Rationale for the African Alliance for Access to Data

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CONCEPT NOTE

Executive summary:

Momentum to unlock data in Africa can be taken forward by convening structured discussions and a network of stakeholders sharing knowledge and engaging in research and advocacy. The impact will be to raise awareness of access to both public and private data in the public interest, and to contribute to policies for effective implementation and use of data access. This includes assessing relevant points in existing pan-African instruments for the different stakeholder groups, and by securing some form of AU support for a new or revised instrument. Whether such process and outputs will be narrow or broader in focus is something to be established as the network develops its activity.

1. Conceptual focus:

Access to information is long recognised as a human right, and as an enabler of other rights as well as sustainable development. Struggles for effective access continue around the continent. Yet even where they are successful, such victories do not necessarily lead to access to raw data that underlines information.

But today, digitalisation has put firmly on the agenda the question of access to data. This can be seen as an extension of the right to information and also as an enabler of other rights, not least socio-economic rights. This is also because data is increasingly the major developmental resource in the current era. Examples are in the use of data for countering online threats to elections, for enhancing productivity and processes through AI and machine learning, and for assessing issues such as fairness and gender bias in public contracts.

International context:

Of relevance is the UN's "Global Principles for Information Integrity", developed by the UN for the Summit of the Future held in September 2024. In the related policy brief by the UN Secretary General, Antonio Guterres, it is noted: "Data access for researchers is also an urgent priority on a global scale…. A shift by the platforms from an 'access by request' approach to "disclosure by default", with necessary safeguards for privacy, would allow researchers to properly evaluate harms." It adds: "Member States should invest in and support independent research on the prevalence and impact of mis- and disinformation and hate speech across countries and languages, particularly in underserved contexts and in languages other than English, allowing civil society and academia to operate freely and safely".

Even more relevant is the Global Digital Compact which recognizes that digital public goods include "open data, open artificial intelligence models, open standards and open content" can empower societies and individuals to direct digital technologies to their development needs and can facilitate digital cooperation and investment. It further calls for strengthening the collection and use of data to inform decision-making. Further, the Compact calls on "social media platforms to provide researchers access to data, with safeguards for user privacy, to ensure transparency and accountability to build an evidence base on how to address misinformation and disinformation and hate speech that can inform government and industry policies, standards and best practices". The point is made that applications of artificial intelligence should foster diverse cultures and languages and support locally generated data. Strengthened data governance co-operation is highlighted. The Compact acknowledges data divides and their adverse impacts on the representativeness and

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quality of data, and proposes to develop common definitions and standards for the use and reuse of data for public benefit. It makes this call:

"We recognize that quality data is critical for tracking, targeting and accelerating progress across the Sustainable Development Goals as well as responding effectively to crises. We commit to strengthen international cooperation to close the current serious gaps on data for development and to increase its public availability. We will champion the responsible use and sharing of data within and between countries to advance progress across the Sustainable Development Goals."

Significantly, the Compact calls on Governments to make support to digital transformation integral to development assistance, including through increased allocations to digital and data initiatives. And adds: "We invite private sector and philanthropic actors to consider financial pledges in support of the implementation of this Compact."

2. <u>Definition of data and stakeholder relevance:</u>

A holistic vision recognises that access to data exists along the same spectrum as access to information. Information in this sense is the transformation of "data" into meaningful "cooked" statements (like policy documents or statistical conclusions). Information can serve as data for further transformation into knowledge. However, the focus in this document is on that electronic data that exists as "raw" basic level signifiers which have potential to yield a range of possible meanings and utilities. While these may be considered a type of information, they are not (yet) as meaningful as "cooked" information.

(Note: the signifiers constituted "raw" data have themselves to be produced through "datafication" - which is a process that singles them out (from much else) as being potentially significant. An example is the datafication of electronic signals that reveal whether a phone is bouncing around a lot - which Google uses at scale to alert people about an earthquake unfolding). In Africa in particular, datafication of life and nature is far more limited than on other continents, with pros and cons associated with this status. As datafication proceeds in Africa, it is potentially controversial as to what gets captured and converted into data, like ecommerce transactions which could then attract tax, or like ethnicity which could be weaponised. We already well know that datafication should respect personal privacy, but the wider matter is that what gets datafied and who holds and uses it merits very close reflection).

Significantly, and in parallel, such a holistic perspective (the full spectrum of information extending through to the data side) expands the horizon of the range of stakeholders who have traditionally had interests in access to information. Examples are African AI developers and civic tech actors, with strong interests in the data-side of access to information. This vision also deepens the types of existing stakeholders (eg, not just journalists, but also data journalists in particular).

Linked to this perspective, it follows that we can recognise that:

- traditional holders of information (mainly governments) are now being called upon to "up" their production, and availing, of both underlying and parallel data.
- private sector companies, and especially internet intermediaries, are significant aggregators and holders of data that could be shared beyond the current situation and purposes (with commercial, privacy, and cybersecurity safeguards).

The other side of the coin of access to data is the protection of personal data (and relatedly, cybersecurity). These two sides reflect two imperatives, linked to the right of access to information on

one hand, and the right to privacy on the other. But the pair are reconcilable – neither needs to be at the expense of the other.

In sum, access to both public and private data can serve public interest purposes – and for a very wide range of African stakeholders.

3. Relevant African instruments:

The African Commission on Human and Peoples' Rights has three instruments relevant to access to meaningful information, with a specific focus on data access. These are:

- The 2013 Model Law on Access to Information
- The 2017 Guidelines on Access to Information in Times of Elections
- The 2019 Declaration of principles of freedom of expression and access to information in Africa. (More detail in Appendix)

Also relevant to the discussion are these developments:

- In 2022, the AU adopted a Data Policy Framework
- In 2023, enough ratifications were achieved for the Malabo Convention on Cyber Security and Personal Data Protection to come into force.
- Also in 2023, the African Association of Election Authorities adopted a document titled: "Principles and Guidelines on the Use of Digital and Social Media".

An option for the data-access agenda could be to embark on wholescale revision of selected instruments, or alternatively to advocate for the creation of an entirely new one.

In the shorter term, it may most be helpful (and expeditious) to stakeholders to develop working documents on access to data relevant to their concerns. Examples are Access to Data and Election stakeholders; Access to Data and Stakeholders working in Access to Information; Access to Data and Media; Access to Data and people interested in Data Literacy.

4. Recent developments:

In the light of these issues, a number of developments in Africa are significant:

- The second Africa Media Convention conference in Lusaka in June 2023 called for "the African Commission on Human and Peoples' Rights to do a 10-year review and update of the 2013 African Model Law on Access to Information, to ensure compliance with the 2019 Declaration of Principles on Freedom of Expression and Access to Information in Africa, and particularly to make it fit for purpose in the digital age".
- The Regional Conference on Information and Communication Rights in Africa, urged civil society to "use the International Day for Universal Access to Information, Open Data Day and the Data Protection Day to raise awareness on the importance of access to data for sustainable development".
- The Africa IGF (Abuja) and FifAfrica (Dar es Salaam) were sites of consultations by Research ICT Africa about the possibility of building an African Alliance for Data Access. The overall report on this process is online.
- Two workshops in Cape Town in November convened by Research ICT Africa and International Media Support surfaced a suggestion for an implementation document that could draw out relevant parts of existing African instruments, in order to advance access to data relevant to election integrity. A statement linked to the workshops supported by the Africa Freedom of Information Centre (AFIC), Collaboration on International ICT policy for East and Southern Africa (CIPESA), Digital Action, Paradigm Initiative, Somali Media Women Association (SOMWA) and OpenUp noted that "long-standing African accords do provide for accessing

information during elections, as agreed by the African Union's African Commission on Human Peoples' Rights. The stakeholders proposed that these resources be linked to further pan-African instruments on data and on elections, in order to ensure improved data access and governance on a continental scale."

- In October 2024, UNESCO convened its global conference in Accra to mark the International Day for Universal Access to Information. The event agreed a statement "Harnessing the Power of Data: A Commitment to Strengthening Access to Information in the Digital Age", [LINK NEEDED TO THIS DOCUMENT, SHOULD ARRIVE SOON] developed through consultations organised under the umbrella of the African Alliance for Access to Data.
- At these engagements, the African Rapporteur on Freedom of Expression and Access to Information expressed interest in possibly co-operating further.

5. Way forward:

The Alliance has held regular monthly e-meetings and raised the issues of access to data at a host of events around the continent. It is also

- Working with the Special Rapporteur on a possible resolution to the ACHPR on implementing African instruments that can advance access to data on the continent.
- Producing a pilot implementation document on advancing data access in Africa in relation to election stakeholders, based on the principles listed in the appendix and related instruments listed in 2 above.
- Producing a document, on the template of the above, for Information Commissions and ATI advocates.
- Producing documents on Data Access and Media, and Data Access and Data Literacy.

The Alliance aims to develop these through ongoing consultations, knowledge sharing and expert advice. With the involvement of the Special Rapporteur, civil society, researchers and other stakeholders, the programme will continue. a series of consultations could be convened at key African events during 2024.

A structure for the Alliance has been formulated. [LINK NEEDED TO THIS DOCUMENT ON THE SITE]

To drive this process, it could be optimum to develop a more formal co-ordinating mechanism, a budget and accounting institution, a joint programme for action and implementation, and commission appropriate research.

Appendix A: Relevant Principles

The following clauses of the ACHPR Declaration of Principles on Freedom of Expression and Access to Information in Africa are particularly significant to data access:

- Principle 29 on pro-active disclosure (and clause 7 of the ACHPR Model Law on ATI in Africa)

- Principle 30 on exercising the right of access to information (read with clause 6 of the Model Law)

- Principle 37 on universal internet access

- Principle 39 on internet intermediaries and compliance with human rights standards, particularly subclauses 3 and 6