

A HUMAN CENTRIC ARTIFICIAL INTELLIGENCE POLICY IN NIGERIA:

A CALL BY CIVIL SOCIETY TO THE NATIONAL CENTER
ON ARTIFICIAL INTELLIGENCE AND ROBOTICS



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October 2022

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Endorsed by:

1. Primus Geographical Institute
2. PROMAD Foundation
3. Tech Hive Advisory
4. Afrika Youth Movement
5. Impact Foundation For Youths Development
6. Brain Builders Youth Development Initiative (BBYDI)
7. Nkoro, Nkoro E., (CEO) Profbonny International
8. Internet Society(ISOC) Nigeria Chapter
9. The Messenger of Hope International Foundation
10. Violet Nwokeafor Wade, Sr Program Manager Oganihu Umuopara Foundation and President of Umuanya Development Foundation
11. DO (dotakeaction.org)
12. Nigeria Network of NGOs

Design & Layout:

Kenneth Oyeniyi, Communcations Assistant, Paradigm Initiative.

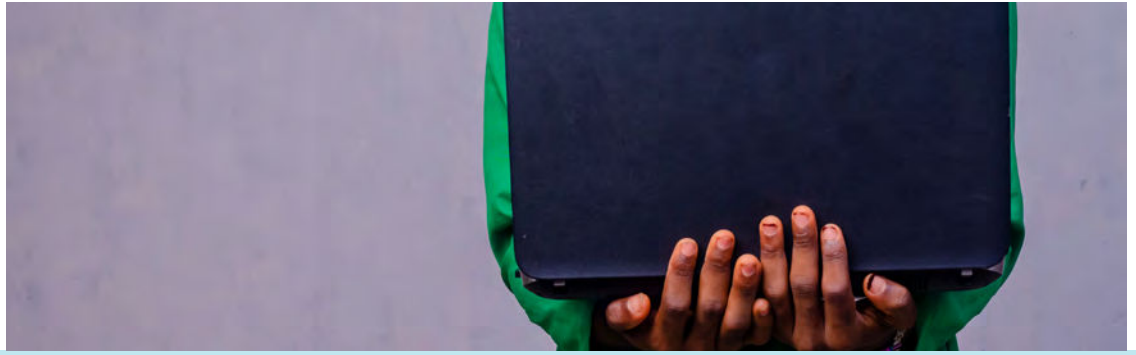


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1.0 BACKGROUND

Nigeria has experienced a boom in its technology ecosystems due to the fast-evolving economy brought about by digitization. The information, communications, and technology sector is the fastest growing in the country. The sector contributed 15 percent of the country's gross domestic product (GDP), second only to agriculture). A trend that has been seen over the last five years, with the sector growing by 18 percent between 2016 and 2019.¹ This sector boom has given Artificial intelligence technologies as a means to solve problems in everyday life, some of its most popular manifestations are in facial recognition, digital voice assistants, and others. Unfortunately, they are not without risk, leading several countries in recent years to adopt Artificial Intelligence (AI) policies, which are sometimes referred to as "strategies". These policies/strategies come with guidelines on how they intend to regulate algorithm-driven processes, support innovation and education in various sectors, and address the impact of the design and deployment of AI systems on people's lives.

It is our belief that safeguards for fundamental rights and freedoms need to be integrated into the design of national AI strategies. In order to accomplish this, it is essential for civil societies to participate in the development of national AI strategies, policies, and regulations in order to halt the use of AI to restrict online freedoms.

The current attempt by the (NCAIR) in Nigeria to develop a strategy is laudable as well as an important opportunity for civil society to participate in the development, governance, and implementation of the national AI strategy to ensure human rights are adequately protected.²

The purpose of this brief is to highlight key considerations and recommendations to be inputted into the National Artificial Intelligence Strategy for Nigeria after consultations with the undersigned organisations.

1 Center for Global Development (CGD), Nigeria's Tech Sector Could Benefit from More Managed Migration, <https://www.cgdev.org/blog/nigerias-tech-sector-could-benefit-more-managed-migration>, (Accessed October 10, 2022)

2 Let's Keep Artificial Intelligence On Our Agenda, <https://www.icnl.org/wp-content/uploads/2021-Bread-and-Net-ICNL-session-highlights-FINAL.pdf>, (Accessed September 20, 2022)

2.0 KEY CONSIDERATIONS

2.1 Human / digital rights

According to international human rights legislation, States are obligated to defend the human rights of everyone residing on their soil from infringements brought on either by their own policies or practices or by those of other parties, such as corporations or other people. All aspects of governmental practice and policy, especially those relating to Artificial Intelligence (AI) and the applications utilized by governments and other societal actors, must take into account human rights considerations.

In deciding how artificial intelligence will be governed in Nigeria, its effect on innovation, and the extent of the impact on people's lives, on labor, and other factors must be considered. It must be proven to respect human rights. The use of these systems must adhere to the rights emphasized in the Constitution, specifically: The AI systems must also uphold rights recognized by international agreements to which Nigeria is party to and by customary law. The Nigerian citizens must be the center and focal point of deploying the systems and measuring their impact. Although the importance cannot be overemphasized, some factors are highlighted as follows:

- I. Allows a broad guide that covers pressing human concerns
- II. Assists in eliminating the fear of 'Competitiveness or complementarity' in deploying AI systems
- III. Provides a suitable foundation for governance
- IV. Ensures stakeholder trust and ownership of the process
- V. It clearly defines the roles of each party. Citizen, User, government, businesses etc., including covering duties and responsibilities.

2.2 Legal instruments

The most important social concerns of AI, such as nondiscrimination and privacy, are covered under the human rights framework's broad spectrum of substantive and procedural rights. It is, therefore, a good candidate to serve as the framework for AI governance. Additionally, the international framework for human rights specifies and unambiguously defines the roles and obligations of both governments and the private sector in safeguarding and upholding human rights, as well as in addressing their abuses.

2.2. 1 National

I. Constitution

The Nigerian Constitution 1999, as amended, highlights a list of rights that the Nigerian government is duty-bound to protect. The fundamental human rights contained in the constitution of Nigeria are the Right to Life, the Right to Dignity of Human Person, the Right to Personal Liberty, the Right to Fair Hearing, the

Right to Private and Family Life, the Right to Freedom of Thought, Conscience and Religion, the Right to Freedom of Expression and the Press, the Rights to Peaceful Assembly and Association, the Right to Freedom of Movement, the Right to Freedom from Discrimination and then, the Right to Acquire and Own Immovable Property anywhere in Nigeria. Each of these rights can apply distinctly to the use of AI systems and their deployment.

II. Cybersecurity Act

The Cybersecurity Act is one that seeks to provide an effective, unified, and comprehensive legal, regulatory and institutional framework for the prohibition, prevention, detection, prosecution, and punishment of cybercrimes in Nigeria; ensure the protection of critical national information infrastructure; and promote cybersecurity and the protection of computer systems and networks, electronic communications; data and computer programs.

III. Bills to track - Digital Rights and Freedoms Bill / Data Protection Bill

Although these are bills that are yet to be passed, supporting and incorporating some of their aspects will improve the strategy.

The Digital Rights and Freedom Bill is intended to guard and guide internet users in terms of their freedom, safeguarding their rights, protection against any form of infringement, and provisions against Hate Speech online in Nigeria. The Data Protection bill will establish an independent Commission charged with the responsibility for the protection of personal data, rights of data subjects, regulation of the processing of personal data, and other related matters.

2.2.2 Soft law guidance

I. ACPHR resolution 473³

The African Commission on Human and Peoples' Rights (Commission), under its responsibility in Article 45 of the African Charter on Human and Peoples' Rights (the African Charter), at its 31st Extraordinary Session, held virtually in 2021 developed guiding principles for member states in the development and use of AI.

This was done in order to uphold human dignity, privacy, equality, non-discrimination, inclusion, diversity, safety, fairness, transparency, accountability, and economic development in the use of new and emerging technologies. The African Charter called on State Parties to ensure that the development and use of AI, robotics, and other new and emerging technologies is compatible with those rights and obligations. The resolution also exhorts State Parties to ensure that all artificial intelligence, robotics, and other cutting-edge technologies imported from other lands are adapted to the African context or tailored to meet the needs of the continent and to seriously take African values and norms into account when developing AI governance frameworks to address the current global epistemic injustice.

II. UN Guiding Principles on Business and Human Rights⁴

³ 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, <https://www.achpr.org/sessions/resolutions?id=504>, (Accessed September 18, 2022)

⁴ The Un Working Group On Business And Human Rights, The Un Guiding Principles On Business And Human Rights, https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro_Guiding_Principles-BusinessHR.pdf, (Accessed September 20, 2022)

The UN Guiding Principles on Business and Human Rights, a collection of principles for States and corporations to prevent and redress human rights abuses that may be committed in business operations, were unanimously accepted by the United Nations Human Rights Council in 2011. Wherever they operate, commercial companies have a significant impact on the human rights of communities, consumers, and workers. Three chapters, or pillars, make up the Guiding Principles: protect, respect, and remedy. Each outlines specific actions that governments and businesses can take to fulfill their respective obligations to protect human rights and provide remedies in the event that such violations do occur. When a right is infringed, victims must have access to an effective remedy, which is sometimes a step lacking in Nigerian systems. This is one of the essential foundations of the international human rights system.

III. UNESCO recommendation on ethics of AI ⁵

On the 23rd of November 2021, the General Conference of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), at its 41st session, adopted the recommendation on the ethics of artificial intelligence.

To the extent that they fall under the purview of UNESCO, the recommendation addressed ethical concerns pertaining to the field of artificial intelligence. It treats AI ethics as a methodical normative reflection built on a broad, all-encompassing, multicultural, and dynamic framework.

It advises Member States to implement the provisions of this recommendation by implementing the necessary actions, through state legislative or constitutional process and governing structures, giving effect to the principles and norms of the recommendation within their respective jurisdictions in accordance with international law, including international human rights law. It may be the most comprehensive documentation of AI to date. It emphasizes values and principles, areas of policy action, including ethical impact assessment data policy, the environment and ecosystems, gender, culture, education and research, health and social well-being, and others.

2.3 Principles to incorporate:

These ideals serve as the basis for the strategy's guiding principles when it comes to establishing legal norms and policy measures that encourage positive behavior. There is less potential for ambiguity and opacity when the ethics and principles that underpin our policies are made plain. Artificial Intelligence (AI) technologies should be strongly rooted in some common, fundamental human values, especially the international human rights legal framework. An established ethical framework must accompany the development of AI systems in order to direct their use. All those deploying the use of AI systems must adhere to these principles. The principles highlighted below are based on the UNESCO recommendations.

I. Proportionality

The deployment of an AI systems must not go beyond what is required to accomplish legal goals or objectives that are appropriate for a situation particularly where there is a risk of harm. In the event that harm to people may

occur, it must be measured to make sure that the harm is proportionate to the gain attempting to be attained. Additionally, additional steps must be made to guarantee that such harm won't occur.

II. Fairness and non-discrimination

This principle calls for an all-inclusive strategy to guarantee that the advantages of AI technologies are available and accessible to everyone, taking into account the particular needs of various age groups, gender, ethnic groups, and people with disabilities, among other disadvantaged, marginalised, and vulnerable people or people in vulnerable situations.

III. Safety and Security

Those deploying the use of AI systems must ensure that in its life cycle, it ensures the safety and security of people, the environment, and the ecosystems it might affect. It is important that safety and security risks are addressed, averted, and removed throughout the life cycle of AI systems.

IV. Right to Privacy and Data Protection

Throughout the life cycle of AI systems, privacy must be respected, safeguarded, and promoted because it is a fundamental human right that must be upheld in order to defend human dignity, autonomy, and agency. All data collected during the cycle of these systems must be done with the consent of all parties while being secure and protected.

V. Transparency

A necessary prerequisite for ensuring the respect, protection, and promotion of human rights, fundamental freedoms, and ethical standards, is frequent transparency and explicability of AI systems. Those who deploy AI systems must actively disclose what decisions are taken using the systems as well as any possible violations that may have come from them. These operators are encouraged to make transparency reports that disclose practices impacting fundamental rights. It should further include general format, scope, and user notification procedures. It's also beneficial to include a frequently asked question section that clarifies basic concepts.

VI. Human oversight

Although AI systems frequently have ease of use and effectiveness, there should always be some level of human monitoring. This helps to uphold ethical and legal responsibility for AI systems at any point in their life cycles, as well as in cases of remedy involving AI systems, physical people, or established legal entities. This sort of oversight has been noted by UNESCO to go beyond individual human oversight to include public oversight.

VII. Multi-stakeholder collaboration.

For inclusive approaches to AI governance, which allow the benefits to be shared by all and contribute to sustainable development, participation of various stakeholders throughout the life cycle of the AI system is required. Governments, intergovernmental organisations, the technical community, civil society, researchers and academics, the media, education, policy-makers, private sector businesses, human rights institutions and equality bodies, anti-discrimination monitoring bodies, and groups for youth and children are just a few examples of stakeholders. To make cooperation easier, open standards adoption and interoperability should be in place. Measures should be taken to

account for changes in technology, the emergence of new stakeholder groups, and to permit meaningful participation by marginalised groups, communities, and individuals. Where applicable, it is important to respect the self-governance of Indigenous Peoples' data.

2.4 Stakeholders

As stated above, AI systems are deployed in a vast number of sectors, and each of these sectors must be given due consideration in the deployment of these systems and consulted on the specific needs of each.

In Nigeria, certain Government agencies are necessary to carry along the process, some of which are the National Information Technology Development Agency (NITDA) and the National Human Rights Commission who are accountability holders for rights in the country at the moment with reporting lines to the United Nations Human Right Council (UNHRC). The National Assembly and its ICT committees are also key to carrying along in the process; as they make laws, they must understand the different components that could affect the laws being made. The ministry of justice, the judiciary, The Ministry of Communications, The Office of the National Security Adviser, and Law enforcement agencies are also necessary because of the role AI plays and could play in communications and national security. Civil Society remains a necessary player in the AI sector (hence this brief). Multisectoral users/citizens must also be taken into cognisance as AI affects education, agriculture, health sectors, and many more.

3.0 RECOMMENDATIONS

I. Research and impact assessment

Thorough research to appraise Nigeria's strategic objectives, strengths and capabilities in terms of AI is necessary. This will equip implementers of the strategy with the specific demographic requirements, strategic objectives, pressing issues, and resource limitations of Nigeria's installation of AI systems around the nation. Some considerations might be whether or not internet infrastructure is being utilised. Impact assessments must also be carried out on the deployment of these systems to reduce the possibility of safety and security risks.

II. Awareness, skill acquisition and literacy

There is often an awareness and skill gap in novel innovations such as this. However, through open and accessible education, civic engagement, digital skills and AI ethics training led jointly by governments, intergovernmental organisations, civil society, academia, the media, community leaders, and the private sector, this gap can be closed. It is important to increase public understanding of AI technologies and the value of data. In order to take advantage of the opportunities AI presents and maintain the country's labour economy, Nigeria must significantly increase its upskilling and reskilling efforts among its teeming workforce. Awareness, skill acquisition and literacy must also be localised to Nigerian contexts and languages for a wide reach.

III. Human rights centric ⁶

As reiterated throughout this paper, the national AI strategy should place a high priority on respecting Nigeria's democratic ideals, adhering to Nigeria's constitutional principles, and assisting in addressing the socio economic requirements of Nigerians. Standards for algorithmic accountability, data protection, and decision-making clarity should be upheld by the policy. The essential human rights elements of the Nigerian Constitution should be highlighted in Nigeria's AI policy, especially the protection of Nigerians' dignity, their right to privacy, and prohibition against discrimination. Additionally, the policy should be in line with transnational AI norms and standards that support equality, inclusiveness, diversity, safety, equity, openness, and algorithmic responsibility. Beyond the Constitution, instruments governing human rights in AI deployment should be explicitly mentioned, coupled with an implementation guide.

⁶ Paradigm Initiative, Towards A Rights-Respecting Artificial Intelligence Policy for Nigeria, <https://paradigmhq.org/wp-content/uploads/2021/11/Towards-A-Rights-Respecting-Artificial-Intelligence-Policy-for-Nigeria.pdf> (Accessed August 30,2022)

IV. Multi-sectoral consultations

Artificial Intelligence covers a wide range of areas. At least 75 organisations in Nigeria deploy AI for businesses and daily operations based on Paradigm Initiative's research. It is necessary that all these operators are consulted to ensure the strategy covers all areas of their work. These sectors include but are not limited to Medical communities, education, media, policy, and program monitoring sector. It is also imperative that civil society is consulted through this process.

Deployment of implementation plan alongside the strategy document It is necessary for implementation to be planned alongside the strategy itself. This will ensure the document never sits docile once adopted by the nation. This could include building in incentives that encourage innovation and adherence.

v. Remedial pipeline

One of the fundamental principles of the international human rights system is that when a right is violated, victims must have access to an effective remedy. The state duty to provide access to effective remedy includes taking appropriate steps to ensure that State-based domestic judicial mechanisms are able to effectively address business-related human rights abuses, and do not erect barriers⁷

All implementers of this strategy must have a practical remedy and reporting pipeline for those who are experiencing issues. From emails to portals and staff assigned to these roles.

⁷ The Un Working Group On Business And Human Rights, The Un Guiding Principles On Business And Human Rights, https://www.ohchr.org/sites/default/files/Documents/Issues/Business/Intro_Guiding_Principles-BusinessHR.pdf, (Accessed September 20.2022)

4.0 CONCLUSION

National AI strategies are important and necessary, and their implementation is even more so. The crux of this paper is that due consideration is given to human rights, human-centric ethics and principles, and due consultations and collaboration with relevant stakeholders. It is our expectation that in the deployment of a national strategy, a national commitment is made to its implementation and the improvement of AI systems and innovation in Nigeria.

