

Africa Data Protection Regulation Landscape

“The African Privacy Mandate”

By:

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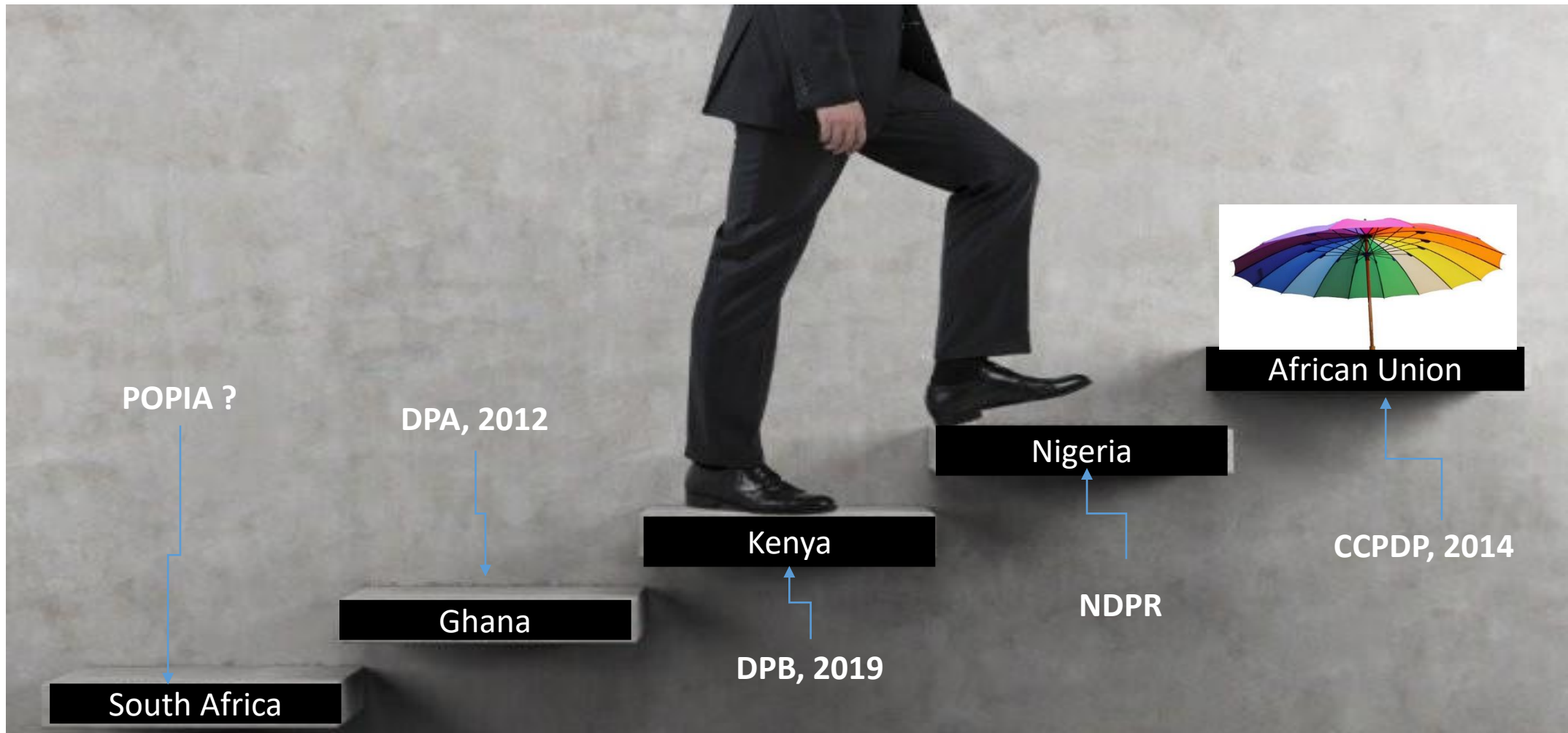


Why is Data Privacy and Protection an important tool for Africa Wellbeing?

- Until Personal Information and data laws are brought into effect, the Regulators are not able to effectively enforce compliance and victims are deprived appropriate remedy.
- Unlawful surveillance, interception and monitoring of private communications (like emails, SMSs, and phone calls) of its citizens on a mass scale will continue to reign
- Personal data is the new currency with which to effectively conduct business operations globally, hence privacy must be protected.
- Governments will use the lack of Data Protection law to violate citizens' right to privacy.
- Unlawful and unauthorized use of personal information of individuals, cyber crime and identity theft will keep increasing at an alarming rate.

Overview of the journey so far.....

Out of 54 Africa countries, over 26 have passed Data Protection laws



Some countries that have enacted comprehensive personal data protection legislation



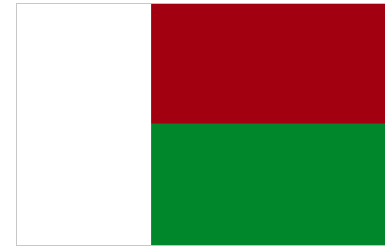
Egypt



Angola



Gabon



Madagascar



Senegal



Benin



Ghana



Mali



Seychelles



Burkina Faso



Ivory Coast



Mauritius



South Africa*



Cape Verde



Lesotho



Morocco



Nigeria



Tunisia



- ➔ In 2014, the African Union adopted the Convention on Cybersecurity and Personal Data Protection (CCPDP).
- ➔ It is a comprehensive document covering electronic transactions, Privacy and Cybersecurity.
- ➔ The Convention has been signed by about 14 states and ratified by five countries out of 55 member states
- ➔ Laws on protection of personal data are increasingly being adopted at national plane



- The continent's biggest economy
- Most populated country in Africa

- Adopted its first Data Protection Regulation in January 25 2019.
- Public and private actors have to conduct internal assessments
- Many concepts of the Regulation mirror the EU General Data Protection Regulation ("GDPR").
- National Information Technology Development Agency (NITDA) - the government's agency is in charge of monitoring IT development - enforce norms and supervise compliance



South Africa

The continent's second-largest economy

- Protection of Personal Information Act (POPIA) not entirely in effect
- An urgent item for the Parliament for full implementation
- Parliament, met on 12 May 2020 to listen to a presentation from the information regulator



Ghana

- Data Protection Act, 2012
- The Data Protection Act, 2012 is legislation enacted by the Parliament of the Republic of Ghana to protect the privacy and personal data of individuals



Kenya Data Protection Bill

- ➔ On 8 November 2019, President Uhuru Kenyatta signed the Data Protection Bill, 2019 into law ('the Act'), establishing requirements for the protection of personal data.
- ➔ The Act is Kenya's first data protection law
- ➔ Came into force on 25 November 2019

Africa Union Data Protection Regulation (AU GDPR)??



- There has been block level adoption by different regional bodies and organizations.
- Good efforts and progressive steps

But ...

The overall legislative framework is not harmonized.

My prayer

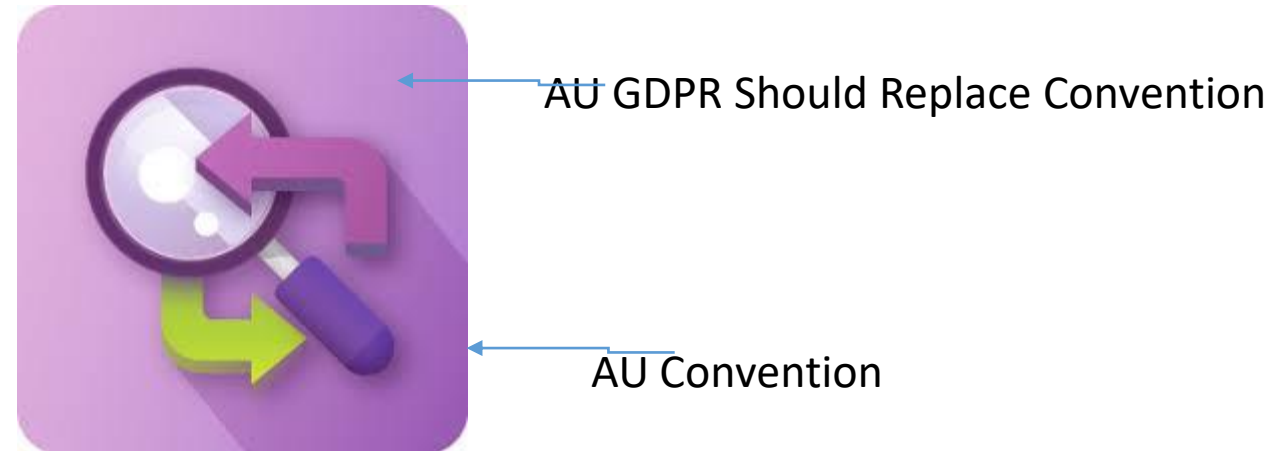
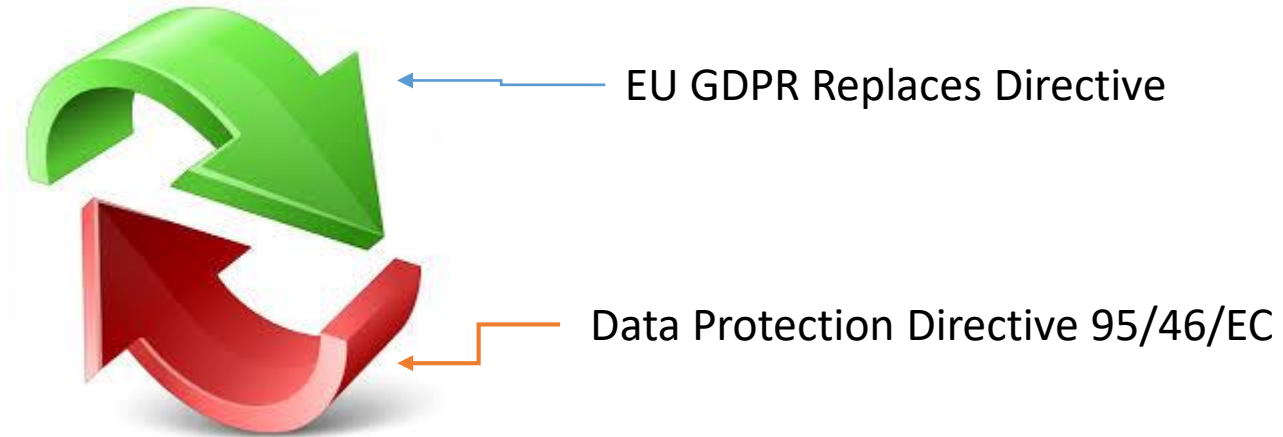
Let Africa adopt a
Harmonized Legislative Data
Protection framework

I call it....African Union GDPR



What should AU GDPR look like?

- The EU GDPR is enforceable within EU member states while the Directive is not
- AU GDPR should look like EU GDPR and should replace Convention
- AU Convention will not have any legal force unless it is transposed into an African country's legislation.



Benefit of a harmonized framework

- It is an opportunity to encourage the continent's development through the promotion of better data hygiene and greater trust.
- Promote transparent data transfers from other continents to Africa
- Prevent uncontrolled and unlawful collection of consumer data in Africa by some Silicon Valley's giants including Facebook, WhatsApp and Google.
- It will promote the use of African-based technologies and services like local Datacentres, blockchain technology, e-government and Fintech services within the financial ecosystems.
- Improved Business Reputation.
- Guarantee more Accurate Data.
- Globally encourage and contribute to data security which is a pandemic issue today within the cyber space.

Challenges with harmonization of Data Protection law in Africa.

- Lack of Common Currency for easy and Better integration
- In reality, Africa currently runs on BLOCK Perspective rather than Union perspective, hence Enforcement might be a challenge.
- The socio-economic contexts, political settings and legal culture in which such laws developed and operate might pose some bottlenecks.
- Existence of different personal data protection principles in relation to:
 - registration with a DPA
 - cross-border data transfers
 - data breach notification
 - appointment of a DPO

My personal *Recommendation*



- Legal and regulatory Framework for the data protection in Africa should be harmonized
- However, the Harmonized Data Protection Regulation must not be in the interest of the politicians
- AU should adopt a Common Currency for easy and Better integration.

thank you!

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