deploying-identity-management-for-air-travel/>>.

23 (e.g., to spread misinformation and disinformation and create societal divides).

values and constitutional provisions, and to meet the socioeconomic needs and expectations of the Nigerian people. Policymakers can drive meaningful action with a rights-respecting AI policy that can promote the use of data in responsible and innovative ways to create a healthy AI ecosystem that is centred around the protection and the advancement of the human rights of Nigerians, right from the start.



## Recommendations: What Nigeria's AI Policy should consider

**A. An assessment of Nigeria's strategic priorities, strengths, and weaknesses:** This will require an evaluation of Nigeria's unique demographic needs, strategic priorities, urgent concerns, and resource constraints for the deployment of AI systems across the country. For example, if Nigeria's digital infrastructure is below capacity compared to its needs, then there is need to focus on the creation of easily accessible and affordable digital infrastructure such a spectrum of networks, computers, and storage capabilities required for the successful delivery of applications and services as well as the processing of data. The lack of data centers in Nigeria reduces the country's competing power against Big-tech companies. Therefore, an initial assessment and some strategic framings are a good starting point for an AI policy.

**B. Alignment with supranational rights-respecting AI standards:** A report published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in September 2021 outlines the human rights risks and implications of the widespread use of AI by governments and businesses alike, offering recommendations to mitigate these risks.<sup>24</sup> A moratorium was called on the use of AI technology that may pose a serious risk to human rights, such as the use of remote biometric recognition or real-time facial recognition technologies in public spaces.<sup>25</sup> Regional frameworks on rights-respecting AI are also significant and could be easily adaptable to the Nigerian parlance. In February 2021, the African Commission on Human and Peoples' Rights adopted a resolution on human rights, AI, and other new and emerging technologies in Africa.<sup>26</sup> The resolution emphasizes the need for sufficient consideration of African norms, ethics, values and communitarian ethos, in the development of new technological structures.<sup>27</sup> The Commission calls on African States to ensure that the development and use of AI is compatible with African regional human rights norms and standards of human dignity, privacy, equality, non-discrimination, inclusion, diversity, safety, fairness, transparency, accountability and economic development.<sup>28</sup> The Commission also resolved that all technologies that are imported from other continents into Africa should be made applicable to the African context and/or adjusted to fit the continent's needs, and peoples.<sup>29</sup> These are steps in the right direction.

**C: Concerns about the use of AI systems for some key sectors:** law enforcement, criminal justice, immigration, and national security: As several AI systems are deployed as forecasting tools, some algorithms are used to analyze large quantities of data, including historic data, to assess risks and predict future trends. Whilst these may seem cutting-edge, there are human rights issues that can emanate from the reliance on such AI systems. For example, predictive policing is a method of deploying law enforcement resources according to data-driven analytics that supposedly can predict perpetrators, victims, or locations of future crimes. By using historic and current crime data (including social media posts, communications data etc.), this can largely perpetuate racial and ethnic bias, discrimination, and inequality.<sup>30</sup> Such technology should not be used in Nigeria as a

24 United Nations Human Rights Council A/HRC/48/31 Forty-eighth session (13 September–1 October 2021) Annual report of the United Nations High Commissioner for Human Rights "The right to privacy in the digital age: Report of the United Nations High Commissioner for Human Rights"

25 Ibid.

26 African Commission on Human and Peoples' Rights, "473 Resolution on the need to undertake a Study on human and peoples' rights and artificial intelligence (AI), robotics and other new and emerging technologies in Africa- ACHPR/Res. 473 (EXT.OS/ XXXI) 2021" Available at: <<https://www.achpr.org/sessions/resolutions?id=504>>

27 Ibid.

28 Ibid.

29 Ibid.

30 Richardson, R., Schultz, J. M., & Crawford, K. (2019). Dirty data, bad predictions: How civil rights violations impact police data, predic-

substitute for community engagement and holistic crime reduction measures. Any AI system that will be used to create profiles of Nigerians or identify people as likely to carry out terrorist activity, or even flag individuals due to travel history or religious affiliation, can be prejudicial and derogate from the constitutional standard of presumption of innocence.<sup>31</sup> Any AI system that claim to deduce people’s emotional or mental state from their facial expressions could be highly susceptible to bias, discrimination, and false interpretations. AI assessments by themselves should not be a basis for reasonable suspicion due to the probabilistic nature of the predictions. Nigeria’s AI policy should be critical about the extent that AI systems can be relied on in certain public sectors or departments and should justify the choice of using such technology if deemed necessary.

**D: A human-centric approach to data governance:** Data is the fuel powering AI. Therefore, it is essential for the AI policy to support a standardized set of data-protection rules and address ethical concerns around the collection, holding and processing of citizens’ data. It is important to note that all data is in the past and is subject to change. Furthermore, there needs to be the deliberate promotion of mutual trust between the AI institutions and the Nigerians who are the data subjects and deserve to know how their data is collected, stored, processed, shared, and potentially deleted. Data privacy frameworks are important to peg some of the threats linked to the use of AI. And so, Nigeria’s AI policy could impose limitations on the type of data that may be inferred, used, and shared. For example, children’s data should require special protections. The special protection accorded to children within the EU’s GDPR;<sup>32</sup> as well as UNICEF’s Policy Guidance on AI for Children<sup>33</sup> are instructive here. Whilst the NDPR and the matching Guidelines from NITDA are progressive and commendable, they are largely insufficient in supporting Nigeria’s data governance and guaranteeing data privacy and protection in Nigeria. The NDPR will require periodic revisions, and more importantly, there is need for a comprehensive legislation that enforces a rights-centric data protection obligation for the benefit of Nigerians. Because the government is currently the largest data processor, Nigeria also needs an independent data ombudsman. The Data Protection Bill at the National Assembly proposes the establishment of a Data Protection Commission with enforceable powers, and a code of practice that ensures a rights-respecting data governance framework for Nigeria.<sup>34</sup> Although the bill is not exhaustive, this is a step in the right direction. Nigeria can become an empowered data society and a human-centric approach to data can help realise this.<sup>35</sup>

**E. Reinforcing the responsibility of the Nigerian State to protect citizens human rights, and the responsibility of businesses to respect these rights:** Nigeria’s AI policy should emphasize the fundamental human rights provisions of the Nigerian constitution,<sup>36</sup> particularly the right to privacy,<sup>37</sup> non-discrimination,<sup>38</sup> freedom of

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tive policing systems, and justice. NYUL Rev. Online, 94, 15.

31 Section 36 (5), Constitution of the Federal Republic of Nigeria, 1999.

32 Recital 38 notes that the use of a child’s data for marketing, creation of user profiles, or the collection of data when using services merits specific protection. The process of obtaining consent for children (and the validity of their consent) are governed by Article 8 of the GDPR.

33 As part of their Artificial Intelligence for Children Policy project, UNICEF has developed a guidance to promote children’s rights in government and private sector AI policies and practices, and to raise awareness of how AI systems can uphold or undermine these rights. The policy guidance explores AI and AI systems and considers the ways in which they impact children. It draws upon the Convention on the Rights of the Child to present three foundations for AI that upholds the rights of children: 1) AI policies and systems should aim to protect children. 2) They should provide equitably for children’s needs and rights. And 3) They should empower children to contribute to the development and use of AI. Building on these foundations, the guidance offers nine requirements for child-centered AI and provides tools to operationalize the guidance. “Policy guidance on AI for children”, online: <<https://www.unicef.org/globalinsight/reports/policy-guidance-ai-children>>.

34 Nigeria Data Protection Bill, 2020. [A Bill for an Act to establish the Data Protection Commission charged with the responsibility for the protection of personal data, rights of data subjects, regulation of the processing of personal data and for related matters]. Accessible here: <<https://www.ncc.gov.ng/documents/911-data-protection-bill-draft-2020/file>>

35 Empowered data societies are ones where the use of data is governed in a human-centric way, i.e., in a way that centres around the values, needs, and expectations of people, groups, and communities.

36 Chapter IV (4), Constitution of the Federal Republic of Nigeria, 1999.

37 Ibid, Section 37.

38 Ibid, Section 42.

expression,<sup>39</sup> and the protection of the dignity of Nigerians.<sup>40</sup> The AI policy should also underscore the applicable UN human rights principles on business activities,<sup>41</sup> as well as ensure compliance to the core documents that make up the International Bill of Rights.<sup>42</sup>

#### **F: Prioritizing local AI and ensuring a transparent procurement process for AI systems from abroad:**

Nigeria is one of the most technologically advanced countries in Africa but more than ninety per cent of the technological software used in the country is imported.<sup>43</sup> It is important to note that most of the AI systems operating within Nigeria are adopted, imported, or hosted from abroad. It goes without saying that local AI systems need to be promoted and prioritized especially where needed for public purposes. However, as the government (and other institutions) are increasingly seeking to capture the opportunities offered by AI from other jurisdictions, there is the need to use procurement processes that focus not on prescribing a specific solution but rather on outlining problems and opportunities and allow room for iteration. Conditions for a level playing field among AI solution providers should include the interoperability of AI solutions which should also require open licensing terms to avoid vendor lock-in. Also, the public benefit of using AI needs to be defined whilst also assessing its risks. The procurement process should focus on mechanisms of algorithmic accountability and of transparency norms, with the opportunity for local knowledge transfer and long-term risk valuation. Finally, a human rights impact assessment of every AI system needs to be carried out before its adoption into Nigeria.

**G: The need for AI Upskilling and Reskilling:** AI is transforming the workforce and its use is poised to increase in the decades ahead. With a median age of about 18 years,<sup>44</sup> and recording the second highest unemployment rate globally,<sup>45</sup> Nigeria must massively expand upskilling and reskilling efforts within its teeming workforce to leverage the opportunities of the fourth industrial revolution, and to sustain the nation's labour economy. NITDA's work with the Digital States Initiative<sup>46</sup> is promising and can be expanded. Also, Nigeria's AI policy can respond to the technological disruptions underway by encouraging AI training and labour innovation (including AI research and collaboration) across states and sectors. The policy could also recommend incentives for enterprises in Nigeria who do not automate jobs completely to maintain employment for Nigerians; or companies who upskill instead of displacing workers. Nigeria's education reform should also be an important aspect of this AI policy.

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39 Ibid, Section 39.

40 Ibid, Section 34.

41 For example, The United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (United Nations: New York and Geneva, 2011) HR/PUB/11/04. The United Nations Guiding Principles on Business and Human Rights is an instrument consisting of 31 principles implementing the United Nations' "Protect, Respect and Remedy" framework on the issue of human rights and transnational corporations and other business enterprises

42 The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 was followed by the agreement on two treaties: The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1966. ICCPR has 168 State Parties and the ICESCR has 164 State Parties. Collectively, these three instruments are known as the International Bill of Rights.

43 Knowledge Commons, Digital colonialism and the Internet as a tool of cultural hegemony; Michael Kwet, "Digital colonialism: US empire and the new imperialism in the Global South" (2019) 60:4 Race & Class 3–26.

44 Worldometer, Nigeria Population <<https://www.worldometers.info/world-population/nigeria-population/>>

45 Ruth Olurounbi, "Nigeria Unemployment Rate Rises to 33%, Second Highest on Global List" Bloomberg, 15 March 2021 < <https://www.bloomberg.com/news/articles/2021-03-15/nigeria-unemployment-rate-rises-to-second-highest-on-global-list>>

46 NITDA, Digital States Initiative <<https://academy.nitda.gov.ng/public/digital-skills>> The Digital States initiative, designed as one of the implementation strategies of National Digital Economy Policy and Strategy for a Digital Nigeria (NDEPS), is aimed at equipping Nigerian youths with the necessary digital literacy skills that can facilitate Nigeria's transition to the Digital Economy. It is expected that about 20,000 Nigerians will benefit from the programme.



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