Five Takeaways From the 2022
African Union Data Policy Framework

October **2022**

The *Africa Union Data Policy Framework* **published in July 2022 is one of the most significant instruments on data governance on the continent. Developed by the African Union (AU) Commission in consultation with partners inside and outside the AU ecosystem, the Policy Framework was endorsed by the AU Executive Council in February 2022.**

The Policy Framework is an extensive blueprint to guide African countries' efforts to establish effective data governance regimes to leverage the data and digital revolution the continent is currently experiencing. Like most policy instruments by regional and international bodies, the Policy Framework is not legally binding on AU Member States. Nonetheless, it is an authoritative reference source for governments and advocates of Africa's data revolution.

This review examines the Policy Framework from five angles, namely:

- **The background of the Policy Framework's development;**
- **What the Policy Framework entails;**
- **Benefits and opportunities it can deliver to data governance, data rights and privacy;**
- **The Policy Framework's likely implementation challenges; and**
- **Suggestions for the way forward.**

Background and Context

The AU's efforts to leverage and attune itself to the information age and to improve its data and statistical ecosystem, spans more than three decades.

The Commission and associated institutions have been rallying Member States to embrace technology and partnerships in how they collect and share data and evidence for use in development decision making. Below are examples that show that while the term data revolution might be new, the thinking behind it in Africa, is not:[1]

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[1] *Common cause, common language: harmonising key concepts in the Data Revolution*
https://devinit.org/resources/common-cause-common-language-harmonising-key-concepts-in-the-data-revolution/

- **The Addis Ababa Plan of Action for Statistical Development in Africa, 1990 (AAPA).**[2] This is one of the first bold initiatives by African policymakers to address the problem of poor and insufficient data on development indicators on the continent. It was adopted by the Economic Commission for Africa (ECA) Conference of Ministers in May 1990 and sought to improve the timeliness, quality and relevance of statistics produced in African countries.
- **The United Nations Economic Commission for Africa (UNECA) Committee on Development Information (CODI) Resolution on Statistical Development in Africa, 2001:**[3] In September 2001, UNECA passed a resolution highlighting the changing nature of data and statistics and the need to address new challenges and embrace new technologies. CODI was later renamed the Committee on Development Information, Science and Technology (CODIST) and then Statistical Commission for Africa (STATCOM-Africa).[4]
- **Forum on African Statistical Development (FASDEV), 2004.**[5] The Forum was held from May 12-13, 2004, and provided a platform to share information and collaborate on statistical development.
- **African Symposia for Statistical Development, 2005:**[6] The symposia addressed the need for the African statistical community to engage regularly and share best practices on the management, execution, processing, analysis and dissemination of census data.
- **Africa Conference on a Transformative agenda for Official Statistics:**[7] The conference aimed to take stock of the various international, regional, sub-regional and national initiatives for integrating and modernising statistical systems in Africa.
- **Reference Regional Strategic Framework for Statistical Capacity Building in Africa, 2006:**[8] The framework was designed to contribute to improved development outcomes and governance in Africa by strengthening national statistical systems, including by raising societal awareness of the role of statistical information, enhancing the quality of statistical information, promoting use of statistical information, and ensuring synergy, cost-effectiveness and sustainability of statistical information systems.
- **The Africa Charter on Statistics, 2009.**[9] Adopted by the AU assembly on February 4, 2009 and entered into force on February 8, 2015. One of the charter's objectives is to serve as a policy framework for statistics development in Africa, especially the production, management and dissemination of statistical data and information at national, regional and continental level.
- **The Strategy for the Harmonisation of Statistics in Africa (SHaSA), 2011:**[10] The SHaSA was a culmination of efforts by the ECA, the AUC, and the African Development Bank (AfDB), Member States, and other stakeholders who reasoned that to attain full African integration there was need for an integrated African Statistical System to generate timely, reliable, and harmonised statistical information covering all aspects of political, economic, social, and cultural integration in Africa.
- **The Africa Data Consensus, 2014:**[11] At the Ordinary Session of the African Union held in Malabo, Equatorial Guinea in June 2014, African Heads of State requested ECA, AUC, AfDB and the United Nations Development Programme (UNDP) to organise a High-Level Conference to discuss the data revolution in Africa and its implications for the African Union's Agenda 2063 and the post-2015 development agenda. In March 2015 the High Level Conference on Data Revolution was held as a side event of the AU-ECA Joint Conference of Ministers in Africa and adopted an "*Africa Data Consensus*." As the blueprint to an African Data Revolution, the Consensus envisions "a partnership of all data communities that upholds the principles of official statistics as well as openness across the data value chain, which creates a vibrant data ecosystem providing timely, user-driven and disaggregated data for public good and inclusive development".

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2   http://repository.uneca.org/bitstream/handle/10855/3798/Bib-29616.pdf?sequence=1

3   http://213.55.79.31/fasdev/codiII_resolution.asp

4   ECA made these changes as part of its strategic repositioning in 2006 to align its programmes with those of the Africa Union (AU) and the New Partnership for Africa's Development (NEPAD).

5   www.paris21.org/node/591

6   Africa Symposia on Statistical Development, https://www.statssa.gov.za/?page_id=2085

7   African Conference on a Transformative Agenda for Official Statistics, http://unstats.un.org/unsd/nationalaccount/workshops/2015/gabon/lod.asp

8   Reference Regional Strategic Framework for Statistical Capacity Building in Africa, http://www.uneca.org/sites/default/files/PublicationFiles/stat_rrsfdocument_final.pdf

9   The Africa Charter on Statistics, 2009, https://au.int/sites/default/files/treaties/36412-treaty-african_charter_on_satistics_eng.pdf

10 The Strategy for the Harmonization of Statistics in Africa (SHaSA) http://www.afdb.org/fileadmin/uploads/afdb/Documents/Publications/AfDB,%20SHaSA_web.pdf

11 The Africa Data Consensus http://www.uneca.org/sites/default/files/PageAttachments/final_adc_-_english.pdf

1 Takeaway: *The African Union Data Policy Framework draws from 30 years worth of experience in attempts to harmonise official statistics in Africa.*

Compared to previous initiatives, the Framework interrogates the key contextual and capacity challenges inherent in most African countries. It also demonstrates that countries can still come up with reasonable and enforceable digital data governance policies and legislative frameworks.

In addition to these legacy efforts, the Policy Framework draws inspiration from recent policy and strategic frameworks such as the Digital Transformation Strategy for Africa 2020-2030, the African Continental Free Trade Area (AfCFTA), the Africa Agenda 2063, and the Sustainable Development Goals (SDGs). As such, the Policy Framework seeks to leverage the opportunities made possible by these instruments to bolster the African digital ecosystem, flourishing intra and inter-country trade, and to promote data mainstreaming in decision making across the continent.

Further, the Policy Framework focuses on the opportunities presented by the explosion in availability and access to digital technologies in Africa, and the proliferation of innovations and investments that have been enabled by this new landscape.

There is a great deal that can be learnt from the experience of trying to harmonise official statistics in Africa as the earlier initiatives above demonstrate. At the heart of most of these efforts are common themes that thePolicy Framework also emphasises, namely:

- Coordination and collaboration;
- Importance of leveraging technology;
- Role of evidence-based development; and
- Capacity development and investment in data.

Among the overarching objectives of the Policy Framework are its intentions to:

- Enable states to cooperate on matters of data governance;
- Ensure that data can flow across borders as freely as possible while promoting an equitable distribution of benefits and addressing risks;
- Establish collaborative trust mechanisms to allow for data to circulate as freely as possible between Member States while preserving the sovereignty of Member States and their ability to regulate the digital economy; and
- Enable states, the private sector, civil society and intergovernmental organisations to coordinate their efforts on data issues across the continent to realise a single digital market and compete more effectively in the global economy.

To do these things, the implementation of the Policy Framework will have to be creative, agile, and context-specific. The Policy Framework's guiding principles include cooperation, integration, fairness and inclusiveness, trust, safety and accountability and sovereignty. Through these principles, it is possible to convince most Member States to domesticate and implement the Policy Framework with consideration to their specific contextual nuances.

Many of the statistical initiatives from yesteryears faced major constraints in their adoption and implementation by Member States but still soldiered on. The key challenges included lack of ownership, inadequacy of financial resources, lack of institutional and human capacity, and limited advocacy and champions in governments. These challenges are likely to also face the domestication and implementation of the Policy Framework.

However, there are some positive lessons from the evolution of these statistical initiatives. Many National Statistical Offices (NSOs) are currently embracing the data revolution and have more advanced legal regimes governing statistics in the form of statistics laws and policies, national strategies for development of statistics (NSDS), and more robust national statistical systems (NSS). In addition, they are the authoritative bodies responsible for publishing official data on aspects such as trade, Gross Domestic Product (GDP) and national accounts, and may in some instances be above data protection offices or telecom regulators in institutional hierarchy.

The Policy Framework at a Glance

The Policy Framework seeks to become a major reference point and blueprint for governments in Africa on data protection legislation, cross-border sharing of critical data and information to facilitate trade and development. Further, it seeks to calibrate the normally complicated balancing act between enforcing data protection and promoting privacy on one hand, while not curtailing data rights, access to information, open data and open government, and promoting cross-border sharing of data without limitations of sovereignty and protectionism by Member States.

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On Context/Situational Analysis: Compared to previous initiatives, the Policy Framework interrogates the key contextual and capacity challenges inherent in most African countries. It also demonstrates that countries can still come up with reasonable and enforceable digital data governance policies and legislative frameworks. This is perhaps one of the greatest strengths of the Policy Framework.

Each of the 54 African countries has its own unique socio-political and economic context. Some African countries still hold onto colonial-era legislation that is not necessarily friendly to democratisation of data and information access. The political contexts of some have led the administrations to put in place reactionary laws on cyber security, computer misuse and digital communications in an attempt to forestall the challenges presented by the proliferation of digital platforms. Yet, these laws have also been weaponised in some countries to silence voices critical of the governments, some of whom also unjustly use the law to unnecessarily restrict access to critical data and information or to coerce private custodians of big datasets to share personal data of human rights and political activists.

Consequently, it would not be possible to predict how issues of data protection and digital infrastructure management will be governed. Such an endeavour would require a thorough political economy analysis of the digital ecosystem of each single country. Nonetheless, the overall situational analysis of Africa's data and digital economy that the Policy Framework elucidates in Chapter 4 is a strong acknowledgment of the importance of context. In future, this analysis needs to be taken down to national and subnational levels in individual countries.

The implementation plan of the Policy Framework will need actionable and practical guidelines that countries can follow in ensuring that interests in national security, public order and national economic sovereignty do not unnecessarily stand in the way of the immense benefits of data privacy, open data sharing, intercountry digital collaboration on trade and commerce, and the power of harmonisation of data systems.

On Data Harmonisation and Sharing: The Policy Framework emphasises the importance of data interoperability and recommends harmonised national data systems that aggregate different and disparate data systems into singular ones accessible to all parties. This will probably be the hardest thing to do in Africa, the elephant in the room few will be willing to discuss. Already, individual countries have for years been struggling to harmonise data systems to avoid duplication and wastage of resources with limited success. In some, hundreds of information systems, dashboards, and open data portals exist and continue to operate in silos, with some containing data on similar indicators.

In Uganda, for example, the National Information Technology Authority (NITA-U) *has been trying to convince* ministries, departments and agencies (MDAs) to migrate their individual data systems into a single repository or master system managed by the authority, but with little success. Even in the same country, MDAs have individual interests they find hard to give up. This challenge will be greater with countries being asked to merge or share their information systems with other countries.

Some countries currently have border and political disputes with their neighbours, while some are facing civil wars and internal strife that may make seamless cross-border sharing of data difficult. Yet that sharing would also potentially contribute to solving some of those challenges. Notably, connecting African countries through the road, rail and air infrastructure has remained problematic over the decades, and seamless cross-border data transfers could face similar obstacles. Development partners are not innocent in this, as they often fund siloed data systems and there is limited coordination among themselves as well.[12]

Financing: Limited domestic funding for data infrastructure and data ecosystems across Africa remains a challenge. African governments, like many governments elsewhere, are realists. Most countries on the continent are just starting their transition into middle income economies and the limited available resources are allocated with tight calculus hunched on prioritisation. Data, despite its importance, is rarely seen as a priority when placed against food security, education and health. Where data is prioritised, only a tiny fraction of national budgets is allocated to research and development, and data and technology financing. Many countries still rely on funding from development partners to finance their data and digital ambitions.

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The implementation plan for the Policy Framework should be comprehensive on how countries need to approach this challenge. At the high-level meeting on data for development in Nairobi in 2018,[13] the Minister of Finance of Senegal put it aptly when he said that financing for data needs to be held in the same stead as financing for roads and hospitals as the former is also a public good, especially in the current information age.

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12 *The data side of leaving no one behind https://devinit.org/resources/data-side-leaving-no-one-behind/*
13 *Data for development in Africa: Ensuring commitments made at the High-level meeting in Kenya are met*
  https://devinit.org/resources/data-development-africa-ensuring-commitments-made-high-level-meeting-kenya-met/

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What Benefits Can the Data Policy Framework Deliver to Data Governance, Data Rights and Privacy in Africa?

- The Policy Framework provides a key reference resource for governments that are currently designing or reviewing their data governance policy and legal instruments. It is well researched and was collaboratively developed by key institutions of the AU and associate organisations.

- Countries that will draw from the Policy Framework into their data policy making will receive enormous goodwill from Member States on collaboration and cross-border data sharing efforts, goodwill that emanates from the authority and goodwill that the African Union enjoys among Member States.

- The Policy Framework acknowledges the unique and complex contexts of each country. It is not prescriptive, as it gives countries wiggle room to preserve their national and sovereign interests while designing policies that are in tune with continental best practice that the Policy Framework offers.

- Private institutions, civil society and development partners will also find the Policy Framework to be an important resource to guide efforts to collaborate and harmonise their strategies on supporting data and digital ecosystems in Africa, without unnecessary duplication.

- The Policy Framework has potential to provide the all-important middle between data rights and privacy while not compromising easy access to key development data and information. Advocates in these arenas will find the Policy Framework an important guiding tool for their data advocacy strategies.

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Likely Implementation Challenges

As mentioned above (and as the Policy Framework itself acknowledges), the complex political economy of individual African states will be the biggest challenge for the implementation of the Policy Framework at country level. Some leaders and ruling parties have interests that might not align well with the Policy Framework. Issues of data governance and data protection and democratisation of data have become highly contentious of late. Many AU Member States still have challenges with political democracy. Many have shut down the internet, for example, during elections. Others have weaponised technology use, with cybercrime and surveillance laws being used to crack down on critics and political opponents. Such nations might find some of the progressive pronouncements and recommendations of the Policy Framework a bit too much of an ask.

The other challenge, as noted above, is limited financing both at country and at AU levels. The AU needs significant resources to lead the popularisation of the Policy Framework at country level and to generate support from national data governance institutions to adapt and domesticate it. Countries in turn need resources to adopt its recommendations in their local legislative and policy contexts and to then implement them.

Domestic funding for data and digital infrastructure is limited in most African countries and has shrunk following the COVID-19 pandemic, the climate crisis, and food insecurity issues currently faced by most states. Thus, any prioritisation of fiscal spending at national level will likely not put data and the digital ecosystems at the top. Some development partners are also increasingly becoming inward-looking due to the war in Ukraine and the *energy crises arising from* it, and the geo-security challenges and nationalist aspirations of their constituents. All these leave digital regulators, data protection authorities, national statistics agencies, revenue and border authorities, data rights and privacy advocates, with less resources at their disposal to use to adapt to, and adopt the Policy Framework in their work.

Last but not the least, the inherent integration problems within the continent such as the culture of secrecy among African nations; sovereignty concerns that have already delayed AU initiatives like the continental passport and visa free travel; and the challenges Regional Economic Communities (RECs) still face in realising free movement of goods and people, common markets and political federation, are likely to plague the domestication of the Policy Framework.

Suggestions on the Way Forward

- Other than data revolution enthusiasts and data ecosystems enthusiasts, few people will have heard of the Policy Framework and the process that led to its development, outside the technical stakeholders that were involved in its design. For this reason, the implementation framework in chapter five needs to be put in practice as soon as possible. It speaks of an action plan for a wider dissemination and popularisation of the Policy Framework, both through AU institutions but also civil society and development partners. Digital data champions, besides technical officials in data protection offices, telecoms regulator institutions and governments, need to be identified and engaged to support the domestication effort of the Policy Framework. The aim should be to make the Data Policy Framework widely known across the continent the way Agenda 2063 is.
- The implementation action plan is one of the most important next steps. The plan should be informed by a thorough political economy analysis of Africa's data and digital landscape beyond the situational context described in the Policy Framework. This one needs to go deeper and study some countries in detail, with case studies. This should produce more nitty-gritty, context-specific, Political, Economic, Sociological, Technological, Legal and Environmental (PESTEL) analysis of the conditions on the ground that await the domestication efforts of the Policy Framework.
- Bringing National Statistical Offices on board the implementation plan of the Policy Framework is critical since they are primary legal custodians of digital data and play a role in inferencing statistics from the data produced by stakeholders of the digital ecosystems.

This CIPESA Brief was primarily authored by Bernard Sabiti, a researcher and analyst of Africa's data revolution.