



# An assessment of the EU AI Act as a model for South Africa's AI Plan

*The European AI Act : Comparative Analysis of AI Regulation (Workshop)*

**Michele van Eck**

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# Unique Socio-Economic & Legal Framework

- Unique position:
  - African heritage and values.
  - Infrastructure and resources.
  - Social development goals.
- South Africa's mixed legal system:
  - Not codified.
  - Common law (Roman-Dutch law / English law).
  - Piecemeal legislation and regulations.
  - Customary Law / Pluralistic legal system.
- Added consideration: African Union.



# Current AI Regulatory Landscape

- Currently, no AI legislation in South Africa.
- Until regulation is promulgated, an approach of self-regulation exists.
- **April 2019** - the Presidential Commission on the Fourth Industrial Revolution was established (PC4IR).
- PC4IR assists in assessing existing legislation and regulations.
- Existing (main) legislative instruments:
  - Electronic Communications and Transactions Act of 2002 (*section 20*).
  - Protection of Personal Information Act of 2013.
  - Cybercrimes Act of 2020.
  - Consumer Protection Act of 2008.



# Current AI Regulatory Actions

- **November 2022** – Department of Communications and Digital Technologies (DCDT) launched the Artificial Intelligence Institute of South Africa and AI hubs (University of Johannesburg and Tshwane University of Technology).
- **April 2024** - DCDT proposed a discussion document on AI.
- **August 2024** - South Africa National AI Policy Framework published for comment:
  - First step to the development of a National Policy.
  - Currently open for public comment.
  - Policy will become the basis for AI Regulations in RSA.



# South African - AI Policy Framework

- Recognises the need for comprehensive policy.
- Regulation must align with South Africa's socio-economic goals.



- Mitigates risks:
  - Job displacements.
  - Privacy concerns.
  - Ethical issues.

# South African - AI Policy Framework

## Pull of the Future (Foresight)

- Economic Transformation.
- Social Equity.
- Sustainable Development.
- Global Leadership.

## Push of the Present (Insight)

- Technological Advances.
- Economic Necessity.
- Social Demands.
- Policy Momentum and Harmonisation with International Trends.

## Weight of the Past (Hindsight)

- Digital Divide.
- Historical Inequalities.
- Institutional/Structures (Resistance to Change).
- Existing Regulatory Frameworks.



# South African - Strategic Pillars

1.  
Talent  
Development

2.  
Digital  
Infrastructure

3.  
Public Sector  
(Government  
Efficiencies)

4.  
Ethical AI

5.  
Privacy & Data  
Protection

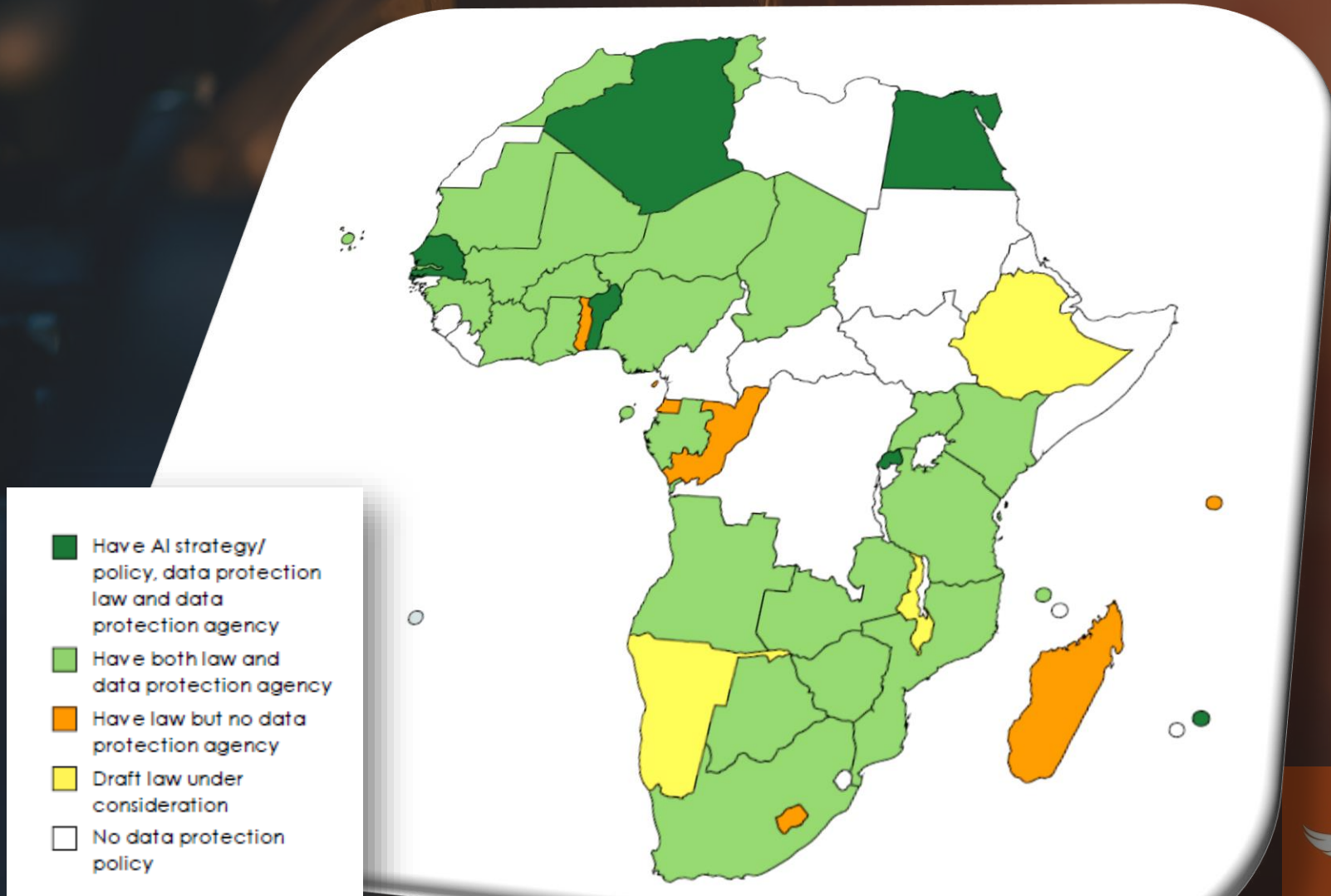
6.  
Safety & Security

7.  
Transparency &  
Explainability

8.  
Fairness &  
Mitigate Bias

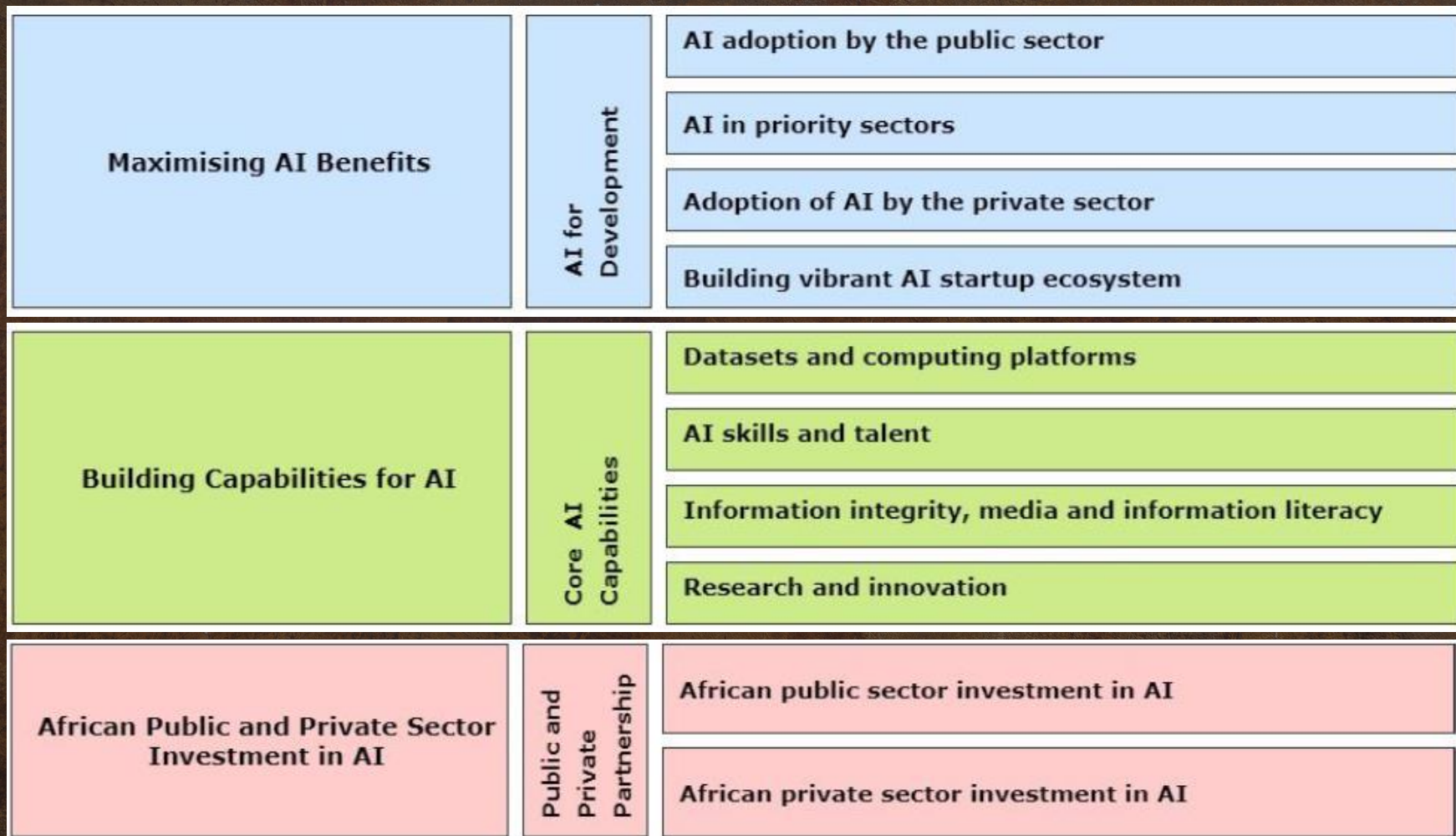
9.  
Research,  
Development &  
Innovation

# Status of AI and Data Protection Regulation



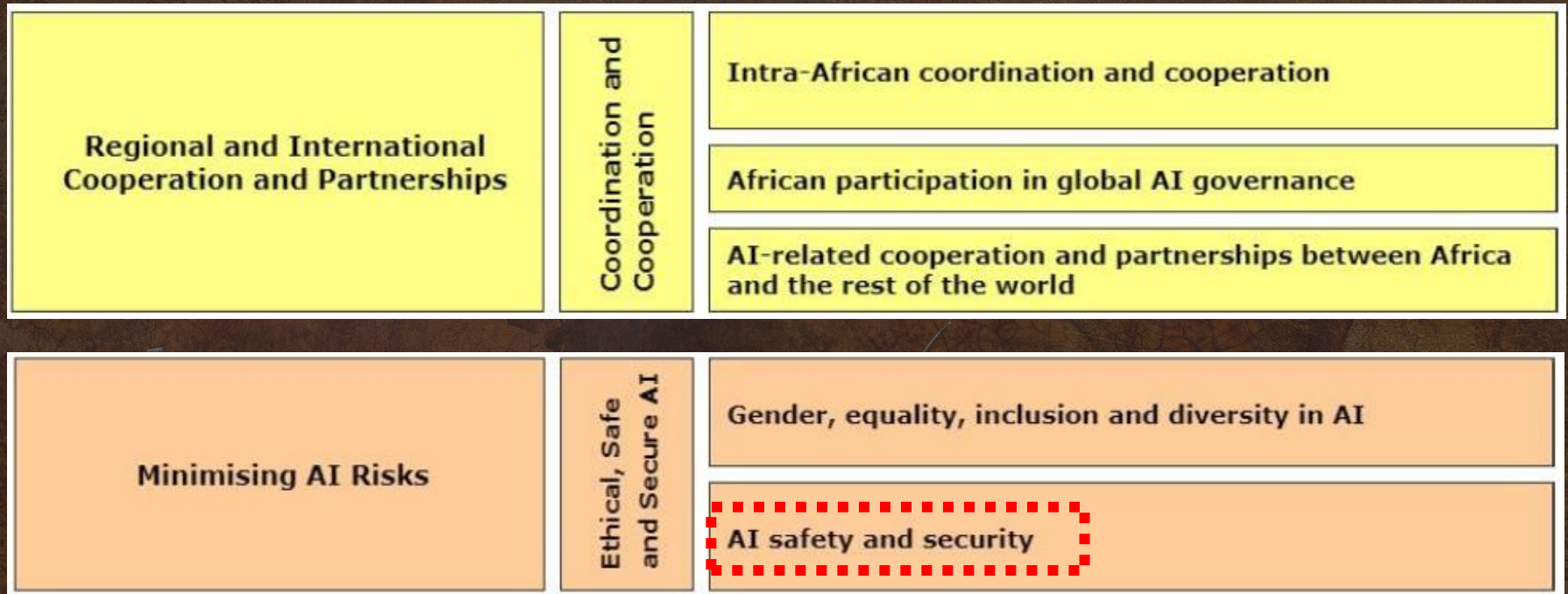
# AU's Continental AI Strategy: Benefits

- AI = Socio-economic revolution and meeting Sustainable Development Goals.



# AU's Continental AI Strategy: Risks

- AI = Various risks associated with the use of AI.



# AU's Continental AI Strategy: Type of Risks

- Environmental risk (increased Co2 emissions/climate change).
- System-level risks:
  1. Bias and discrimination
  2. Privacy and personal data protection
- Structural risks:
  1. Gender-equality.
  2. Job displacement.
  3. AI Divide (also the digital divide ?).
  4. Intellectual property.
- Risk to African values
  1. Societal cohesion.
  2. Democracy and Human Rights.
  3. Subversion of Indigenous Knowledge and African Cultural Heritage (e.g., cultural exploitation).

Requires:  
Multi-Faceted  
Approach



Digital and  
Other  
Infrastructure



Limited / Lack  
of Data



Limited Skills



# AU's AI Strategic Focus Areas



# Comparison EU, AU and South Africa

## EU

### *Risk-Based Approach*

- Focus on obligations of “Deployers” & “Providers” of AI.
- System-based risk (product liability?)
- Protection of fundamental rights.
- Unacceptable risk, high risk, limited risk and no risk systems.

## AU

### *Multi – Faceted Approach*

- Focus on other risks (not just system-based), e.g., environmental, structural, and risk to African values.
- It would require more pervasive legislative instruments to address a wider range of risks.
- Learning from EU in relation to the system-specific risks.

## RSA

### *Multi – Faceted Approach*

- Limited risks identified (job displacement, privacy and ethics).
- Little focus on systems, but recognises there is risk (learning from EU?)
- Impact of socio-economic factors and infrastructure.

# EU Model for Africa?



VS.



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# EU Model for Africa?

- Principles that may be useful:
  - Principle of a technology-neutral approach.
  - Risk-based approach (product liability?).
  - Data governance and data management.
  - Transparency for AI Systems.
  - Database for high-risk AI systems.
- AU and South Africa:
  - Requires a more pervasive regulatory system (incl. principles of EU AI-Act).
  - Complex socio-economic environment.
  - Digital infrastructure and resources.



# Conclusion and Questions

