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Democratic AI governance: framing a vision for Africa in view of the EU experience

Mehmet B. Unver

Hertfordshire Law School, University of Hertfordshire, Hatfield, United Kingdom

ABSTRACT

Democracy is, centrally, a system of making collective decisions on matters of public concerns in a way that gives each individual a fair and equal opportunity of influence over decisions (Christiano and Bajaj 2024; Himmelreich 2024; Hirvonen 2023). This is materially realised by citizen participation and deliberation concerning the issues that are of political significance. Extrapolating this idea in the field of AI governance, this article seeks to explore how to instrumentalise this emerging landscape to further democratisation of AI, specifically in Africa. It critically examines the European approach, focusing on the EU AI Act (2024), and discusses on how to develop democratic AI governance within Africa, delving into the African Union (AU) AI Strategy (2024a, 2024b). While the EU AI Act, which prioritises ethical and responsible AI, introduces two individual rights, i.e. the 'right to explanation' and the 'right to lodge a complaint', it does not adequately address concerns surrounding participatory and deliberative democracy, for lacking any tool or mechanism that would pave way for the formation and reflection of the citizens' views and preferences. Based on this finding, it is considered that African AI governance should move beyond mere governance of ethics, e.g. risk and quality assessment, conformity procedure and monitoring, and uphold the idea of enhancing citizens' ability to participate in the key regulatory processes. It is ultimately suggested AU should promote creation of civic space(s), i.e. deliberative venue for the citizens' engagement, within the framework of the recently endorsed AI Strategy.

KEYWORDS

AI governance; democracy; Africa

1. Introduction

Democracy is, centrally, a system of making collective decisions on matters of public concerns in a way that gives each individual a fair and equal opportunity of influence over decisions (Christiano and Bajaj 2024; Himmelreich 2024; Hirvonen 2023). Democratic norms, such as egalitarian participation, civic motivation, are however compromised by AI, which risks democratic institutions and processes not functioning as they once

CONTACT Mehmet B. Unver  m.unver@herts.ac.uk  Hertfordshire Law School, University of Hertfordshire, Mosquito Way, Hatfield, AL10 9EU, United Kingdom

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were, given the ability of AI to undermine civic engagement, inclusion, deliberation (Alnemr 2021; Levy, Chasalow, and Riley 2021; Morison 2021; Wihbey 2024). AI-related risks and concerns, incorporating risks to civic participation alongside fairness, transparency and accountability, create socio-technical challenges that extend beyond ethical considerations. Such challenges threaten citizens' political and epistemic agency (Coeckelbergh 2022) as well as inclusion, diversity and social cohesion (Alnemr 2021), compromise the epistemic quality of deliberation, undermine individuals' capacity for deliberation, and contribute to online polarisation and enclaves (Alnemr 2021; Chambers 2023). Overall, AI-related risks and challenges extend to democratic participation and deliberation as individuals are exposed to AI-enabled processes, decisions and recommendations e.g. from health to education, banking to public services.

Drawing attention to the potential impact of this widespread use and exposure, this paper attempts to conceptualise the ways in which AI governance can be instrumentalised to respect, maintain and enhance democracy. This paper does not limit its focus to a single domain or sector, such as public services. Instead, it recognises how AI (re)shapes our cognitive abilities, participatory and deliberative capacities and understanding of democracy through socio-technical environments, which include, but are not limited to, social media platforms, online forums and digital communication channels that are increasingly driven by AI and integrated into democratic institutions and processes. Highlighting the potential for unforeseen and detrimental consequences of AI, this study examines the role of AI governance in preventing such outcomes, pursuing the ideal of democratic governance and upholding the idea of citizens' participation and deliberation.

This article focuses specifically on Africa and the emerging frameworks being developed under the leadership of the African Union (AU). Within the emerging landscape of AI governance, it seeks to find out how to instrumentalise AI governance to further democratisation of AI, primarily looking into the EU AI Act (2024), which represents the leading governance framework across the globe. From a critical perspective, this article aims to evaluate the EU AI Act and draw lessons for developing a sustainable and democratic AI governance framework in African countries, among which a few, such as Mauritius, Kenya and Egypt, have developed a regulatory framework focused on AI ethics and governance.

After elaboration on the available instruments under the EU AI Act, it is considered that generic principles and obligations, such as those under Articles 4 and 50, specific requirements and obligations for the high-risk AI systems, respectively under Articles 8–15 and 16–27, and other safeguards and mechanisms including, but not limited to, market surveillance (Art 74), harmonised standards (Art 40), codes of conduct (Art 95) and regulatory sandboxes (Art 57) are notable tools that would serve building up a governance framework towards ethical and responsible AI. These mechanisms promote multistakeholder consultation and regulatory dialogue, which might indirectly promote self-rule and determination which lie at the centre of democracy. However, when it comes to democratic participation and deliberation of the individuals, the EU AI Act does not promise a sustainable framework, as not granting a wide array of rights and opportunities to the citizens to engage within the governance processes and mechanisms. While offering two particular rights, i.e. right to explanation and right to lodge a complaint, the EU AI Act does not envisage any concrete procedure or tool to empower citizens to directly influence decisions

made under AI governance such as those related to training, verification and certification (through conformity assessment), audit, monitoring and standardisation.

Africa, on the other hand, has more recently begun its journey of AI governance. AU Development Agency (AUDA-NEPAD) adopted AI Roadmap for Africa on 29th February 2024, aiming to shape a vision for AI innovation and development within the continent. This Roadmap, accompanied with a White Paper, sets out a principles-based framework towards a continental strategy for the period 2024–2033, and has been endorsed on 17th July 2024, resulting in adoption of an AI Strategy. Primarily targeting at building capabilities in infrastructure, computing, research and education, etc. both the Roadmap and the recently adopted AI Strategy of the AU reveal a shared vision to propel economic growth, technological innovation and inclusivity throughout Africa (N'Guessan 2024).

The AI Strategy does not mandate but rather recommends the development of tools and mechanisms similar to those under the EU AI Act, such as industry-specific codes and practices, standards and certification bodies for assessing and benchmarking AI systems, regulatory sandboxes for the safe testing of AI, and the establishment of national AI councils to oversee and monitor the responsible deployment of AI (Continental AI Strategy 2024, 28–29). The envisaged tools and mechanisms emphasise the ethical assessment and governance of AI alongside ensuring responsible AI innovation, development and adoption. Notwithstanding, such an ethics-oriented governance vision falls limited in pre-empting the concerns surrounding democratic participation and deliberation and needs to be revisited from a holistic viewpoint, encompassing establishment of deliberative venues enabling citizens to exchange their views, debate and elaborate on AI governance and directly influence the relevant processes e.g. after having a consensus or collective position.

Laying out the milestones to shape the strategies and regulatory frameworks in the field of AI governance, the recently adopted AI Strategy and the Continental Roadmap of the AUDA-NEPAD should be taken as a key leverage to instrumentalise democratic governance in and across Africa. It is note-worthy that the EU AI Act might not be a blueprint, given its shortcomings in terms of enabling citizen participation and deliberation within the boundaries of AI governance. It is found to be insufficient in granting citizens statutory rights and opportunities to enable them to be able to impact, steer, challenge or object to certain decisions and/or processes which would affect them.

For an effective and sustainable AI governance that aims to democratise as well as ethically assess, certify and monitor AI, institutionalised channels and venues for civic engagement appear to be crucial. The EU's new statutory rights, including the right to explanation and the right to lodge a complaint, would be deemed a starting point, but further avenues for citizen participation and deliberation need to be integrated when it comes to development of democratic AI governance. Upholding such a broader vision, the AU Strategy should enable individuals to debate and deliberate on key issues, such as conformity assessment and monitoring, by providing them with opportunities to have a collective position, ideally through pre-designated and established civic space(s). If the AU prioritises this, it would forge a model for democratic AI governance in Africa and beyond.

In light of this, while the EU aims to position Europe as a leader in the ethical and sustainable development of AI technologies (The Artificial Intelligence Act 2024), the lack of robust mechanisms of citizen engagement under this Act offers a valuable insight for

developing countries, specifically in Africa, which often look to the leading examples before creating their own laws and strategies. Drawing lessons from the EU example, the article concludes that the AU should prioritise citizen participation and deliberation, enabling individuals to exchange and express their views on key issues of AI governance through an institutionalised platform, informing policy decisions.

2. Democracy and AI

The term *democracy* refers very generally to a method of collective decision making characterised by a kind of equality among the participants at an essential stage of the decision-making process (Christiano and Bajaj 2024; Himmelreich 2024; Hirvonen 2023). While various definitions abound, they commonly refer to collective decision-making, along with some constituent elements such as those pointed out by Dahl: (i) effective participation, (ii) voting equality, (iii) enlightened understanding, (iv) control of agenda, and (v) inclusion of adults (Dahl 2020, 37–38). Fishkin (2020) claims that democracy requires equal opportunities (political equality) available for the citizens to participate in governmental processes and deliberate on the issues of political matters.

Democracies function properly when they respond to and act on problems, concerns and issues that confront real people in civil society (Chambers 2024, 2023). Notwithstanding, while citizens are given constitutional rights to elect their representatives, e.g. Member of Parliaments, this alone, which is usually qualified as ‘representative democracy’, is not enough to fully and effectively uphold democratic norms i.e. egalitarian participation, civic motivation, transformation, reasonableness and identification (Himmelreich 2024). The ideal of democratic order has egalitarian implications that must be satisfied in ways that are manifest to citizens (Cohen 1989) through which they could actively participate in resolving their own problems. Democracy is thus featured when individuals have the rights and opportunities to engage in political processes by *participating* in decision-making and *deliberating* on the issues of public concern, such as economic equality, social housing, environmental sustainability, abortion.

From this point of view, to effectuate participatory and deliberative democracy in a country, citizens should be empowered to take active role(s), exercise their rights and contribute to the public opinion. While participatory democracy takes place via polling, idea collection, surveys and participatory budgeting, at the core of deliberative democracy lies public debate and reasoning in decision-making processes, e.g. through citizens assemblies, juries, panels or consensus conferences (Unver 2024).

Being a *forum*, democracy is neither a market nor a procedure (Himmelreich 2024). If democracy were just a procedure, e.g. if democracy consisted in the expression and aggregation of preference across some range of issues, then technology could augment democracy relatively easily (Himmelreich 2024). As advanced algorithms are developed and deployed, core zones of information and knowledge that support democratic life are increasingly mediated by them (Duberry 2022; Wihbey 2024), potentially supplanting participatory and deliberative democracy. This is effectively and comprehensively realised by AI shaping information and communication environments, news production, manipulation, expert rule as well as power of technology companies (Jungherr 2023).

AI’s unprecedented impact relates to ‘scale’ and ‘quality’ of the computing capabilities that are remarkably enhanced by big data analytics, open-source initiatives, increased

funding opportunities and reduced deployment costs (Unver 2024). Particularly with the advent of Generative AI, built on large language models (LLMs) (Ahmed 2023), implications of AI have been revealed more clearly, incorporating far-reaching harmful consequences, mostly resulted from opaque and unpredictable algorithms. A lack of knowledge regarding the data being used, e.g. relating to their scope, provenance and quality, but more importantly also the inherent difficulty in the interpretation of how each of the many data points used by a Machine Learning (ML) algorithm contribute to the conclusion it generates, cause practical as well as principled limitations (Mittelstadt et al. 2016). Such limitations embody biased or discriminatory outcomes, misinformation, privacy violations and the erosion of human agency, to name but a few.

The abovementioned limitations mean also the processes and decisions attributable to democratic governance, as we usher into an era increasingly driven by ML. ML algorithms can analyse large amounts of data from a variety of sources, including social media, voter registration databases and polling data, to identify patterns and trends that can be used to analyse social media data and identify individuals who are likely to support a particular political party as well as predict election outcomes (Nelson 2023). In addition, AI can also be used to analyse social media data and develop real-time messaging strategies that can be adjusted based on public sentiment (Nelson 2023). In a worst-case scenario, AI can be used to create deepfakes, including manipulated images and videos that can be used to spread false information (Duberry 2022; Nelson 2023).

All in all, AI presents a risk to epistemic and political democratic agency not by offering fake news or by engaging in advertising-like forms of manipulation, but rather by creating an epistemic environment and knowledge architecture that re-enforces beliefs present in a particular community and that makes it less likely that one's beliefs are confronted with scientific evidence, which renders the kind of belief formation and revision needed for democracy less likely and more difficult (Coeckelbergh 2022). Algorithmic governance¹ falsely promises emancipation by appearing all-inclusive, yet it undermines our agency and capacity for action, re-politicising us in ways we may neither desire nor easily resist, while offering only superficial revisions to address omissions or misunderstandings (Morison 2021).

Given challenges of AI to individuals' political and epistemic agency, with its shortfalls and implications, extend from ethics to *procedural* and *substantive* aspects of democracy. When it comes to the former which is concerned with the *how* – how leaders are elected, how laws are made and enforced and how citizens can participate in the political process, it should be noted that AI serves to optimise predefined goals through instrumental information processing (König 2023) such as clustering, filtering and classifying. Whereas such processing means *input-oriented* operations targeting at aggregating the preferences – as reflected in representative democracy, *output-oriented* operations incorporate optimisation over the aggregate data through analysis, interpretation and inferences. Usually taking the form of recommendations and insights driven by AI, output-oriented operations can influence substantive aspects of democratic governance, posing concerns about *what* – the content and quality of the policies and decisions made within the democratic processes (König 2023).

As AI can impact both procedural and substantive democracy – by classifying, profiling and targeting voters, political campaigning and messaging, prediction of election outcomes – it needs both input and output legitimacy. *Output-oriented* decision-making and recommendation can outweigh the *input-oriented* information processing, given the

increasing role of AI in analysing, interpreting and inferring from the data collected. Greater reliance on AI could mean that citizens' preferences as inputs to the democratic processes become less relevant (König 2023), and this can cause not only procedural but also substantive aspects of democracy being irreversibly impacted e.g. in the form of undermined economic and social justice, mis-distributed power and wealth. Therefore, when it comes to the substantive aspects, one can rightfully argue public endorsement of the AI-driven results is required alongside ensuring responsiveness and accountability, that is, the results have to provide an answer to the problem that was initially identified (Devillers 2021).

While AI reliance often harms output legitimacy, the same does not necessarily occur in terms of input legitimacy. However, when it comes to broader dynamics and internal capabilities of the procedures to (re)shape democratic governance – as coined with the term *throughput* legitimacy (Devillers 2021) – both substantive and procedural aspects can be claimed to be under threat. Given the echo chambers and manipulative content conveyed through social media and other digital platforms, such a threat to the public opinion should not be disregarded or underestimated even in the case of civic deliberations. Manipulated and/or restructured content, along with diminishing trust, can indirectly affect both input and output-oriented operations, implicating the throughput legitimacy, e.g. soundness of the deliberations to deliver the best outcomes, and weakening the liberal democracies.

Overall, AI's influence extends beyond mere ethical concerns; it poses a risk to the core tenets of democratic governance. Not only can AI compromise fairness, transparency and accountability within political systems it also threatens to undermine both the procedural mechanisms and substantive outcomes of democratic processes. This impact is particularly evident in the erosion of citizen participation and meaningful deliberation, which is particularly compelling for the prospect of liberal democracies. All this reveals the need to and the potential role of AI governance with respect to democratisation of AI.

3. Exploring democratic AI governance: critical analysis of the current landscape

3.1. AI governance: moving beyond regulation toward democratisation

AI is increasingly under spotlight of the law and policy makers for the ethical and legal concerns surrounding fairness, transparency, accountability, autonomy, human rights, health and safety, privacy and security, all of which highlight potential loopholes throughout the AI lifecycle – spanning design, development and deployment.² In response to these concerns, along with the challenges related to intellectual property (IP), misinformation and deepfakes, AI governance has emerged as a concept that incorporates a wide range of tools and mechanisms at various levels, from corporate and national to supranational and international.

Soft law initiatives initially led the process of AI governance, based on the emerging ethical and legal concerns. Soft law is characterised by substantive expectations which are not directly enforceable and are embodied in instruments such as guidelines, codes of conduct, best practice and public-private partnerships and similar (Varošanec 2022). Adoption of such instruments demonstrates an inclination to principles-based regulation with regard to AI ethics and governance. A key element of this approach is the

contextualisation of the guiding principles and legal values, utilising the non-binding instruments to provide detailed e.g. domain-specific applications of the binding instruments (Tomasz 2021).

Examples of the soft law instruments, among others, include OECD's Recommendation (originally adopted in 2019 and amended in 2024); the Montreal Declaration for Responsible AI (2018), the Asilomar AI Principles (2017), the IEEE Principles, called 'Ethically Aligned Design: A Vision for Prioritising Human Well-being with Autonomous and Intelligent Systems' (2019); the EU Ethics Guidelines for Trustworthy Artificial Intelligence, as developed by the Independent High-Level Expert Group (2019); the Principles adopted by Global Partnership on AI (GPAI), an international initiative launched in June 2020 by a group of founding countries, including Canada, France, the United Kingdom, with the aim of promoting the responsible development and use of AI. These also denote international frameworks of AI governance providing a set of legitimised normative criteria from which more detailed rules and requirements can be derived (Palladino 2023). All these ethical guidelines include the similar principles on transparency, equality/non-discrimination, accountability and safety, while some have additional principles, such as the demand for AI be socially beneficial and protect human rights (AlgorithmWatch 2021; Palladino 2023; Schmitt 2022).

Soft law instruments, while offering flexibility, often delegate rulemaking to independent actors and businesses. This can create a legal environment for AI that is shaped by market players, potentially leading to 'ethics washing', where organisations interpret and implement AI-related risks and challenges according to their own standards. Given this and the rapid integration of AI into modern life, nation states and supranational/international lawmakers have begun adopting hard law measures. Emerging hard law instruments, such as the EU AI Act (2024) and the proposed legislation in Brazil and Canada, aim to address ethical challenges through various tools and mechanisms, including but not limited to risk-based categorisation, prohibition of certain AI uses, data governance to prevent and mitigate biases, human oversight and monitoring, and accompanying accountability, transparency and explainability requirements.

The principles and rules of AI governance are widely established across the body of hard and soft ethics (Floridi 2023),³ incorporating some reflections on democratic governance, including how to shape the policies and practices towards a fairer, more equitable and inclusive society. In this context, *governance of AI ethics* does not always correlate to *democratic governance*, since the latter requires citizens' participation and deliberation, whereas the former is mostly satisfied with the abovementioned requirements and obligations to ensure the underlying datasets are inclusive and representative of the diverse groups of people, the necessary safeguards are put in place to ensure reliability, transparency, accountability, privacy and security along with monitoring and audit mechanisms.

It is acknowledged that to limit the risks of AI, entities using AI must include personnel with expertise in participatory practices who can mediate between the public and technical experts (Gilman 2023). From this vantage point of democratisation, effectively addressing the AI-related risks and challenges requires public participation and debate regarding the potential consequences of certain practices across the AI lifecycle. Seger (2023) broadly considers this and embody *democratisation* of AI use, AI development, AI profits and AI governance, within the meaning of democratising AI. They consider the first three forms of democratisation (*democratisation of use, development and*

profits) are about improving accessibility to AI or AI-derived profits which can yield both beneficial and harmful consequences (Seger et al. 2023). On the other hand, they espouse that democratisation of AI governance takes precedence over others as the source from which the moral and political value of the ‘democratisation’ terminology is derived (Seger et al. 2023).

In general, organisations involved in AI design, development and deployment need to establish clear goals for civic participation and deliberation and adapt their product management to modify those goals when public expectations differ. From the start of the process, the public should play a role in identifying the goals of participation and shaping the participatory processes most appropriate to the AI involved and the communities affected. Given the potential limitations of traditional participation methods like polls, consultations and surveys in capturing the depth of citizen perspectives, establishing new venues as well as harnessing existing channels of deliberation is essential for democratic AI governance (Coeckelbergh 2024a; Coeckelbergh 2024b; Unver 2024). In this regard, citizen deliberation must complement participation to ensure a refined, effective and bottom-up democratic process.

Overall, AI governance has a key role to play in democratisation of AI. Relevant tools and mechanisms, whether originated from soft or hard law, should prioritise reflecting, filtering and implementing the diverse preferences of citizens, alongside ethical assessments of AI systems. Governance frameworks should not only focus on ensuring AI systems are ethically designed, developed and deployed (representing more of a *top-down* approach) but should also actively promote their alignment with the citizens’ preferences and be designed accordingly, from the *bottom up*. Values of democratisation of AI design, development, deployment are derived from alignment with interests and values of the individuals who will be impacted (Seger et al. 2023). If we want to move beyond ethical concerns and/or the questions surrounding accessibility of an AI system, the *principal role* of democratisation of AI governance needs to be recognised in navigating trade-offs and risks across the decisions related to AI and its lifecycle (Seger et al. 2023).⁴

Below, the EU AI Act and the recently endorsed AU strategy, are investigated from the perspective of how to instrumentalise AI governance to enhance the democratisation of AI. The focus lies on a critical evaluation of the EU AI Act (2024), representing the leading framework of AI governance, to identify key takeaways for creating a sustainable and democratic AI framework in African countries, with an emphasis on democratic participation and deliberation of citizens.

3.2. Trajectory of the EU approach: from soft law to the EU AI Act

The European Commission has been proactive in AI governance, taking action before most member states did. The establishment of the High-Level Expert Group on AI, with 52 members, has been influential in the global discourse of AI ethics and governance. This was followed by adoption of the Ethics Guidelines for Trustworthy AI in 2019 (IHLEG 2019). The 2020 White Paper on AI, representing the subsequent key step at the EU level, sought public feedback on how to regulate AI and outlined its main pillars (European Commission. 2020). Advocating a risk-based approach with stricter rules for high-risk AI, the White Paper directly informed the legislative process commencing with the EU

Commission's Proposal (2021) and ending up with the EU AI Act (2024). This Act largely mirrors the risk categorisation, design of the obligations, many of the key requirements, tools and mechanisms in the White Paper.

EU AI Act is a hard law instrument, a complementary yet crucial and overarching step in governing AI across the EU and beyond. The 'maximum harmonisation' approach in this Regulation aims to create a unified regulatory framework for AI across the EU (Veale and Borgesius 2021). Following the Commission's Proposal (2021), several legislative stages were undertaken, leading to its enactment on 12th July 2024. The European Parliament and the Council of the EU have been actively involved in reviewing and amending the Commission's Proposal leading up to the final version. While the EU AI Act entered into force on 1st August 2024 and will be effective from 2nd August 2026, its provisions will be implemented following a transition period, e.g. with additional 1 year for the obligations regarding high-risk AI systems and enforcement of certain requirements regarding Generative AI models (EU AI Act 2024, Article 113(a)). It establishes a wide-ranging set of tools, mechanisms and remedies covering key stages of the AI lifecycle and addresses the responsibilities of various stakeholders such as providers, importers, distributors and deployers.

The EU AI Act introduces two new elements: the departure from more uncertain ethical grounds towards the adoption of a hard law instrument and the adoption of a regulation in the absence of distinct national laws or approaches on AI (Mantelero 2022). The latter aspect highlights the EU legislator's concerns about the rapid development of AI, the EU's limited competitive power in this area in terms of market share and the need to address the public's increasing worries about AI which might hamper its development (Mantelero 2022). This approach of the EU underlies its strategy of building AI governance mainly on ethical concerns and their assessment, ending up four distinct risk categories: (i) unaccepted risk, (ii) high-risk, (iii) limited risk and (iv) low or minimal risk (EU AI Act 2024, Article 6; European Parliament 2024).

Based on this framework, differentiated set of obligations are imposed on the providers of high, limited and low risk AI systems, whereas those falling under the unaccepted risk group are banned from entering the EU market (Article Art 5). High-risk AI systems under the Act are subject to stringent regulations, addressing issues such as risk and quality management (Articles 9 and 17), data governance (Article 10), technical documentation (Article 11), transparency (Article 13), human oversight (Article 14), accuracy, robustness and cyber security (Article 15), conformity assessment (Article 43), post-market monitoring (Article 72) and reporting (Article 73). When it comes to the Generative AI models i.e. LLMs additional requirements and obligations are set out under the EU AI Act (Article 53). Regardless of the risk level of their AI systems, all providers are subject to certain overarching obligations under the EU AI Act, such as ensuring transparency (Article 50).

Within the comprehensive and sophisticated framework of the EU AI Act, several processes govern AI, notably including risk categorisation (Article 6), conformity assessment (Article 43), registration (Article 49), market surveillance (Article 74), monitoring (Article 72), harmonised standards (Article 40), codes of conduct (Article 95) and regulatory sandboxes (Article 57). These processes are interconnected and operate in an institutional framework within which the following actors take distinct roles: notifying authorities (Article 28), notifying bodies (Article 31), AI Office (Article 64), AI Board (Article 65), AI

Forum (Article 67), scientific panel (Article 68), market surveillance authorities (MSA) (Article 74).⁵ All this denote an emerging sophisticated landscape where the wide-ranging ethical concerns, particularly related to high-risk AI systems, are evaluated based on co and self-regulatory mechanisms drawing on stakeholders' views and contribution, under the guidance and instructions of the competent authorities.

Overall, the EU AI Act promotes a participatory framework, encouraging collaboration and dialogue with various stakeholders through voluntary codes of conduct and regulatory sandboxes as well as conformity assessment and standardisation procedures. While code of conduct signifies a type of *self-rule* as stakeholders can decide on the rules that will govern themselves, the regulatory sandboxes would cultivate regulatory innovation along with a degree of regulatory flexibility, allowing developers to experiment with AI applications that may not perfectly fit with the existing requirements. In view of the relevant processes outlined under the EU AI Act, they can both represent co and self-regulation, while fostering a sense of shared responsibility among the stakeholders in ensuring compliance with their obligations. Such a notion of co and self-regulation would promote dissemination of best practices as well as an inclusive, participatory and transparent regulatory environment.

While these channels offer avenues for multistakeholder communication and dialogue, they do not in themselves guarantee a democratic regulatory system from the citizens' perspective. This partly stems from the stringent oversight mechanisms where the Commission, AI Office, AI Board and other competent authorities e.g. notifying bodies and authorities take a key role in the regulatory system, which fits better to *bureaucracy* rather than *democracy*, within the given boundaries. The current regulatory landscape would be considered to offer tools affirming bureaucracy and impersonal authority in the name of democracy (Heidelberg 2024). While participatory mechanisms like the advisory forum (EU AI Act Article 67) exist, their subordinate and non-binding nature within the bureaucratic regulatory system are likely to create a disconnect between those *governed* and *governing* as the influence of the former is restricted to the exercise of limited statutory rights.

The Act grants individuals 'right to lodge a complaint' (Article 85) and 'right to explanation' (Article 86), regarding the AI systems they are exposed to. The former applies to the market surveillance activities, such as real-world testing oversight and serious incident reporting, which are implemented during the course of conformity assessment of AI systems. In practice, this would primarily mean an importer or distributor affected by an AI system can bring a complaint to a MSA regarding any health and safety issue, which can arguably entail ethical assessments.⁶ Notwithstanding, the EU AI Act remains unclear on whether users or third parties negatively impacted by AI systems will have the right to complain to MSAs (Novelli et al. 2024). Even if complaints by the individual users impacted by AI are accepted and processed by MSAs, their handling the case will likely be focused on technical compliance rather than incorporating the broader perspectives and concerns of citizens into the regulatory process.

Additionally, the 'right to explanation', as envisaged under Article 86 of the EU AI Act, applies to

any affected person subject to a decision which is taken by the deployer on the basis of the output from a high-risk AI system ... which produces legal effects or similarly significantly

affects that person in a way that they consider to have an adverse impact on their health, safety or fundamental rights. (EU AI Act Article 86(1))

In case such an adverse impact is in place, individuals can obtain from AI deployers clear and meaningful explanation about the AI's role in decision-making and the main elements of the decision in question. Although limited to the decisions made only by deployers, introduction of this right is a positive step in terms of individuals' involvement in AI governance.⁷

However, the added value of this right is limited to the individual(s) affected by the AI⁸ and would hardly be translated into a wider democratic participation and impact, e.g. ending up a potential change and transformation regarding design, development and deployment of AI contested by the individual(s). For this to happen, citizens should be able to engage more actively in the regulatory system, exchange their views through a deliberative venue, typically in smaller groups facilitated by trained moderators, and communicate them to the key decision-makers.

In the absence of such rights and opportunities to enable participatory and deliberative democracy, individuals are unlikely to invest time and effort in attempting to influence the implementation of the regulatory system, e.g. via statutory rights within and outside of the EU AI Act. From this point of view, one can claim democratic governance is supplanted by the Act's bureaucratic nature and overzealous ethics governance. In case an AI system is tested, verified and certified to be compliant with the EU standards in terms of fairness, transparency and accountability, any objection as to democratic governance would barely find itself a room within the boundaries of AI governance. This includes how far the AI system in question reflects the political, social and democratic values inherent in the community in which it is to be integrated.

Historically, many proponents of democratic rule have urged that formal rights to participate are necessary but not sufficient for genuine rule by the people to be realised (Bird 2019).⁹ Having said that, we should distinguish the *individual rights* from *democratic participation and deliberation* of the citizens on a mass scale. While the former ensures that the citizens are protected against any abuse of governance tools or mechanisms, this does not extend to their ability to directly influence creation, modification, (re)design or deployment of AI within the boundaries of governance frameworks. The EU AI Act grants citizens 'right to lodge a complaint' and 'right to explanation', but these are limited in scope. While these rights signify a positive step in terms of citizen empowerment, the lack of inclusive tools and venues for civic engagement within the key governance processes such as conformity assessment, monitoring or standardisation creates a democratic deficit, in terms of participatory and deliberative democracy.

3.3. AU roadmap and strategy: footprints of an emerging framework of AI governance

Africa has recently embarked on the path of AI governance, yet a continent-wide regulatory framework has not been developed so far. Following a systemic and comprehensive approach in tackling technology related issues, the 37th AU Heads of States Summit was held on 17–18 February 2024 to discuss and make strategic decisions on

a number of areas such as data governance, data protection, online consumer protection, cross-border data flows, cybersecurity and emerging technologies including AI (Digwatch 2024; Tsannia 2024). In this regard, AfCFTA Protocol on Digital Trade was adopted by the AU Summit, along with the AUDA-NEPAD AI *Roadmap* (first draft) and *White Paper* (first draft), revealing the main pillars for a continent-wide AI strategy. While a wide range of policy recommendations were adopted by the former, how to achieve them is detailed within the latter.

AUDA-NEPAD (Continental) AI Roadmap is a product of the AU High-Level Panel on Emerging Technologies (APET) set up by the AUDA-NEPAD to promote knowledge and learning, share ideas and experiences, provide open access to its research and contribute to development policy and programme interventions (AUDA-NEPAD White Paper 2024a, 2024b). Aligned with the AU Agenda 2063 which represents a Pan-African vision of harmonisation and integration, the AUDA-NEPAD AI Roadmap was complemented with the White Paper fleshing out and explaining the seven pillars of the AU's AI strategy. The so-called seven pillars consist of the following:

- Developing human capital for AI,
- Using infrastructure and data as foundations for strengthening AI systems,
- Creating an enabling environment for AI development and deployment,
- Establishing a conducive economic climate for AI,
- Building sustainable partnerships, and
- Fostering capacity for monitoring and evaluation of AI strategies in African countries (AUDA-NEPAD AI Roadmap 2024).

On the whole, the Continental AI Roadmap sets out a principles-based framework towards a continental strategy for the period 2024–2033. This Roadmap focuses on the *responsible development and deployment of AI* across Africa, *ethical and impactful use of AI* for various sectors like agriculture, healthcare and education and *collaboration* among African countries to ensure AI benefits all citizens. It does not obligate but recommends development of tools and mechanisms similar to those under the EU AI Act, e.g. such as industry-specific codes and practices, standards and certification bodies for assessing and benchmarking AI systems, regulatory sandboxes for the safe testing of AI and the establishment of national AI councils to oversee and monitor the responsible deployment of AI, on the basis of the aforementioned seven pillars. In general, this framework means a set of principles that are supposed to primarily cultivate a conducive economic environment, sustainable digital infrastructure and sufficient human resources towards development of responsible AI. Given this, AI governance can be claimed to follow and build upon this wider approach to investment and innovation to create the necessary human, digital and capital resources for stimulation of AI across the continent.

On top of this roadmap, AU Executive Council endorsed the Continental AI Strategy during its 45th Ordinary Session in Accra, Ghana, on 18–19 July 2024 (African Union 2024a, 2024b). The Continental AI strategy outlines a five-year implementation plan, from 2025 to 2030,¹⁰ proposing a people-centric, development-oriented and inclusive approach around 5 focus areas, which include the following:

- (i) Harnessing AI's benefits for African people, institutions, the private sector and countries, in line with Agenda 2063, i.e. improving people's livelihoods, leaving no one and no place behind, with a focus on AI applications in agriculture, education and promoting the competitiveness of the African private sector,
- (ii) Addressing the risks associated with the increasing use of AI, with attention to governance, inclusion and diversity, human rights, gender equality, dignity, safety, peace and security, information integrity, and sustainable environment and ecosystem, considering African contexts, cultures, and values,
- (iii) Accelerating AU Member States' capabilities in infrastructure (energy, broadband, computing capabilities, data centres, cloud, IoT), AI talent and skills, datasets, innovation and research that underpin AI development,
- (iv) Fostering regional and international cooperation and partnerships to develop national and regional AI capabilities and advance Africa's position on a global stage,
- (v) Stimulating public and private investment in AI at national and regional levels (Continental AI Strategy 2024, 3–4 and 31).

Against this background, the prioritised areas and associated actions, as highlighted by the AU Executive Council, aim at promoting the competitiveness of the African private sector with a view to seeking the potential benefits to be derived from AI, to enhancing the Member States' capabilities in infrastructure, fostering regional and international cooperation and partnerships, public and private investment initiatives, as well as addressing the risks associated with the use of AI. Among these, AI-related risks are associated with AI governance by drawing attention to a number of key challenges including 'inclusion and diversity, human rights, gender equality, dignity, safety, peace and security, information integrity and sustainable environment' (Continental AI Strategy 2024, 4 and 32).

According to the AI Strategy, African AI governance will consider emerging best practices both within the region and across the global, including but not limited to the EU AI Act, as well as the different levels of AI use and adoption by diverse actors within the ecosystems across the continent. In this context, it is set out that Member States should pursue the following steps: (i) amendment and application of existing laws and frameworks, (ii) identification of regulatory gaps, (iii) establishment of enabling policy frameworks, (iv) development and roll-out of AI assessment and evaluation tools and institutional mechanisms, and (v) continuous research and evaluation (Continental AI Strategy 2024, 32).

Overall, African AI governance appears to be set as a subordinated goal within the AU's AI Strategy, given the level of emphasis given to this field, comparing to other priorities such as harnessing the digital, infrastructural and human resources to acquire mass AI adoption and use across public and private sectors. From this point of view, as a major adopter, Africa aims to activate its potential, reinforce intra and inter-continent partnerships and enhance its innovation capabilities to reap up the benefits of AI. In this approach, AI governance is not prioritised as a key agenda item, presumably because it is considered necessary to protect deployers and users from potential harms and ethical challenges only after AI has achieved wide-scale penetration. One can thus argue that governance tools and mechanisms are configured as a life vest rather than a proactive safeguard within the meaning of AI Strategy.

Abovementioned governance approach of the AU reveals a principles-based framework which can be adapted by the Member States against their capabilities, legislative frameworks and strategies. This would have several consequences. Firstly, Member States would build their AI governance in view of their existing legal frameworks as well as national AI strategies, utilising a wide discretion to regulate this area. Secondly, if a Member State lags in transposing the AU Strategy into their national context in an appropriate and balanced way, this is likely to result in a late adoption of any suitable national framework, most potentially after facing widespread challenges of AI. Thirdly, a rapid and straightforward transplantation of a third country's governance structure usually means following a top-down approach where bottom-up participation and deliberation are often very limited and ineffective.

While the above framed picture depicts a likely trajectory for some African countries, the last consequence should be deemed as a formidable risk, for which pre-emptive safeguards and steps need to be taken. To this end, a self-perpetuating, robust and inclusive environment needs to be in place during and before AI adoption. Thus, a key role needs to be attributed to democratic AI governance to ensure diverse contributions and inputs are taken on board in creation, implementation and (re)configuration of AI. Given the fact governance commences with the very beginning of AI lifecycle, delaying AI governance and democratisation is neither a sustainable nor a promising strategy.

Democratic governance thus needs to figure on the AU's agenda whereby all the stakeholders and users are given chance to participate and deliberate on the pertinent ethical, legal and governmental issues. In the absence of such a vision, the concerns raised by the AU itself, i.e. surrounding democracy and human rights, (Continental AI Strategy 2024, 26 and 53) would rise to a point threatening the African people and their values. As AI brings the values of AI developers and providers that inevitably embody an external influence, Pan-Africanism values and civil liberties would be impacted, if not visibly or directly, in the case of AI use and adoption on a mass scale.

From this point of view, merely acknowledging the significance of democracy is insufficient. The AU's strategy must revisit the concept of *democratic governance* and enhance and diversify the tools and safeguards to ensure democracy is upheld throughout the AI lifecycle. This approach rejects the idea of waiting until African AI developers are mature enough to counter external market forces and calls for putting proactive means and safeguards in place to address far-reaching challenges of AI in society including those that impact democracy itself. It involves re-exploring the concept of democratic governance and integrating tools of participatory and deliberative democracy into AI governance from the outset, rather than postponing this effort until after mass adoption or once the environment is already established.

While there is a growing consensus on the need for AI governance and regulation in Africa (Arakpogun et al. 2021; Ncube et al. 2023; Okolo 2024; Shafik 2024) democratisation of AI is often overlooked in these discussions. It is widely acknowledged that African countries do not need to wait to implement AI strategies to capitalise on their potential and should prioritise the development of comprehensive national AI strategies that include regulations and investment opportunities (Asiegbu and Okolo 2024). However, it is not widely discussed how democratic AI governance should be developed and sustained by African countries. Crucially, AI has great potential for good, but it also carries tremendous risks, which may disproportionately impact those least equipped to mitigate

them, particularly in Africa (Asiegbu and Okolo 2024). This suggests implementing democratic AI governance at the very early stages of AI lifecycle to draw on citizens' views and preferences alongside tackling the challenges in the areas such as education, healthcare and infrastructure to stimulate AI adoption and investment.

Overall, it is a good sign that AU acknowledges the need for a multi-tiered governance approach 'to ensure that responsible AI ecosystems are enabled, the benefits of AI are equally distributed, risks are mitigated and harms addressed, and that the development and use of AI across Africa is transparent and accountable to its people' (Continental AI Strategy 2024, 32). Notwithstanding, AU should take a step forward and integrate the necessary tools and safeguards to ensure democratic AI governance in its final policy documents, including AI strategy, in order for the Member States to grant and empower their citizens with certain rights and opportunities to actively participate in and deliberate on the issues of AI governance.

4. Africa's path to democratic AI governance: lessons from the EU experience and wider implications

Africa has been exploring ways to benefit from the AI revolution, with a view to utilising it for economic growth, increasing opportunities for business expansion and facilitating transformation in various sectors such as agriculture, education and health. AU's strategy and roadmap reveals a long-term plan to accomplish this based on a prospect of accelerated investment and innovation through regional, national and international projects, public and private partnerships as well as human capital development. AI governance is not emphasised as critically as other aspects of the AI Strategy, which gives special attention to the stimulation of AI development, investment and innovation and leaves a significant discretion to the members states in terms of how to achieve the objectives of responsible and ethical AI across the designated the seven pillars. Although AI-related risks and challenges are explained in the White Paper as well as the subsequently endorsed AI Strategy, both of these documents lack detailed tools and safeguards for AI governance. While the latter includes a two-phase strategy for implementation, this does not extend to democratic governance. Even governance of ethics is subordinated to broader socio-economic and political goals of AI Strategy of the AU.

While 'addressing and mitigating AI risks and fostering the ethical governance of AI in Africa' has been set out in April 2024 as one of the key topics after multistakeholder consultations (Continental AI Strategy 2024, 16), there is limited reference to ethical AI policy development in AI Strategy and other key policy documents of AU (Brand 2024). This should be replaced with a detailed policy strategy incorporating a suite of tools and mechanisms including, but not limited to, conformity assessment, verification and certification, procedures for audit and monitoring and stakeholder engagement frameworks. This is closely related to the need to promoting Pan-African values and civil liberties as well as prevention and mitigation of ethical challenges, as highlighted in the AI Strategy (Continental AI Strategy 2024, 26 and 53). Given that the values and choices of designers inevitably influence the AI lifecycle, investments in AI models should be preceded by a careful examination of whether and how the preferences and values of African people are incorporated into the AI design, development and deployment processes. This requires upholding a vision encompassing not only

ethical assessment but also democratisation of AI where governance frameworks and structures should have a key role to play.

While acknowledging the ‘AI divide between Africa and the rest of the world due to the lack of high-quality and large datasets, lack of high-performance computers and talent capabilities that are critical for AI development and use’ (Continental AI Strategy 2024, 16), the AU should consider promoting an embrasive approach based on *bottom-up* engagement of citizens as well as *top-down* implementation of ethical principles. While each of these needs further emphasis within the meaning of AI governance, ethical considerations should not overshadow participatory and deliberative democracy, which is expected to originate from citizens’ engagement within the AI governance. In this context, EU governance approach also needs to be considered as providing optional tools and mechanisms, which can be invoked for the purposes of democratic AI governance.

However, individuals have limited rights and opportunities to engage in the regulatory landscape of the EU AI Act, where the underlying tools and mechanisms primarily serve to the ethics governance, which does not guarantee engagement of the citizens particularly those in vulnerable positions. The participatory mechanisms, such as the advisory forum, as well as the opportunities for the stakeholders to engage within AI governance, including codes of conduct and regulatory sandboxes, do not envisage citizens’ direct engagement. Under the EU AI Act, stakeholders are given an extensive room to intervene in the design and implementation of governance tools and mechanisms, yet this does not extend to the individuals that are impacted by them. Notwithstanding, stakeholder participation focuses primarily on regulatory compliance, such as meeting pre-defined ethical requirements and standards, even when self-regulatory mechanisms are enforceable. This leaves no or little room for citizens to actively participate in or exchange their views on the processes being regulated which impact them.

One can argue the individual rights under the EU AI Act, signifies a likelihood of citizens’ participation pursuing their rights, i.e. ‘right to explanation’ and ‘right to lodge a complaint’. Nevertheless, it is hard to claim this can extend to mass participation and deliberation by citizens over the AI products and services to which they are exposed. At the centre of this restraint lies the limited scope of the ‘right to explanation’ and the ‘right to lodge a complaint’ alongside the lack of robust channels to realise participatory and deliberative democracy in parallel (Unver 2024). Citizens’ ability to utilise these rights is constrained – the former applies only to specific stages of the AI lifecycle i.e. ‘deployment’ and the latter is relevant only to particular aspects and challenges of AI such as health and safety concerns.

Overall, EU lawmakers might presume that the Act’s ethics-oriented requirements inherently promote democracy. However, a distinction must be made between *democratic governance* and *governance of ethics*. The former grasps epistemic and social justice more broadly and deeply than the latter. For instance, whereas the training of an AI model using representative data is key to ensure inclusion within the meaning of the latter, the former goes beyond this upholding self-ruling and determination of the people, not only allowing them to know the details of the AI lifecycle, but also involving them in relevant processes of AI governance. In case all these are formulated, designed and operationalised under a governance framework, participatory and deliberative

democracy can truly achieve their potential. Otherwise, citizens would be kept apart from the relevant processes, e.g. conformity, monitoring and standardisation, which are increasingly shaping the society.

Against this background, African path to democratic AI governance needs to be shaped in light of various governance approaches across the world as well as the AU's policy guidelines and principles, which provide a broader and flexible foundation for addressing the continent's unique challenges and opportunities. Shedding light on how African countries should shape their AI governance, the EU AI Act should not be deemed as a blueprint, given its bureaucratic nature and lack of holistic perspective into AI-related challenges. While the EU's newly created rights for citizens, i.e. the right to explanation and the right to lodge a complaint, are a positive step, further measures for public participation and deliberation are necessary to achieve democratic AI governance. Therefore, simply copying the EU's AI Act would pose significant challenges (Almada and Radu 2024; Arakpogun et al. 2021), potentially hindering the development of *sustainable and democratic frameworks of AI governance*.

From this perspective, institutionalised venues for civic participation and deliberation are crucial for an effective and sustainable AI governance promoting democratisation of AI. Integrating such venues into governance frameworks would be facilitated in and across African countries when this is encouraged by the AU. The recent intergovernmental discussions and strategy-level brainstorming at this level could be leveraged as an advantage for the prospect of democratic AI governance in Africa. The EU AI Act provides a reference point with its new statutory rights; however, it falls short due to its limited vision and objectives concerning democratic participation and deliberation. To establish a democratic AI governance, the AU Strategy should incorporate additional tools and mechanisms that allow individuals to exchange and express diverse views within a civic space and to communicate their consensus or collective position to policymakers, within the boundaries of the key regulatory processes such as conformity assessment, standardisation and monitoring.

5. Conclusion

While AI is not a totally new technology, its rapid ubiquity and the pace at which it is evolving has come as a surprise to even well-informed observers (UK House of Commons 2023). Democracy lies at the centre of AI-centric developments which increasingly influence individual preferences and societal structures. Democratic norms and values need to be in clear view in order to evaluate on their basis how technology in particular AI affects forum of democracy from a normative perspective (Himmelreich 2024). Algorithmic governance may result in a form of representative democracy, but it risks becoming superficial, prioritising issues of identity, culture and personality, while leaving crucial public decisions regarding services, planning and administration in the hands of technology (Morison 2021).

This article, arguing democracy is increasingly restructured by AI across public and private spheres and seeks to explore how AI governance can be leveraged to democratise AI itself. To this end, it draws a conceptual framework on the intersection of democracy and AI, emphasising citizens' participation and deliberation as essential for sustaining democracy in an era of distrust and democratic crisis, where AI plays an indirect yet

significant role. From this perspective, the article critically examines AI governance by analysing the EU case and delving into the recently enacted EU AI Act, seeking to explore how democratic AI governance can be developed in Africa as it navigates the challenges and opportunities of integrating AI in a way that aligns with civil liberties and democratic values. Guided by the insights from the EU AI Act, it discusses on how to establish a framework of AI governance across the continent with a focus on enabling participatory and deliberative democracy, considering the AU's recent policy documents, particularly the AI Strategy.

First and foremost, democracy can be argued to be shaped by the processes of citizens participating in different forms of political activity, their exchange of opinions and joining public debates that precede decisions. Without these elements, echoed with participatory and deliberative democracy, all the key decisions and processes of a governance system would be left to the representative democracy and its institutions running their work in a bureaucratic way. As such, AI governance can not unleash its potential for democratisation of AI, while able to tackle the ethical challenges from a top-down perspective. In this context, the key drivers of ethics governance become risk classification, conformity assessment including verification and certification, monitoring and audit as well as standardisation, in view of the EU AI Act.

In this regard, introduction of generic principles and obligations (Articles 4 and 50), specific requirements for high-risk AI systems (Articles 8–15 and 16–27) and various safeguards such as market surveillance (Article 74), harmonised standards (Article 40), codes of conduct (Article 95) and regulatory sandboxes (Article 57) would successfully serve building up a framework of ethics governance. These mechanisms of self and co-regulation under the EU AI Act would potentially facilitate self-rule and determination which lie at the notion of democracy. However, as far as citizens' democratic participation and deliberation is concerned, this legislation falls short of providing a sustainable framework, as it does not offer a broad range of rights and opportunities for individuals to actively engage in the governance processes and mechanisms. This highlights a crucial lesson for developing countries, especially in Africa, as they embark on their journeys of AI governance under the AU's guidance. This is a formidable concern, given the AU has adopted its AI Strategy laying out a roadmap for the Member States to harness AI development, innovation and adoption along with the enhanced infrastructural, digital and human resources.

While the EU's approach, with its emphasis on individual rights, i.e. the right to explanation and the right to lodge a complaint, is valuable, it does not go far enough in empowering citizens to actively shape the AI landscape. The EU AI Act's current structure does not adequately address concerns surrounding participatory and deliberative democracy, by leaving many shortcuts via competent authorities, e.g. notifying bodies, MSAs, and procedures, e.g. risk classification, conformity assessment, harmonised standards, not involving the citizens that are impacted by these processes and risking erection of knowledge barriers between experts and non-expert citizens. On the other hand, all these potential gaps, shortcomings and consequences appear to be overlooked in the landscape of ethics governance.

Notably, EU's design of a proactive and detailed regulatory framework, with a large suite of tools, safeguards and mechanisms focusing on AI ethics, means prioritisation of ethical considerations over participatory and deliberative democracy, absent a key

role given to the citizens. Ethics seems to be an all-inclusive solution for ‘pain-free politics’, politics that promises ‘good for all’, politics that does not take societal conflicts for patterns of inequality into account, politics that is built on a notion of self-evident consensus (Ronnblom, Carlsson, and Padden 2024). While the EU AI Act focuses on legitimate and timely concerns including fundamental rights, it appears to disenfranchise representative political processes and values from the governance of AI (Cavaliere and Romero 2022). This concern is not unfounded, given the limited provisions for civic engagement within the regulatory landscape as shaped by the EU AI Act. Albeit with important benefits of inclusion and diversity associated with co and self-regulation – as expected through codes of conduct and regulatory sandboxes – such mechanisms under this Act primarily involve industry stakeholders and technical experts, but not the ordinary citizens. Overall, this approach does not offer an achievable prospect of democratic AI governance due to its over-emphasis on regulatory oversight and ethics governance, along with limited avenues for civic participation and deliberation.

Africa has the opportunity to learn from the EU case and go beyond the EU AI Act in ensuring a democratic AI governance, not only focusing on development of ethically assessed, certified and enforceable AI but also its democratisation, particularly from the viewpoint of citizen empowerment and engagement. By fostering open dialogue, involving citizens and incorporating diverse perspectives into AI policymaking, Africa can lead the way in creating a model for AI governance that prioritises the formation and reflection of common will and preferences, while stimulating foreign direct investment, public and private partnerships, collaboration and innovation in the field. The principles-based and flexible nature of AI Strategy would enable harmonising ethical considerations with democratisation of AI from a broader viewpoint that encompasses bottom and top-down governance approaches.

Overall, the EU approach can be taken as a starting point, but additional avenues for citizen participation and deliberation need to be adopted to develop democratic AI governance. From such a broader vision, the AU Strategy should consider enabling individuals to participate in and deliberate on key governance mechanisms, such as conformity assessment, monitoring and standardisation, by providing them with opportunities to exchange their views and communicate their collective position to the policy makers, ideally through an institutionalised platform.

To this end, creation of civic space(s), i.e. deliberative venue for the citizens, needs to be emphasised by the AU along with other tools and safeguards to ensure ethical and responsible AI, including but not limited to individual rights such as right to explanation and right to lodge a complaint. This should be followed by designation of the selection method of citizens to represent the groups of people that would be impacted by AI, and the accompanying rules and regulations to clarify the extent to which civic participation and deliberation will influence the decisions to be made under AI governance. By envisioning and implementing this, AU would set an exemplary model of AI governance, ensuring that AI governance serves as a tool for democratising AI instead of mere governance of ethics from a top-down approach. It is considered that, by this means, Africa would better shape a future where AI is governed in a manner that reflects the Pan-African values, civil liberties and preferences of its people.

Notes

1. Algorithmic governance, here, should be understood broadly to encompass wide-ranging AI-driven or enabled regulatory activities informing and influencing public opinion on the matters of political significance.
2. For descriptions of AI lifecycle, see NIST (2023) and Leslie et al. (2021).
3. Insofar as ethics contributes to making, shaping or changing the law, it can be referred to as hard ethics. Soft ethics covers the same normative ground as hard ethics; but it does so by considering what ought and ought not to be done over and above the existing regulation – not against it, or despite its scope, or to change it (Floridi 2023, 82).
4. As such, where the democratically aligned decision throughout lifecycle of an AI system is in place, e.g. in favour of limiting accessibility of AI model to a certain degree, AI governance takes precedence as the source from which the moral and political value of the ‘democratisation’ terminology is derived (Seger et al. 2023, 8).
5. Regarding how these authorities (ought to) perform their duties and responsibilities see Claudio Novelli et al. (2024).
6. MSAs’ duties and responsibilities consist of carrying out necessary conformity assessment procedures, e.g. regarding health and safety standards, consumer protection and fair competition through inspections, document reviews and compliance tests. Given the fact that MSAs aim to enhance the functioning of the internal market and protect consumers from unsafe products, as set out under the Market Surveillance Regulation (Regulation (EU) 2019/1020), their remit would not be extensively changed after it extends to cover AI systems.
7. The ‘right to explanation’ has been included in the EU AI Act following the Parliamentary review and intervention. Initially, the Commission was confident that ‘the obligations for ex ante testing, risk management and human oversight will also facilitate the respect of other fundamental rights by minimising the risk of erroneous or biased AI-assisted decisions in critical areas such as education and training, employment, important services, law enforcement and the judiciary’ (EU Commission’s Proposal 2021, 11).
8. Regarding limitations of newly introduced ‘right to explanation’, see Kelder (2024).
9. They argue that popular self-government in this sense requires the active and widespread participation of citizens; insofar as citizens become politically disengaged and apathetic, democratic rule becomes corrupted and eventually moribund (Bird 2019, 289).
10. The Continental AI Strategy is envisaged to be implemented in two phases. Whereas Phase 1 (2025-2026) focuses on establishing foundations like governance frameworks and capacity building, Phase 2 (2028 onwards) focuses on implementing core projects based on a review of Phase 1 (Continental AI Strategy 2024, 60-61). The strategy is hence designed to initially focus on developing the essential governance structures, building capacity and acquiring necessary knowledge.

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