



Center for AI and
Digital Policy

ARTIFICIAL INTELLIGENCE AND DEMOCRATIC VALUES INDEX

FEBRUARY, 2022

CENTER FOR AI AND DIGITAL POLICY

WASHINGTON, DC

CAIDP.ORG

This report is available online at:
<https://caidp.org/reports/aidv-2021/>

ISBN 979-8-9857883-0-3

© Center for AI and Digital Policy 2022

ARTIFICIAL INTELLIGENCE AND DEMOCRATIC VALUES

Center for AI and Digital Policy
CAIDP.ORG

Preface

The past year has produced rapid changes in the world of AI policies and practices. National governments and international organizations are moving quickly to create new frameworks in an attempt to maximize the benefits and minimize the risks of Artificial Intelligence. At the same time, private companies and government agencies are gathering vast repositories of data, deploying new AI systems to manage every activity from employment and transportation to education for children and care for the elderly. At the outset, it is worth considering whether the gap between the policies to govern the deployment of these new technologies and the actual deployment is narrowing or growing wider, as this would be a critical indicator of the respect for democratic values at the heart of a human-centered polity.

As we undertook the second survey of national AI policies and practices we built on our earlier work, we identified new trends, and we revisited the metrics we had established for trustworthy and human-centric AI. Here are a few key findings from the past year:

The UNESCO Recommendation on the Ethics of AI, adopted by 193 countries in November 2021, was the single most significant AI policy development of the past year. The UNESCO Recommendation speaks directly to the widespread – and widely shared – aspiration of countries that AI should benefit humanity. In a field that barely existed a few years ago, the UNESCO AI Recommendation is a remarkably comprehensive AI policy framework, touching upon established AI concerns, such as fairness, accuracy, and transparency, and emerging AI issues, including gender equity and sustainable development. UNESCO’s proposal for Ethical Impact Assessment provides a powerful new tool to assess, in advance, the consequences of the deployment of AI systems. Recognizing the importance of the first global framework for AI ethics, we have this year altered one of our metrics to take account of the significance of the UNESCO Recommendation on AI. It is a development worth acknowledging and celebrating. In future reports, we will likely add another metric to assess the far more challenging issue of implementation.

Since publication of our last report, we also note *the introduction of the European Commission proposal for the regulation AI*. The Commission has set out a comprehensive, risk-based approach that could extend the “Brussels Effect” to the global governance of AI. The European Parliament has also signaled its intention to strengthen key provisions, and likely will prohibit the use of AI techniques for remote biometric identification. Meanwhile, the Council of the European Union, under the Presidency of

Slovenia and now France, have proposed additional texts that would, among other changes, extend the prohibition on social scoring to private companies as well as public agencies.

2021 also marked the adoption of *Resolution 473 in Africa, concerning the need to undertake a study on human and peoples' rights and artificial intelligence*. The African Commission on Human and Peoples' Rights called on State Parties "to ensure that the development and use of AI, robotics and other new and emerging technologies is compatible with the rights and duties in the African Charter and other regional and international human rights instruments, in order to uphold human dignity, privacy, equality, non-discrimination, inclusion, diversity, safety, fairness, transparency, accountability and economic development as underlying principles that guide the development and use of AI, robotics and other new and emerging technologies."¹ It is a powerful statement.

China has also adopted sweeping new laws for both data protection and the regulation of recommendation algorithms. Although the privacy rules look very similar to the GDPR and the regulation for the governance of recommendation algorithms share similar ambitions to proposals pending in both the European Union and the US Congress, there are real concerns about AI policies that are intended to favor a government in power. Against the backdrop of democratic values, the goals of transparency and accountability are offset by the inherent bias of such a legal structure.

We also noted this year the growing conflict over the deployment of facial recognition for mass surveillance. While the European Parliament voted to ban the use of AI technology for this purpose, many governments and private companies pushed forward new systems for surveillance in residential communities, inside school classrooms, and at public parks. These are not the CCTV cameras of old, but sophisticated image processing systems, designed specifically to identify individuals in public spaces by name. In some countries, this system of unique identification is then tied to elaborate government databases for scoring people based on their allegiance to the government in power. It is a form of social control beyond the imagination of even George Orwell.

We call attention also to the unfortunate failure of negotiators at the UN conference in late December to make progress on a proposal to limit – or better to prohibit – the use of lethal autonomous weapons. This occurred in the same year that the United Nations was able to verify the use of

¹ African Commission on Human and Peoples' Rights, *473 Resolution on the need to undertake a Study on human and peoples' rights and artificial intelligence (AI), robotics and other new and emerging technologies in Africa - ACHPR/Res. 473 (EXT.OS/ XXXI) 2021* (Feb. 25, 2021),

autonomous drone swarms to target and kill retreating military forces in the civil war in Libya.

As the field of AI policy rapidly matures, we observe the growing presence of judicial decisions, now shaping the laws of algorithms. In several cases, including the secretive evaluation of employee performance, courts have rejected opaque automated decisions. These judgements are based on well-established legal frameworks, such as the GDPR, though we see also legislative efforts to make automated decision-making with AI techniques more accountable. We report these outcomes favorably as algorithmic transparency remains one of our key metrics for the evaluation of AI policies and practices.

In addressing the need to advance democratic values in the age of AI, the ability of the European Union, the United States, and allies to work in common purpose remains central. On that front, the past year provides reason for both optimism and concern. The EU and the US launched a Trade and Technology Council in 2021 that set out a common framework on AI policy that could promote further transatlantic cooperation. The good news is that “human rights” and “democratic values” undergird many of the proposals. Top officials in the Biden Administration also expressed support for the EU AI Act, a key legislative framework that will likely move forward in 2022.

At the same time, the future of the EU AI Act is not certain, as some politicians have made the mistake of assuming it is possible to trade the protection of rights for innovation. *Technologies that fail to protect rights are not innovative, they are oppressive and stifling.* On the US side, several federal agencies have initiated AI-related “listening sessions,” but the necessary work of establishing legal standards to protect democratic values has yet to begin.

Still, our survey of national AI policies and practices also revealed the hard work of many NGOs, advocates, academics, and government officials, around the world, who have fully engaged the challenges that AI poses and are prepared to stand on the front lines in defense of fundamental rights. The remarkable progress made by the ReclaimYourFace campaign in Europe, and similar campaigns in Africa, Asia, and Latin America speak to a rapidly growing public recognition that not all technologically transformative impacts should be welcome. There is a growing understanding that “red lines” are necessary to safeguard fundamental rights. And in that recognition may be found also the key to aligning AI policies and practices, to narrowing the gap between the world of AI as it is and the world of AI we wish to inhabit. If AI is to remain human-centric, then we must determine the appropriate applications of AI.

We cannot say enough to thank the extraordinary CAIDP team members – the Global Academic Network, the Research Group, the Regional Coordinators, the CAIDP Fellows, the law school externs, and friends – who made possible this report. From an early project with a handful of people, the current report reflects the efforts and dedication of more than 100 experts in almost 40 countries. They did the hard work of researching and writing, presenting for discussion, and then preparing the assessments and ratings that make possible comparative analysis. We are also grateful to the advisors and reviewers who provided comments on earlier drafts of the report and direction for future editions. Our board members and dedicated volunteers have kept us on course during this period of remarkable growth. And we thank the supporters of CAIDP who have helped establish one of the most influential organizations in the field of AI policy. Together we share a commitment to *a better society, more fair, more just — a world where technology promotes broad social inclusion based on fundamental rights, democratic institutions, and the rule of law.*

To those in the AI policy field, whether advisors, decisionmakers, heads of government, independent experts, or simply members of the public who are interested in the growing impact of artificial intelligence on our lives and our societies, we hope you will give this report your attention. The rate of change is accelerating. We must act before it is too late.

As always, we welcome your advice, suggestions, revisions, and updates. Please send editorial comments to editor@caidp.org and visit our website caidp.org to find more about our activities, recent policy developments and how to get involved.

Marc Rotenberg
President and Founder

Merve Hickok
Research Director

Karine Caunes
Global Program Director

Center for AI Digital Policy
CAIDP.ORG
February 2022

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Acknowledgements

Editorial Team: Marc Rotenberg, Merve Hickok, Karine Caunes

Communications Team: Cecilia Garibotti, Rachel Stockton.

2021 Contributors: Adeboye Adegoke, Temofe Akaba, Selim Alan, Zelal Binici, Afi Blackshear, Bridget Boakye, Giuliano Borter, Stephanie Cairns, Shangamitra Chakraborty, Lyantoniette Chua, Roberto López Dávila, Pam Dixon, Divya Dwivedi, Elisa Elhadj, Pete Furlong, August Gweon, Lida Haghnegahdar, Gokce Cobansoy Hizel, Jason K. Johnson, Eddan Katz, Dongwoo Kim, Writankar Kundu, Thobekile Matimbe, Natalia Menendez, Kushang Mishra, Charles Kajoloweka, Mélissa M’Raidi-Kechichian, Marcos López Oneto, Alex Moltzau, Tamra Moore, Oarabile Mudongo, Somaieh Nikpoor, Diana Kemunto Nyakundi, Ubongabasi Edidiong Obot, Marcos López Oneto, Ananya Ramani, Rishi Ray, Rachel Stockton, Anirbar Sen, Niovi Vavoula, Sherry Wu, Khatia Zukhubaia, Larissa Zutter.

2020 Contributors: Mariame Almoghanam, Francesca Bignami, Anne Carblanc, Karine Caunes, Emilio De Capitani, Pam Dixon, Paula Soumaya Domit, Giovanni De Gregorio, Douglas Frantz, Merve Hickok, Regina Iminova, Lorraine Kisselburgh, Rebecca Leeper, Wonki Min, Pablo Molina, Maria Helen Murphy, Stephanie Perrin, Bilyana Petkova, Oreste Pollicino, Nguyen Dinh Quy, Cristos Velasco, Wendell Wallach, and Larissa Zutter.

Reviewers: Dr. Elena Abrusci, Brunel University London; Isabelle Buscke, Brussels Office, Federation of German Consumer Organisations; Dr. Giovanni De Gregorio, University of Oxford; Dr. Gry Hasselbalch, DataEthics.eu, InTouchAI.eu; Dr. Masao Horibe, Professor Emeritus at Hitotsubashi University; Former Chairman of Personal Information Protection Commission(PPC), Japan; Leyla Keser, IT Law Research Center, Istanbul Bilgi University (with Işıl Selen Denemeç, Zümrüt Müftüoğlu, and Dr. Atilla Aydin); Prof. Dr. Katja Langenbacher, Goethe University; Prof. Gianclaudio Malgieri, EDHEC Business School; Prof. Wonki Min, Technology Ambassador, Government of Korea; Prof. Valsamis Mitsilegas, Queen Mary University of London; Dr. Pablo G. Molina, Georgetown University; Dr. Irena Nesterova, Researcher at the Institute of Legal Science, Faculty of Law, University of Latvia, member of the UNESCO Ad Hoc Expert Group for the Recommendation on the Ethics of Artificial Intelligence; Prof. Oreste Pollicino, Bocconi University; Prof.

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Viviana Polisená, Universidad Católica de Córdoba; Prof. Dr. Ingrid Schneider, Universität Hamburg, Department of Informatics; Prof. Giovanni Sartor, University of Bologna, European University of Florence; Prof. Ben Shneiderman, University of Maryland; Dr. Cristos Velasco.

Please note also that the 2022 members of the CAIDP Research Group are preparing updates that will appear in the next edition of *Artificial Intelligence and Democratic Values*. Their names and affiliations will be found at the CAIDP website under “Research Group 2022.”

CAIDP Board of Directors

- Merve Hickok, Chair
- Marc Rotenberg, President
- Karine Caunes, Secretary
- Pablo Molina, Treasurer
- Doaa Abu-Alyounes
- Len Kennedy
- Lorraine Kisselburgh
- Cristos Velasco
- Larissa Zutter

CAIDP Global Academic Network

- Karine Caunes, Director, CAIDP Global Academic Network (*France*)
- Elena Abrusci, University of Brunel (*United Kingdom*)
- Professor Alessandro Acquisti, Carnegie Mellon University (*United States*)
- Professor Francesca Bignami, George Washington University (*United States*)
- Professor Meredith Broussard, New York University (*United States*)
- Professor Joseph David, Sapir College (*Israel*)
- Professor Laura K. Donohue, Georgetown Law (*United States*)
- Hlengiwe Dube, Center for Human Rights (*South Africa*)
- Giovanni De Gregorio, Oxford University (*Italy*)
- Gry Hasselbalch, Data Ethics EU and InTouchAI EU, (*Denmark*)
- Professor Masao Horibe, Hitotsubashi University and Chuo University (*Japan*)
- Professor Meltem Ineli-Ciger, Suleyman Demirel University (*Turkey*)
- Malavika Jayaram, Berkman-Klein Center (*Singapore*)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

- Professor Leyla Keser, Istanbul Bilgi University (*Turkey*)
- Lorraine Kisselburgh, Purdue University (*United States*)
- Professor Eleni Kosta, Tilburg University (*the Netherlands*)
- Professor Katja Langenbucher, Goethe-University (*Germany*)
- Professor Gianclaudio Malgieri, EDHEC Business School (*France*)
- Professor Wonki Min, President SUNY Korea (*Korea*)
- Professor Valsamis Mitsilegas, Queen Mary University of London (*Great Britain*)
- Professor Maria Murphy, National University of Ireland, Maynooth (*Ireland*)
- Professor Irena Nesterova, University of Latvia (*Latvia*)
- Professor Bilyana Petkova, University of Graz (*Austria*)
- Professor Viviana Polisena, Universidad Católica de Córdoba (*Argentina*)
- Professor Oreste Pollicino, Bocconi University (*Italy*)
- Professor Stuart Russell, University of California at Berkeley (*United States*)
- Professor Idoia Salazar, San Pablo CEU University (*Spain*)
- Professor Edward Santow, University of Technology Sydney (*Australia*)
- Professor Giovanni Sartor, University of Bologna / European University Institute (*Italy*)
- Professor Ingrid Schneider, Universität Hamburg (*Germany*)
- Professor Lee Tiedrich, Duke University (*United States*)
- Marc Rotenberg, President CAIDP (*United States*)

CAIDP Fellows

- Temofe Akaba (2021)
- Selim Alan (2021)
- Bridget Boakye (2021)
- Giuliano Borter (2020)
- Lyantoniette Chua (2021)
- Stephanie Cairns (2021)
- Pete Furlong (2021)
- August Gweon (2021)
- JJ Johnson (2021)
- Regina Kronan (2020)
- Rebecca Leeper (2020)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

- Roberto L. López-Dávila (2021)
- Natalia Menéndez González (2021)
- Tamra Moore (2021)
- Oarabile Mudongo (2021)
- Somaieh Nikpoor (2021)
- Ubongabasi Obot (2021)
- Paula Soumaya Domit (2020)
- Khatia Zukhubaia (2021)
- Larissa Zutter (2020)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Endorsements

“A very worthwhile analysis.”

- Stuart Russel, University of Berkeley, California

“An impressive body of work.”

- Alessandro Acquisti, Carnegie Mellon University

“An excellent report, a very useful tool for the community and a reference to see nexus between AI and Democratic Values”

- Leyla Keser, Istanbul Bilgi University

"A very insightful report on AI laws and policies that addresses significant international developments and provides a terrific comparison of AI laws and policies across 50 countries."

- Lee J. Tiedrich, Duke University

“The CAIDP's Report on AI and Democratic Value is an incredibly comprehensive and brave collection of policy and legal developments on the field of AI in the world. The AIDV report can be a point of reference not only for scholars and NGOs, but also for policymakers across the globe. The fundamental rights challenge of AI is too big to be ignored: the regulatory urgency should be complemented by far-seeing wisdom and the AIDV report can be a real help in this direction.”

- Gianclaudio Malgieri, EDHEC Business School

“This report is unique in that it compares AI policies and practices around the world and should inspire progress toward trustworthy and human-centric AI. The report also documents the important role of digital rights and consumer groups in this endeavor.”

- Ursula Pahl, European Consumer Association (BEUC)

“It's rare to read a document that has the potential to influence national policies on artificial intelligence around the world. The country descriptions and evaluations are thoughtfully organized, well-written, and carefully documented. The country rankings enable readers to have a broad understanding of who the leaders are and why, while pointing out what still needs to be done. The *AI and Democratic Values* index gives me hope that AI policy efforts can improve human rights, social justice, and dignity.”

- Ben Shneiderman, author, *Human-Centric AI* (Oxford 2022)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

“In this historical moment of global interest negotiation and competition on AI we are in right now, we urgently need a shared narrative serving the human interest and democracy. With its comprehensive overview of key global and local power actors and initiatives ***The Artificial Intelligence and Democratic Values Index*** is an essential instrument for the facilitation of this shared global dialogue on AI now and in many years to come.”

- Gry Hasselbalch, DataEthics.eu, InTouchAI.eu

““A comprehensive and detailed overview of the global governance of AI - an essential body of work as AI emerges from the scientific frontier to center stage in society.”

- Joichi Ito, Director, Center for Radical Transformation, Chiba Institute of Technology

“This is a very ambitious and important exercise. The outcome is impressive- detailed and rigorous.”

- Valsamis Mitsilegas, Queen Mary University of London

“A unique comparative analysis of AI policy across the world. The ***Artificial Intelligence and Democratic Values Index*** does not just provide a comprehensive perspective on the evolution of AI policy but also contribute to underlining the constitutional relationship between AI and democracy.”

- Oreste Pollicino, Bocconi University

- Giovanni De Gregorio, University of Oxford

“This comparative study sheds critical light on the adoption of Artificial Intelligence in democratic societies. ***AI and Democratic Values*** is an indispensable reference source for regulators, reporters, academics, and practitioners

- Dr. Pablo G. Molina, Georgetown University and founder, International Applied Ethics and Technology Association (iaeta.org)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

TABLE OF CONTENTS

Preface.....	i
Acknowledgements.....	v
Endorsements.....	ix
EXECUTIVE SUMMARY	1
Purpose and Scope	1
The 2022 Edition	2
Findings	3
Recommendations.....	4
New Recommendations (2022)	4
THE GLOBAL AI POLICY LANDSCAPE	5
The Council of Europe.....	5
CAHAI.....	6
Committee of Ministers	7
European Committee on Crime Problems	8
Parliamentary Assembly	9
European Court of Human Rights.....	10
Commissioner for Human Rights	10
Commission for the Efficiency of Justice.....	11
The European Union.....	11
The European Commission.....	11
The European Parliament.....	15
Committees – AIDA, IMCO, LIBE.....	18
The Two Councils.....	20
The Court of Justice of the European Union	22
The European Data Protection Board	22
The European Data Protection Supervisor.....	23
Fundamental Rights Agency.....	25
High-Level Expert Group on AI.....	26
G7.....	27
G20.....	28
Global Privacy Assembly	30
The OECD	31
Global Partnership on AI	32
OECD AI Observatory.....	32
National Implementation	33
The OECD ONE PAI.....	34

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

United Nations	35
The Secretary General.....	35
UNESCO Recommendation on AI Ethics	37
UN High Commissioner for Human Rights.....	39
International Telecommunications Union.....	40
UN Special Rapporteur	40
UN and Lethal Autonomous Weapons	41
The Vatican.....	42
Technical Societies	43
Civil Society	44
Latin America	44
Africa	46
Asia	48
Europe	50
United States	52
COUNTRY REPORTS.....	54
Argentina	54
National AI Strategy	54
Regional/Provincial.....	55
Public Participation.....	56
Privacy	56
Algorithmic Transparency	57
Human Rights	58
OECD/G20 AI Principles	58
Facial Recognition	59
Lethal Autonomous Weapon Systems	60
Evaluation	60
Australia.....	62
National AI Strategy	62
Public Participation.....	63
Data Protection.....	65
Global Partnership on AI	66
Algorithmic Transparency	66
OECD/G20 AI Principles	67
Human Rights	67
Evaluation	68
Austria.....	69
National AI Strategy	69
Public Participation.....	70
Facial Recognition	71

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Predictive Policing	71
AI Oversight.....	72
Algorithmic Transparency	72
OECD AI Principles	73
Human Rights	73
Lethal Autonomous Weapons.....	74
Evaluation	75
Bangladesh.....	76
National AI Strategy	76
Public Participation.....	76
Data Privacy Law	77
Biometric Recognition	78
Algorithmic Transparency	78
Human Rights	79
Lethal Autonomous Weapons.....	79
Evaluation	80
Belgium.....	81
National AI Strategy	81
Regional/Community Strategies	83
Public Opinion	84
Independent AI oversight.....	85
Public Participation.....	85
Facial Recognition	86
Algorithmic Transparency	86
Lethal Autonomous Weapons Systems	87
OECD/G20 AI Principles	87
Human Rights	88
Evaluation	88
Brazil.....	89
National AI Strategy	89
Public Participation.....	91
Research & Development	92
Privacy	93
Data Protection Authority	94
Medical Data.....	95
Algorithmic Transparency	95
AI and the Judiciary	96
Facial recognition.....	98
OECD/G20 AI Principles	99
Human Rights	99
Lethal Autonomous Weapons.....	100

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Evaluation	100
Canada	101
National AI Strategy	101
Directive on Automated Decision-making	102
Predicting Homelessness	103
Public Participation	103
Data Protection.....	104
Algorithmic Transparency	105
Facial Recognition	106
Networking and collaborative platforms	Error! Bookmark not defined.
Global Partnership on AI	107
OECD/G20 AI Principles	107
Lethal Autonomous Weapons.....	108
Human Rights	108
Evaluation	108
China.....	109
National AI Strategy	109
AI Core Values	110
Facial Recognition	113
Medical AI	114
Use of AI in Covid-19 Response	114
AI Ethics	115
AI and Surveillance.....	116
Public Opinion	119
Data Protection.....	119
Fundamental Rights & OECD AI Principles	120
Evaluation	121
Colombia.....	123
National AI Strategy	123
Ethical Framework for Artificial Intelligence.....	125
Regulatory Sandboxes and Beaches	126
Public Participation	127
Research & Development	128
Privacy and Data Protection.....	128
Data Infrastructure	130
AI and the Judiciary	132
Facial Recognition	133
OECD/G20 AI Principles	135
Human Rights	135
Lethal Autonomous Weapons.....	135

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Evaluation	136
Denmark.....	137
National AI Strategy	137
The OECD AI Principles	138
Universal Declaration of Human Rights.....	138
Public Participation.....	140
AI Policies and Practices in the Public Sector	141
Oversight Mechanisms.....	142
Universal Guidelines for AI.....	142
Independent Council for Ethical use of Data	143
Evaluation	143
Dominican Republic	144
National AI Strategy	144
Privacy and Data Protection.....	145
Human Rights	145
Facial Recognition	146
Lethal Autonomous Weapons.....	146
Evaluation	146
Egypt.....	147
National AI Strategy	147
Public Participation.....	148
Regional Leadership	149
Responsible AI.....	150
OECD/G20 AI Principles	150
Human Rights	151
Biometric Recognition	151
Evaluation	152
Estonia	153
National AI Strategy	154
OECD AI Principles	156
Human Rights	156
Algorithmic Transparency	157
Public Participation.....	158
Evaluation	159
Finland	161
National Approach to Artificial Intelligence	161
Access to Data.....	164
Foreign Policy and AI.....	164
Public Participation.....	166
Facial Recognition	166
Lethal Autonomous Weapons.....	166

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

OECD AI Principles	167
Algorithmic Transparency	167
Human Rights	168
Evaluation	169
France.....	170
National AI Strategy	170
The Health Data Hub Controversy	171
Launch of National AI Research Institutes.....	173
AI Cloud.....	173
National Pilot Committee for Digital Ethics.....	174
Fundamental Rights	175
Facial Recognition	176
Consumer Perspective.....	178
The Global Partnership on AI	178
Algorithmic Transparency	178
OECD/G20 AI Principles	179
Human Rights	180
Lethal Autonomous Weapons.....	180
Evaluation	180
Germany.....	182
National AI Strategy	182
Public Participation.....	184
Data Ethics Commission.....	185
Facial Recognition	186
Predictive Policing	187
AI Oversight.....	187
Algorithmic Transparency	189
OECD/G20 Principles and Global Partnership on AI.....	190
Human Rights	190
Lethal Autonomous Weapons.....	191
Evaluation	191
Hong Kong.....	193
National AI Strategy	193
Fundamental Rights and OECD AI Principles	194
Public Participation.....	195
Data Protection and Algorithmic Transparency	195
AI and Surveillance.....	197
Evaluation	198
India	200
National AI Strategies.....	200
Quad Group.....	203

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

AI Policy Development and Oversight	203
India's AI Stack and Aadhaar	204
Public participation	206
OECD/G20 AI Principles	207
Data Protection.....	207
Algorithmic Transparency	208
Human Rights	209
Evaluation	209
Indonesia.....	210
National AI Strategy	210
AI Initiatives	211
Jakarta Smart City Initiative	212
AI Summit 2020.....	212
Pancasila Values	212
AI Oversight.....	213
Public Participation.....	213
Data Privacy Law.....	214
OECD/G20 AI Principles	215
Human Rights	216
Evaluation	216
Iran.....	217
National AI Strategy	217
Freedom of Internet and Digital Rights	218
Data Protection.....	218
Digital ID	219
Facial Recognition	220
OECD/G20 Principles.....	220
UNESCO AI Ethics Recommendation	221
Human Rights	221
Lethal Autonomous Weapons.....	221
Evaluation	222
Ireland	223
National AI Strategy	223
Public Participation.....	224
Public Trust in AI.....	225
Human Rights	225
G20/OECD Principles.....	226
Global Partnership on AI	226
Global Privacy Assembly	226
Algorithmic Transparency	226
AI Oversight.....	227

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Lethal Autonomous Weapons.....	228
Public Services Card Facial Recognition Controversy	228
Evaluation	229
Israel.....	230
National AI Strategy	230
National AI Program.....	231
Ethical and Legal Aspect of AI.....	231
International Cooperation	233
Public Participation	234
AI Week	234
Privacy and Data Protection.....	234
Algorithmic Transparency	235
Medical Data	236
Covid-19 Tracking Controversy	236
Social Ranking	238
Facial recognition.....	238
OECD AI Principles	239
Human Rights	240
Autonomous Weapons	240
Evaluation	241
Italy	242
National AI Strategy	242
Strategic Programme on AI 2022-2024	244
National AI Ecosystem	245
Human capital	246
The Italian Institute for Artificial Intelligence (I3A)	247
White Paper on Public Administration	247
The Rome Call for Ethics	249
Public Participation and Access to Documents	249
Facial Recognition	251
OECD/G20 AI Principles	252
Data Protection.....	253
Algorithmic Transparency	254
Human Rights	254
Evaluation	254
Japan	255
National AI Strategy	255
AI R&D Guidelines	256
Social Principles of Human-Centric AI	256
AI R&D Guidelines and AI Utilization Guidelines	257
Data Free Flows with Trust.....	258

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Public Participation	259
Data Protection.....	260
OECD/G20 AI Principles	261
Algorithmic Transparency	261
Use of AI for policy decisions	261
Facial Recognition	262
Human Rights	263
Evaluation	263
Kazakhstan.....	264
Overview and National AI Strategy.....	264
AI Core Values	265
Facial Recognition and Smart Cities.....	266
Medical AI	267
AI Ethics	267
Data Protection.....	268
Algorithmic Transparency	269
OECD AI Principles	269
Human Rights	269
Evaluation	270
Kenya	271
National AI Strategy	271
Public Participation.....	273
International Partnership on AI.....	274
Data Protection.....	274
Human Rights	275
Evaluation	275
Korea.....	277
National AI Strategy	277
AI R&D Strategy	278
Amendments to the Three Major Data Privacy Laws.....	279
Personal Information Protection Commission (PIPC).....	279
Global Partnership – OECD, G20, GPAI, and UNESCO.....	281
AI Ethics	282
Algorithmic Transparency	283
Improvement of Policies and Laws for the Era of AI.....	284
Human Rights Advocacy	284
Evaluation	285
Malaysia (new)	286
National AI Strategy Overview	286
Background and Related National Policies.....	286
AI-Rmap	287

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

OECD/G20 AI Principles	288
Human Rights	288
AI in healthcare	288
AI System for Surveillance	290
Data Protection Laws	290
Autonomous vehicles	291
Evaluation	292
National AI Strategy	293
Implementation of the National AI Strategy	293
Public Participation	294
Global Partnerships: OECD, G20, GPAI, and COMEST	295
Data Protection	296
Algorithmic Transparency	297
Human Rights	297
Evaluation	298
Netherlands	299
Strategic Action Plan for AI	299
Predictive Policing	301
Automated Profiling Fiasco	302
AI Registry	303
Public Participation	303
Fundamental Rights and OECD AI Principles	304
Algorithmic Transparency	305
Evaluation	307
Nigeria	308
National AI Strategy	308
Public Participation	309
Research and Development	310
Privacy	310
Digital Rights in Nigeria	311
COVID-19 Pandemic	312
Facial Recognition	313
Selected AI initiatives in Nigeria	313
Evaluation	314
Norway	316
National AI Strategy	316
<i>Public Participation (A)</i>	317
<i>Global Partnerships</i>	318
<i>OECD AI Principles</i>	319
<i>Human Rights</i>	319
<i>Oversight: Data Protection Authority</i>	320

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

<i>Data Protection Laws and Policies</i>	323
<i>Evaluation</i>	323
Philippines	325
National AI Strategy	325
Public Participation	326
OECD/G20 Principles	326
Universal Declaration of Human Rights	327
Data Privacy Law	328
Algorithmic Transparency	329
Facial/Biometric Recognition	329
Evaluation	330
Poland	331
National AI Strategy	331
Ultima Ratio	335
Poland's Position on AI and Fundamental Rights	335
OECD/G20 AI Principles	336
Human Rights	337
Algorithmic Transparency	337
Data Protection	339
Public Participation	340
Evaluation	340
Russia	341
National AI Strategy	341
Digital Economy in Russia	342
AI Strategy for Russian start-up	342
AI Policy in Russia	343
Digital Rights Law and AI Regulation	344
Facial Recognition Controversy	344
Data Protection	345
Algorithmic Transparency	346
OECD/G20 AI Principles	346
Human Rights	346
Evaluation	347
Rwanda	348
National AI Strategy	348
AI System for Identity Management	349
Smart Cities	350
Drone Regulation	351
Public Participation	352
OECD AI Principles	352
Fundamental Rights	352

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Data Protection.....	353
Algorithmic Transparency	354
Evaluation	355
Saudi Arabia	356
National AI Strategy	356
Global AI Summit.....	359
Neom.....	360
Public Participation.....	360
G-20 Meetings	361
AI Oversight.....	363
Data Protection.....	363
Data Governance.....	364
OECD/G20 AI Principles	365
Human Rights	365
Evaluation	366
Singapore	367
National AI Strategy	367
AI System for Online Surveillance	368
Smart Cities.....	370
Digital Identification and Surveillance	370
Public Participation.....	371
OECD/G20 AI Principles	372
Data Protection and Algorithmic Transparency	372
Human Rights	374
Evaluation	374
Slovenia	376
National AI Strategy	376
European Union	377
European Council Presidency	378
International Research Center on Artificial Intelligence (IRCAI)..	378
Privacy and Data Protection.....	379
Algorithmic Transparency	379
OECD/G20 AI Principles	380
Human Rights	380
Evaluation	381
South Africa.....	382
National AI Strategy	382
Strides in Innovation	383
Data Protection.....	384
COVID-19 Surveillance.....	385
Research and Development on AI	385

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Public Participation	387
Public Opinion	388
OECD/G20 Principles.....	388
Human Rights	389
Evaluation	389
Spain	391
National AI Strategy	391
Artificial Intelligence Advisory Council	394
Artificial Intelligence Supervision Agency	394
Charter on Digital Rights	395
Algorithmic Transparency	396
Lethal Autonomous Weapons.....	397
OECD/G20 AI Principles	397
Human Rights	397
Evaluation	398
Sweden.....	399
National AI Strategy	399
The Trelborg Controversy	403
Independent Oversight	404
Foreign Policy and AI.....	406
Public Participation.....	406
Facial recognition.....	407
Lethal Autonomous Weapons.....	409
OECD AI Principles	410
Algorithmic Transparency	410
Human Rights	411
Evaluation	412
Switzerland	413
National AI Strategy	413
Swiss Foreign Policy and AI.....	416
Independent AI oversight.....	418
Public Participation.....	419
AI Events in Geneva	420
AI and Criminal Justice	420
Algorithmic Transparency	421
OECD AI Principles	422
Human Rights	422
Evaluation	422
Taiwan	423
AI Action Plan	423
AI Core Values	424

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

AI R&D Guidelines	425
Medical Data and AI Ethics	426
Covid-19 and Big Data Analytics	427
Autonomous vehicles	428
Facial Recognition	429
Algorithmic Transparency	429
Use of AI for digital democracy	430
Data Protection.....	431
OECD AI Principles	431
Fundamental Rights	432
Evaluation	432
Thailand	433
National AI Strategy	433
AI System for Surveillance.....	435
Anti-fake News Centre	435
Digital ID	436
Public Participation.....	436
Fundamental Rights and OECD/G20 AI Principles	436
Data Protection.....	438
Lethal Autonomous Weapons.....	439
Evaluation	439
Turkey	440
National AI Strategy	440
Public Participation.....	441
Open Data Project.....	443
Data Protection.....	443
OECD AI Principles	445
Universal Guidelines for AI.....	445
Human Rights	446
Algorithmic Transparency	446
Lethal Autonomous Weapons.....	447
United Arab Emirate.....	449
National AI Strategy	449
OECD/G20 Principles.....	450
Public Participation.....	451
Data Protection.....	452
Algorithmic Transparency	454
Human Rights	454
Facial Recognition	455
Predictive Policing.....	455
Autonomous Weapons.....	456

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Evaluation	456
United Kingdom	458
National AI Strategy	458
Public Participation	460
Facial Recognition	461
AI Grading Controversy	461
NGO Perspectives on AI in the UK	462
Global Partnership on AI and OECD AI Principles	463
Data Protection	463
Algorithmic Transparency	464
Human Rights	465
Evaluation	465
United States	467
National AI Strategy	467
OMB AI Guidance for Agencies	470
EU-U.S. Trade and Technology Council (TTC)	471
Facial Recognition	472
National Security Commission on AI	474
NIST Risk Management Framework	475
JAIC	476
Algorithmic Transparency	476
OECD AI Principles	478
Public Participation and Access to Documents	478
Human Rights	479
Evaluation	481
Uruguay	482
National AI Strategy	482
Global Partnership on AI	484
Global Privacy Assembly	484
Public Participation	485
Data protection	485
Data Protection Authority	486
Facial recognition	486
Human Rights	487
Algorithmic Transparency	488
OECD/G20 AI Principles	488
Evaluation	488
COUNTRY EVALUATIONS	490
Evaluation Grid	490
Tier I	492
Tier II	492

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Tier III	492
Tier IV	493
Tier V	493
Country Distribution by Tier	494
Chart: AIDV Index by Country and Tier	495
Chart: AIDV Index by Country, 2020 vs. 2021	496
Chart: AIDV Country Scores by Individual Metrics	497
Metrics	498
Response Codes	498
METHODOLOGY	499
Scope	499
Time Period	499
Factors	499
The Metrics	500
Q1. Has the country endorsed the OECD/G20 AI Principles?	500
Q2. Is the country implementing the OECD AI Principles?	501
Q3. Has the country endorsed the Universal Declaration of Human Rights?	501
Q4. Is the country implementing the Universal Declaration for Human Rights?	501
Q5. Has the country established a process for meaningful public participation in the development of a national AI Policy?	502
Q6. Are materials about the country's AI policies and practices readily available to the public?	502
Q7. Does the country have an independent (agency/mechanism) for AI oversight?	503
Q8. Do the following goals appear in the national AI policy: "Fairness," "Accountability," "Transparency," "Rule of Law," "Fundamental Rights"?	503
Q9. Has the country by law established a right to Algorithmic Transparency?	503
Q10. Has the country supported the Universal Guidelines for AI?	504
Q11. Has the country endorsed the UNESCO Recommendation on AI Ethics?	504
Q12: Has the country's Data Protection Agency endorsed the 2018 GPA Resolution on AI and Ethics and the 2020 GPA Resolution on AI and Accountability?	505
Hong Kong	505
Exemplars	506
Scoring	506

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Search Strategy	506
Descriptive Summary	506
Language.....	507
Citation Format	507
Gender Balance and Diversity	507
Bias	507
Private Sector Practices	508
REFERENCES	509
AI Policy Surveys - International and Regional	509
AI Policy Surveys - Domestic.....	510
Related Country Surveys	512
GLOSSARY	512
REFERENCE DOCUMENTS.....	516
OECD AI Principles	516
OECD AI Policy Adherents.....	522
OECD Member Countries.....	522
OECD Non-Member Countries	523
G-20 Countries.....	523
Universal Guidelines for AI.....	524
UGAI Explanatory Memorandum	526
UGAI References.....	529
Universal Declaration of Human Rights.....	531
GPA Declaration on Ethics and Data Protection in AI.....	537
GPA Resolution on AI and Accountability	544
UNESCO Recommendation on AI Ethics	548
Preamble	548
I. Scope of Application	552
II. Aims and Objectives	555
III. Values and Principles.....	556
IV. Areas for Policy Action	566
Policy Area 1: Ethical Impact Assessment	567
Policy Area 2: Ethical Governance and Stewardship	568
Policy Area 3: Data Policy.....	572
Policy Area 4: Development and International Cooperation.....	574
Policy Area 5: Environment and Ecosystems.....	575
Policy Area 6: Gender.....	576
Policy Area 7: Culture	577
Policy Area 8: Education and Research.....	579
Policy Area 9: Communication and Information.....	581
Policy Area 10: Economy and Labour.....	582

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Policy Area 11: Health and Social Wellbeing	583
V. Monitoring and Evaluation	585
VI. Utilization and Exploitation of the Present Recommendation .	587
VII. Promotion of the Present Recommendation	587
VIII. Final Provisions.....	588
The Center for AI and Digital Policy.....	589
About this Report.....	589

Artificial Intelligence and Democratic Values 2021
Center for AI and Digital Policy

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

EXECUTIVE SUMMARY

Purpose and Scope

Artificial Intelligence and Democratic Values is the first global survey to assess progress toward trustworthy AI, based on detailed narrative reports, combined with a methodology that produces ratings and rankings for national AI policies and practices.

The **AI Index** has these objectives: (1) to document the AI policies and practices, based on publicly available sources, (2) to establish a methodology for the evaluation of AI policies and practices, based on global norms, (3) to provide a basis for comparative evaluation, (4) to provide the basis for future evaluations, and (5) to ultimately encourage all countries to make real the promise of AI that is trustworthy, human-centric, and provides broad social benefit to all.

Artificial Intelligence and Democratic Values focuses on human rights, rule of law, and democratic governance metrics. Endorsement and implementation of the OECD/G20 AI Principles is among the primary metrics. Opportunities for the public to participate in the formation of national AI policy, as well as the creation of independent agencies to address AI challenges, is also among the metrics. Patents, publications, investment, and employment impacts are important metrics for the AI economy, but they are not considered here.

Artificial Intelligence and Democratic Values will be published on an annual basis and will evolve as country practices change and new issues emerge.

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

The 2022 Edition

The 2022 edition of the report updates and expands the initial report. Among the key changes:

- The number of countries assessed increased from 30 to 50
- Endorsement of the UNESCO Recommendation on AI Ethics is now one of the key metrics to assess progress toward human-centric and trustworthy AI.
- For the metric concerning Implementation of the OECD AI Principles, we have awarded top scores to Canada, France, Japan, and Korea, the countries that were central to the development and implementation of the first global framework for AI policy.
- Additional efforts were made to normalize scores across key metrics. For example, the determination of implementation of the Universal Declaration for Human Rights now tracks the designation of Freedom House for countries as “Free,” “Partly Free,” and “Not Free.”
- The scores for country reports previously published were reviewed and revised based on developments during the past year concerning AI policies and practices.
- The number of researchers participating in the project has grown significantly. The 2022 CAIDP Research Group now includes over 100 participants from almost 40 countries.
- We acknowledge the comments of several reviewers who recommended a more detailed approach to the review of human rights. Additional recommendations concern expanded coverage of AI and immigration and AI and criminal justice. We will address these topics in the next edition.

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Findings

- **The OECD/G20 AI Principles have Framed the Global Debate over AI policy.** There are hundreds of frameworks for ethical AI, but only the OECD/G20 Principles have significantly shaped the policies and practices of national governments. Over 50 governments have formally endorsed the OECD/G20 AI Principles.
- **Governments have Both National Ambitions and Collaborative Goals.** National AI policies typically reflect ambitions to be a leader in AI, to establish centers of AI excellence, and to promote economic growth. Many of these ambitions will set countries in competition for investment, personnel, and deployment. At the same time, countries recognize the need for global cooperation in such areas as public health, climate change, and sustainable development.
- **AI Safeguards Build on Data Protection Law.** AI policy safeguards follows from other laws and policy frameworks, most notably data protection. The GDPR (Article 22), the Modernized Council of Europe Privacy Convention (Article 9), and the recently adopted California Privacy Rights Act in the US include explicit provisions for AI. The Global Privacy Assembly, the international conference of data protection officials, has recently adopted a sweeping resolution on the need for AI accountability.
- **Facial Surveillance as an AI “Red Line.”** Few AI applications are more controversial than the use of AI for surveillance in public spaces. The use of facial recognition on a general population has raised widespread controversy with many NGOs stating it should be prohibited. Other controversial AI applications include the scoring of citizens, criminal sentencing, administrative service decisions, and hiring assessments.
- **Concern About Autonomous Weapons Remains.** The risk of lethal autonomous weapons was among the first AI issues to focus the attention of government policymakers. Although many other AI policy issues have emerged in the last few years, concerns about autonomous weapons remains.
- **NGOs are Powerful Advocates for the Public.** In Europe, civil society groups have published substantial reports on AI policy, documented abuses, and called for reform. Their advocacy has also strengthened democratic institutions which must now consider legal measures to address public concerns.
- **AI Policy is in the Early Days, but the Pace is Accelerating.** AI research can be traced back to the 1950s but the effort of national

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

governments to develop formal frameworks for AI policy is a recent phenomenon. Governments around the world are moving rapidly to understand the implications of the deployment of AI as more systems are deployed. We anticipate that the rate of AI policymaking will accelerate in the next few years.

Recommendations

- 1. Countries must establish national policies for AI that implement democratic values*
- 2. Countries must ensure public participation in AI policymaking and also create robust mechanisms for independent oversight of AI systems*
- 3. Countries must guarantee fairness, accountability, and transparency in all AI systems*
- 4. Countries must commit to these principles in the development, procurement, and implementation of AI systems for public services*
- 5. Countries must halt the use of facial recognition for mass surveillance*

New Recommendations (2022)

- 6. Countries must curtail the deployment of lethal autonomous weapons*
- 7. Countries must begin implementation of the UNESCO AI Recommendation*
- 8. Countries must establish a comprehensive, legally binding convention for AI*

THE GLOBAL AI POLICY LANDSCAPE

As a field of research, AI policy is in the very early stages. Only in the last few years have national governments formally considered and adopted policy frameworks that explicitly discuss “Artificial Intelligence.”² While government funding for work on Artificial Intelligence goes back to the mid-1950s, it would be many years before governments examined the consequences of this research. That gap is now closing. Governments around the world confront important decisions about AI priorities, AI ambitions, and AI risks. Much of this report concerns the current policies and practices of national governments.

In addition to national governments, many intergovernmental organizations are pursuing AI policies and initiatives. This section provides an overview of these organizations, listed in a simple A to Z. We also note the important work of technical associations and civil society organizations. This section briefly summarizes these activities, as of early 2022.

The Council of Europe

The Council of Europe (COE) is the continent’s leading human rights organization.³ The COE is comprised of 47 member states, 27 of which are members of the European Union. All COE member states have endorsed the European Convention of Human Rights, a treaty designed to protect human rights, democracy and the rule of law. Article 8 of the Convention, concerning the right to privacy, has influenced the development of privacy law around the world.

The COE Convention 108 (1981) is the first binding international instrument which protects the individual against abuses which may accompany the collection and processing of personal data and which regulates the transborder flow of personal data.⁴

In 2018, the Council of Europe amended Convention 108 and opened for signature and ratification the COE Modernized Convention 108+.⁵ Article 9(1)(c) specifically addresses AI decision-making. As the COE explains, the “modernised Convention extends the catalogue of information to be transmitted to data subjects when they exercise their right

² Marc Rotenberg, *AI Policy Sourcebook* (2019, 2020).

³ Council of Europe, *Who we are*, <https://www.coe.int/en/web/about-us/who-we-are>

⁴ Council of Europe, Treaty office, *Details of Treaty No. 108*, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108>

⁵ Council of Europe, Data Protection, Modernisation of Convention 108, <https://www.coe.int/en/web/data-protection/convention108/modernised>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

of access. Furthermore, data subjects are entitled to obtain knowledge of the reasoning underlying the data processing, the results of which are applied to her/him. This new right is particularly important in terms of profiling of individuals.”⁶ Forty-two states have signed the protocol amending the Privacy Convention.⁷

Several new AI initiatives are underway at the Council of Europe, including at the Council of Ministers, the COE Parliamentary Assembly. Marija Pejčinović Burić, Secretary General of the Council of Europe, has said “It is clear that AI presents both benefits and risks. We need to ensure that AI promotes and protects our standards. I look forward to the outcome of the work of the Ad hoc Committee on Artificial Intelligence (CAHAI), . . . The Council of Europe has, on many occasions, demonstrated its ability to pioneer new standards, which have become global benchmarks.”⁸

Citing the risks to privacy and data protection in 2021, the Council of Europe called for strict rules to limit the use of facial recognition.⁹ The guidelines were developed by the Consultative Committee of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data,¹⁰ reflecting the close connection between traditional rules for data protection and the emerging realm of AI policy.

CAHAI

The COE Council of Ministers established the Ad Hoc Committee on Artificial Intelligence (CAHAI) in September 2019.¹¹ The aim of the CAHAI is to “examine the feasibility and potential elements on the basis of broad multi-stakeholder consultations, of a legal framework for the

⁶ Council of Europe, Data Protection, *Modernisation of Convention 108: Overview of the novelties*, <https://rm.coe.int/modernised-conv-overview-of-the-novelties/16808accf8>

⁷ Council of Europe, Treaty Office, *Chart of signatures and ratifications of Treaty 223* (Status as of Nov. 22, 2020), <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/223/signatures>

⁸ Council of Europe, *Artificial intelligence and human rights*, <https://www.coe.int/en/web/artificial-intelligence/secretary-general-marija-pejcinovic-buric>

⁹ Council of Europe, *Facial recognition: strict regulation is needed to prevent human rights violations* (Jan. 28, 2021), <https://www.coe.int/en/web/portal/-/facial-recognition-strict-regulation-is-needed-to-prevent-human-rights-violations->

¹⁰ Council of Europe, *Details of Treaty No.108 of 1981*, <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=108>

¹¹ Council of Europe, *The Council of Europe established an Ad Hoc Committee on Artificial Intelligence - CAHAI* (Sept. 11, 2019), <https://www.coe.int/en/web/artificial-intelligence/-/the-council-of-europe-established-an-ad-hoc-committee-on-artificial-intelligence-cahai>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

development, design and application of artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law."¹² The Council of Ministers approved the first progress report of the CAHAI in September 2020.¹³

The CAHAI held its final meeting in December 2021.¹⁴ At the end of the meeting, the CAHAI adopted the "Possible elements of a legal framework on artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law." The CAHAI framework contains an outline of the legal and other elements which in the view of the Committee could be included in legally binding or non-legally binding instruments that will make up an appropriate legal framework on AI of the Council of Europe. The document outlines the "Possible elements of a legal framework on artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law." The CAHAI framework will now be submitted to the Committee of Ministers for further consideration.

Committee of Ministers

In September 2020 the Committee of Ministers approved the CAHAI progress report, which concluded that the "Council of Europe has a crucial role to play today to ensure that AI applications are in line with human rights protections."¹⁵ The Committee of Ministers asked the CAHAI to draft a feasibility study on a legal instrument that could "regulate the design, development and application of AI that have a significant impact on human rights, democracy and the rule of law." The Committee of Ministers also proposed that the CAHAI should examine "human rights impact assessments" and "certification of algorithms and AI systems." The Committee of Ministers will review the recommendation in early February 2022. These initiatives follow the 2020 Recommendation of the Committee of Ministers to member States on the human rights impacts of algorithmic

¹² Council of Europe, *CAHAI - Ad hoc Committee on Artificial Intelligence*, <https://www.coe.int/en/web/artificial-intelligence/cahai>

¹³ Council of Europe, *Ad hoc Committee on Artificial Intelligence (CAHAI): Progress Report* (Sept. 23, 2020), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ed062

¹⁴ Council of Europe, *The CAHAI held its 6th and final plenary meeting* (Dec. 2, 2021), <https://www.coe.int/en/web/artificial-intelligence/-/outcome-of-cahai-s-6th-plenary-meeting>

¹⁵ Council of Europe, *Ad hoc Committee on Artificial Intelligence (CAHAI): Progress Report* (Sept. 23, 2020), https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016809ed062

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

systems¹⁶ and its 2019 Declaration on the manipulative capabilities of algorithmic processes.¹⁷

In March 2021, the Committee of Ministers issued a comprehensive declaration on the need to ensure that AI systems for social services respect human rights.¹⁸ The Committee emphasized said that such systems should be developed and implemented in accordance with the principles of legal certainty, legality, data quality, non-discrimination, and transparency. The Ministers also recommended effective arrangements to protect vulnerable persons from serious or irreparable harm.

In November 2021, the Committee of Ministers also issued a Recommendation on the protection of individuals with regard to automatic processing of personal data in the context of profiling. The Committee stressed that “respect for fundamental rights and freedoms, notably the rights to human dignity and to privacy but also to freedom of expression, and for the principle of non-discrimination and the imperatives of social justice, cultural diversity and democracy, should be guaranteed, in both the public and private sectors, during the profiling operations.”¹⁹

European Committee on Crime Problems

In September 2021, based on the results of the 2020 Feasibility Study on a future Council of Europe instrument on artificial intelligence and criminal law,²⁰ the CDPC set up a Drafting Committee consisting of experts appointed by the members of the CDPC tasked with the elaboration of an

¹⁶ Committee of Ministers, *Recommendation CM/Rec(2020)1 on the human rights impacts of algorithmic systems* (Apr. 8, 2020)

https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016809e1154

¹⁷ Committee of Ministers, *Declaration on the manipulative capabilities of algorithmic processes* (Feb. 13, 2019)

¹⁸ Council of Europe, *Declaration by the Committee of Ministers: the use of computer-assisted or AI-enabled decision making by public authorities in the area of social services must respect human rights* (Mar. 17, 2021),

https://www.coe.int/en/web/artificial-intelligence/newsroom/-/asset_publisher/csARLoSVrbAH/content/declaration-by-the-committee-of-ministers-the-use-of-computer-assisted-or-ai-enabled-decision-making-by-public-authorities-in-the-area-of-social-servi

¹⁹ Committee of Ministers, *Recommendation CM/Rec(2021)8 on the protection of individuals with regard to automatic processing of personal data in the context of profiling* (Nov. 3, 2021)

https://search.coe.int/cm/pages/result_details.aspx?ObjectId=0900001680a46147

²⁰ European Committee on Crime Problems, *Feasibility Study on a future Council of Europe instrument on artificial intelligence and criminal law* (Sept.,4 2020)

<https://rm.coe.int/cdpc-2020-3-feasibility-study-of-a-future-instrument-on-ai-and-crimina/16809f9b60>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

instrument on AI and criminal law related to vehicles and automated driving.²¹ One of the main purposes of this instrument would be to “ensure the development of AI systems in accordance with the fundamental rights protected by Council of Europe instruments.”²² In November 2021, the Drafting Committee held its first meeting but failed to agree on the bindingness of the instrument.²³

Parliamentary Assembly

In October 2020, the Parliament Assembly of the Council of Europe has adopted a new resolution on the Need for Democratic Governance of Artificial Intelligence.²⁴ The Assembly called for “strong and swift action” by the Council of Europe. The parliamentarians warned that “soft-law instruments and self-regulation have proven so far not sufficient in addressing these challenges and in protecting human rights, democracy and rule of law.”

In a set of recommendations examining the opportunities and risks of AI for democracy, human rights and the rule of law adopted in October 2020 as well, the Parliamentary Assembly called on the Committee of Ministers to take into account the particularly serious potential impact of the use of artificial intelligence “in policing and criminal justice systems”²⁵ or “on the enjoyment of the rights to equality and non-discrimination”,²⁶ when assessing the necessity and feasibility of an international legal framework for artificial intelligence.

²¹ European Committee on Crime Problems, *Drafting Committee to elaborate an instrument on artificial intelligence and criminal law – Terms of Reference / Working methods* (Sept. 16, 2021) <https://rm.coe.int/cdpc-2021-2-terms-of-reference-cdpc-aicl/1680a18ffe>

²² European Committee on Crime Problems, *Drafting Committee to elaborate an instrument on artificial intelligence and criminal law – Terms of Reference / Working methods*, op. cit., p. 11.

²³ European Committee on Crime Problems, *1st meeting of the Drafting Committee to elaborate an instrument on Artificial Intelligence and Criminal Law* (Nov. 15-16 2021)

²⁴ Council of Europe, Parliamentary Assembly, *Need for democratic governance of artificial intelligence* (Oct. 22, 2020), <https://pace.coe.int/en/files/28803/html>

²⁵ Parliamentary Assembly, *Recommendation 2182(2020) Justice by algorithm – The role of artificial intelligence in policing and criminal justice systems* (Oct. 22, 2020) <https://pace.coe.int/en/files/28806/html>; See also, *Resolution 2342 (2020)* <https://pace.coe.int/en/files/28805>

²⁶ Parliamentary Assembly, *Recommendation 2183 (2020) Preventing discrimination caused by the use of artificial intelligence* (Oct. 22, 2020) <https://pace.coe.int/en/files/28809/html>; See also, *Resolution 2343 (2020)* <https://pace.coe.int/en/files/25318/html>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

European Court of Human Rights

The European Court of Human Rights has generated an abundant amount of case law interpreting Article 8 of the European Convention on Human Rights on the right to private life. The opinions of the Court on privacy and data protection are widely regarded by other courts. The Court has dealt with numerous aspects relating to the protection of personal data, which has been deemed of fundamental importance to a person's enjoyment of a person's right to respect for private and family life as guaranteed by Article 8. The Court has addressed privacy challenges in relation to telephone conversations, telephone numbers, computers, video surveillance, voice recording, bulk interceptions of telecommunications and the internet.²⁷ However, to date, the Court has not addressed matters relating to AI tools, including automated decision-making based on algorithms.

Commissioner for Human Rights

In January 2021, at a virtual event organized by the German Federal Foreign Office and Federal Ministry of Justice and Consumer Protection as part of Germany's Chairmanship of the Committee of Ministers of the Council of Europe, the Commissioner for Human Rights started her speech on "Human Rights in the Era of AI – Europe as international Standard Setter for Artificial Intelligence" by asserting that "Ensuring that technological development works for and not against human rights, democracy and the rule of law is one of the biggest tasks that states face".²⁸

Her speech refers to and builds on the 10-point Recommendation on AI and human rights she addressed to Council of Europe member states in May 2019.²⁹ It focused more specifically on 1) Human rights impact assessment, 2) Public consultations 3) Obligations of member states to facilitate the implementation of human rights standards in the private sector 4) Information and transparency 5) Independent oversight 6) Non-discrimination and equality 7) Data protection and privacy 8) Freedom of

²⁷ For an overview of the case law, see European Court of Human Rights, *Mass surveillance* (Jan. 2022)

https://www.echr.coe.int/documents/fs_mass_surveillance_eng.pdf; *Personal data protection* (Jan. 2022) https://www.echr.coe.int/Documents/FS_Data_ENG.pdf.

²⁸ Commissioner for Human Rights, *Human Rights in the Era of AI – Europe as international Standard Setter for Artificial Intelligence* (Jan. 20, 2021) <https://rm.coe.int/german-cm-presidency-high-level-conference-human-rights-in-the-era-of-1680a12379>

²⁹ Commissioner for Human Rights, Recommendation, *Unboxing Artificial Intelligence: 10 steps to protect Human Rights* (May 2019) <https://rm.coe.int/unboxing-artificial-intelligence-10-steps-to-protect-human-rights-reco/1680946e64>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

expression, freedom of assembly and association, and the right to work 9) Remedies 10) Promotion of “AI literacy.”

Commission for the Efficiency of Justice

In December 2020, The European Commission for the Efficiency of Justice (CEPEJ) adopted a feasibility study on the establishment of a certification mechanism for artificial intelligence tools and services. The study is based on the CEPEJ Charter on the use of artificial intelligence in judicial systems. According to the CEPEJ, the Council of Europe, if it decides to create such a mechanism, would be a pioneer in this field.³⁰

In December 2021, the CEPEJ adopted the 2022-2025 Action plan: “Digitalisation for a better justice.” The CEPEJ Action Plan sets out as the priority assisting “States and courts in a successful transition towards digitalisation of justice in line with European standards and in particular Article 6 of the European Convention of Human Rights” on the right to a fair trial, “while also ensuring that justice is human, efficient and of high quality.” “Human justice” is presented as one of the main goals the CEPEJ should take into account: “The digitalisation of justice shall make justice more efficient but must never seek to replace the judge. The judge must remain at the centre of the procedure.”³¹

The European Union

Many institutions in the European Union now play a significant role in the development of AI policies and practices.

The European Commission

The European Commission plays an active role in developing the EU’s overall strategy and in designing and implementing EU policies. The Commission is the initiator of EU legislation. AI was identified as a priority when the new Commission, under the Presidency of Ursula von der Leyen, was established in late 2019.³² At that time, von der Leyen

³⁰ Council of Europe, *CEPEJ: Artificial intelligence and cyberjustice at the heart of the discussions* (Dec. 11, 2020), <https://www.coe.int/en/web/portal/-/cepej-artificial-intelligence-and-cyberjustice-at-the-heart-of-discussions>

³¹ European Commission for the Efficiency of Justice, *2022-2025 CEPEJ Action plan: “Digitalisation for a better justice”*, CEPEJ(2021)12Final (Dec. 8-9, 2021) <https://rm.coe.int/cepej-2021-12-en-cepej-action-plan-2022-2025-digitalisation-justice/1680a4cf2c>

³² CAID Update 1.3, *European Commission Proposes Options for Ethical*, (Aug. 3, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/center-for-ai-policy-update-european-commission-proposes-four-options-for-ethical-ai/>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

recommended new rules on Artificial Intelligence that respect human safety and rights.³³

Von der Leyen's proposal followed remarks by Chancellor Angela Merkel at the G20 summit in 2019, who called for the European Commission to propose comprehensive regulation for artificial intelligence. "It will be the job of the next Commission to deliver something so that we have regulation similar to the General Data Protection Regulation that makes it clear that artificial intelligence serves humanity," Merkel stated.

In February 2020, the Commission published the white paper On Artificial Intelligence -A European Approach to Excellence and Trust for public comment. The Commission subsequently proposed several options for AI regulation. Speaking to the EU Ambassadors Conference in November 2020, President von der Leyen said, "European rules on personal data protection have inspired others to modernise their own privacy rules. We must now put special focus on the international transfer of data, particularly after a recent ruling of the European Court of Justice."³⁴ And in remarks to the Council on Foreign Relations, she said "we must work together on a human-centric vision on AI - a global standard aligned with our values."³⁵

Following the U.S. election in November 2020, the European Commission developed a new framework for transatlantic relations. On December 2, 2020, the European Commission proposed a New EU-US Agenda for Global Change. The New Agenda covers a wide range of topics, but it is notable that the Commission states, "we need to start acting together on AI - based on our shared belief in a human- centric approach and dealing with issues such as facial recognition. In this spirit, the EU will propose to start work on a Transatlantic AI Agreement to set a blueprint for regional and global standards aligned with our values."³⁶ The Commission further states, "We must also openly discuss diverging views on data governance and see how these can be overcome constructively. The EU and the US

³³ European Commission, *A Union that Strives for more: the first 100 days* (Mar. 6, 2020), https://ec.europa.eu/commission/presscorner/detail/en/ip_20_403

³⁴ European Commission, *Speech by President von der Leyen at the EU Ambassadors' Conference 2020* (Nov. 10, 2020), https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_20_2064

³⁵ Council on Foreign Relations, *A Conversation with Ursula von der Leyen* (Nov. 20, 2020), <https://www.cfr.org/event>

³⁶ European Commission and High Representative of the Union for Foreign Affairs and Security Policy, *Joint Communication to the European Parliament, the European Council and the Council: A New EU-US Agenda for Global Change* (Dec. 2, 2020) (emphasis in the original), https://ec.europa.eu/info/sites/info/files/joint-communication-eu-us-agenda_en.pdf

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

should intensify their cooperation at bilateral and multilateral level to promote regulatory convergence and facilitate free data flow with trust on the basis of high standards and safeguards.”

The Trade and Technology Council

At the US-EU Summit in Brussels in June 2021, President von der Leyen launched together with US President Biden the EU-US Trade and Technology Council (TTC). One of its main purposes is to coordinate approaches to key technology issues and deepen transatlantic trade and economic relations based on shared democratic values. The Trade and Technology Council will include a working group on technology standards cooperation including AI and another one on the misuse of technology threatening security and human rights. For the EU, the TTC is co-chaired by European Commission Executive Vice Presidents Valdis Dombrovskis and Margrethe Vestager and for the US by Trade Representative Katherine Tai, Secretary of Commerce Gina Raimondo and Secretary of State Anthony Blinken.

In a joint statement following the TTC inaugural meeting in Pittsburgh in September 2021, “the European Union and the United States acknowledge that AI technologies yield powerful advances but also can threaten our shared values and fundamental freedoms if they are not developed and deployed responsibly or if they are misused. The European Union and the United States affirm their willingness and intention to develop and implement AI systems that are innovative and trustworthy and that respect universal human rights and shared democratic values.”³⁷ They also agreed on the importance of public consultation as the TTC undertakes its work. As a result, in October 2021, the Commission launched an online consultation platform on the TTC³⁸ allowing stakeholders to share their views and make recommendations as well as be informed about its work.

The EU AI Act

In April 2021 The European Commission published the “AI package. This package consisted of: a Communication on Fostering a European Approach to Artificial Intelligence; the Coordinated Plan with Member States: 2021 update; a proposal for an AI Regulation laying down harmonised rules for the EU (the “AI Act”).³⁹ In January 2022, The

³⁷ *EU-US Trade and Technology Council Inaugural Joint Statement* (Sept. 29, 2021) https://ec.europa.eu/commission/presscorner/detail/en/statement_21_4951

³⁸ Futurium Platform, *Trade and Technology Council Community* <https://futurium.ec.europa.eu/en/EU-US-TTC>

³⁹ European Commission, *A European approach to artificial intelligence*, <https://digital-strategy.ec.europa.eu/en/policies/european-approach-artificial-intelligence>.

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

European Commission proposed to define a set of principles for a human-centered digital transformation.⁴⁰

The draft AI Act follows a risk-based approach and proposes to categorize AI systems based on the four different risk levels they create: 1) an unacceptable risk; 2) a high risk; 3) limited risk; or 4) minimal risk. No limitations or requirements are set for use of AI systems creating minimal or low risk.

The draft AI Act prohibits certain AI practices that create unacceptable risk as they contradict EU values and fundamental rights. The draft Act proposes to prohibit four AI practices: 1) deployment of subliminal techniques beyond a person's consciousness, 2) exploitation of the vulnerabilities of specific vulnerable groups, 3) social scoring, and 4) use of 'real-time' remote biometric identification systems in publicly accessible spaces for law enforcement.

The draft AI Act sets out specific requirements for high-risk AI systems, that create an adverse impact on safety or fundamental rights. This includes AI systems that are product or safety components or systems used in the areas listed in Annex III of the draft AI Act, including such areas as biometric identification and categorization, education, employment, law enforcement, migration, asylum and border control. For other AI systems that do not pose high risks, the draft AI Act imposes limited transparency rules. The draft Act classifies as limited-risk AI systems intended to interact with natural persons, emotion recognition systems and biometric categorization systems, and AI systems used to generate or manipulate image, audio or video content.

The Commission proposal is subject to review and amendment by the Parliament and the Council, and then a subsequent negotiation, known as the "trialogue."⁴¹

Fundamental Rights in the Digital Age

In December 2021, the European Commission released its annual report on the application of the Charter of Fundamental Rights in the EU. It is the first thematic report and it focuses on the challenges in protecting fundamental rights in the digital age.⁴² One of the key policy areas of the

⁴⁰ European Commission, *Declaration on European Digital Rights and Principles* (Jan. 26, 2022), <https://digital-strategy.ec.europa.eu/en/library/declaration-european-digital-rights-and-principles>

⁴¹ European Council, Council of the European Union, *The ordinary legislative procedure*, <https://www.consilium.europa.eu/en/council-eu/decision-making/ordinary-legislative-procedure/>

⁴² European Commission, *Protecting Fundamental Rights in the Digital Age – 2021 Annual Report on the Application of the EU Charter of Fundamental Rights*, COM(2021)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

report concerns “Safeguarding fundamental rights where artificial intelligence is used” and another one “Supervising digital surveillance” with a paragraph dedicated to remote biometric identification.

In January 2022, the European Commission proposed to define a set of principles for a human-centered digital transformation in an interinstitutional Declaration.⁴³ This was one of the four cardinal points identified by the Commission in its Digital Compass in which it set its vision for a successful digital transformation of Europe by 2030.⁴⁴ The European Parliament and the Council are invited to discuss then endorse the Declaration by the Summer of 2022.

The European Parliament

The European Parliament is co-legislator, together with the Council of the European Union. The Parliament has convened hearings and adopted resolution to outline the element of EU legislation.⁴⁵ One resolution urged the Commission to establish legal obligations for artificial intelligence and robotics, including software, algorithms and data. A second would make those operating high-risk AI systems strictly liable for any resulting damage. And a third resolution on intellectual property rights makes clear that AI should not have legal personality; only people may claim IP rights.

The European Parliament adopted all of these proposals in sweeping majorities, across parties and regions. But even those proposals are unlikely to meet the concerns of civil society. As Access Now and EDRi said of the resolution on AI ethics, “They are cautious and restrained on fundamental rights, taking only tentative steps to outline the biggest threats that artificial intelligence pose to people and society, while also failing to propose a legislative framework that would address these threats or provide any substantive protections for people’s rights.”

819 final (Dec. 12, 2021),

https://ec.europa.eu/info/sites/default/files/1_1_179442_ann_rep_en_0.pdf

⁴³ European Commission, *Declaration on European Digital Rights and Principles* (Jan. 26, 2022), <https://digital-strategy.ec.europa.eu/en/library/declaration-european-digital-rights-and-principles>

⁴⁴ European Commission, *2030 Digital Compass: the European way for the Digital Decade* COM(2021) 118 final, (March 9, 2021) <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52021DC0118>

⁴⁵ CAIDP Update 1.12, *European Parliament Adopts Resolutions on AI* (Oct. 24, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/caidp-update-european-parliament-adopts-resolutions-on-ai/>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

The influential LIBE Committee has also highlighted concerns about AI and fundamental rights and AI in criminal justice.⁴⁶ In February 2020, the Committee held a hearing on Artificial Intelligence and Criminal Law, and examined the benefits and risks of AI, predictive policing, facial recognition, as well as the ethical and fundamental rights implications. LIBE worked in association with the United Nations Interregional Crime and Justice Research Institute (UNICRI), the European Union Agency for Fundamental Rights (FRA), and the Council of Europe (COE). In November 2020, LIBE issued an opinion concerning AI and the application of international law.⁴⁷

The JURI Committee, responsible for Legal Affairs, also requested a significant report on Artificial Intelligence and Civil Liability.⁴⁸ The report “demonstrates how technology regulation should be technology-specific, and presents a Risk Management Approach, where the party who is best capable of controlling and managing a technology-related risk is held strictly liable, as a single entry point for litigation.” The report outlines the application to four case studies. Following the European Parliament’s October 2020 resolution on the topic, the European Commission published an inception impact assessment on a likely legislative initiative to adapt the EU liability rules to the digital age and circular economy in June 2021⁴⁹ and launched a public consultation on the topic from October 2021 until January 2022.⁵⁰

⁴⁶ CAIDP Update 1.8 *LIBE Committee of EU Parliament Examines AI Practices, Data Protection*, (Sept. 9, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/caidp-update-libe-committee-of-eu-parliament-examines-ai-practices-data-protection/>

⁴⁷ European Parliament, Committee on Civil Liberties, Justice and Home Affairs, *on artificial intelligence: questions of interpretation and application of international law in so far as the EU is affected in the areas of civil and military uses and of state authority outside the scope of criminal justice (2020/2013 (INI))*, (Nov. 23, 2020), https://www.europarl.europa.eu/doceo/document/LIBE-AD-652639_EN.pdf

⁴⁸ Policy Department for Citizens' Rights and Constitutional Affairs, Directorate-General for Internal Policies, *Artificial Intelligence and Civil Liability*, PE 621.296 JURI (July 14, 2020), [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/621926/IPOL_STU\(2020\)621926_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/621926/IPOL_STU(2020)621926_EN.pdf)

⁴⁹ European Commission, *Inception Impact Assessment - Adapting liability rules to the digital age and circular economy* (Jun. 30, 2021) https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12979-Civil-liability-adapting-liability-rules-to-the-digital-age-and-artificial-intelligence_en

⁵⁰ European Commission, *Public consultation on Civil liability – adapting liability rules to the digital age and artificial intelligence* (Oct. 18, 2021) <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12979-Civil->

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Following a report by the JURI Committee, the European Parliament adopted in January 2021 a resolution on “artificial intelligence: questions of interpretation and application of international law in so far as the EU is affected in the areas of civil and military uses and of state authority outside the scope of criminal justice”⁵¹. In its resolution, the Parliament reiterated its call for an EU strategy to prohibit the use of lethal autonomous weapon systems and for a ban on “killer robots”. It also called for the EU to play a leading role in creating and promoting a global framework governing the military use of AI. Regarding the use of AI in the public sector, especially healthcare and justice, the Parliament stressed that “the use of AI systems in the decision-making process of public authorities can result in biased decisions that negatively affect citizens, and therefore should be subject to strict control criteria regarding their security, transparency, accountability, non-discrimination, social and environmental responsibility, among others; urges Member States to assess the risks related to AI-driven decisions connected with the exercise of State authority, and to provide for safeguards such as meaningful human supervision, transparency requirements and the possibility to contest such decisions”. The Parliament also invited the Commission to “assess the consequences of a moratorium on the use of facial recognition systems, and, depending on the results of this assessment, to consider a moratorium on the use of these systems in public spaces by public authorities and in premises meant for education and healthcare, as well as on the use of facial recognition systems by law enforcement authorities in semi-public spaces such as airports, until the technical standards can be considered fully fundamental rights-compliant, the results derived are non-biased and non-discriminatory, and there are strict safeguards against misuse that ensure the necessity and proportionality of using such technologies.”

In May 2020, the Directorate General for Parliamentary Research Services of the European Parliament published *The Impact of the General Data Protection Regulation (GDPR) on Artificial Intelligence*.⁵² The study

[liability-adapting-liability-rules-to-the-digital-age-and-artificial-intelligence/public-consultation_en](#)

⁵¹ European Parliament, *Resolution on artificial intelligence: questions of interpretation and application of international law in so far as the EU is affected in the areas of civil and military uses and of state authority outside the scope of criminal justice* (2020/2013(INI)), (Jan. 20, 2021) https://www.europarl.europa.eu/doceo/document/TA-9-2021-0009_EN.html

⁵² European Parliament Think Tank, *The impact of the General Data Protection Regulation (GDPR) on artificial intelligence* (June 25, 2020), [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU\(2020\)641530](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU(2020)641530)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

examines the tensions and proximities between AI and data protection principles, such as in particular purpose limitation and data minimization. And in June 2020 the European Parliament established a Special Committee on Artificial Intelligence to study the impact of AI and to propose a roadmap for the EU. According to the decision of Parliament, the Committee should pursue a “holistic approach providing a common, long-term position that highlights the EU’s key values and objectives.”⁵³

The work of the European Parliament on Artificial Intelligence also intersects with the Digital Services Act, an initiative to overhaul the E-Commerce Directive which has been the foundation of the digital single market for the last twenty years.⁵⁴ At the end of October, 2020, European Margrethe Vestager said the proposed Digital Services Act package will aim to make ad targeting more transparent and to ensure companies are held accountable for their decisions.⁵⁵ “The biggest platforms would have to provide more information on the way their algorithms work, when regulators ask for it,” Vestager said.

Committees – AIDA, IMCO, LIBE

There are three committees within the European Parliament that have primary jurisdiction for the development of AI policy. The AIDA Committee - the Special Committee on Artificial Intelligence in a Digital Age – was established by the European Parliament on June 18, 2020 with the goal of “setting out a long-term EU roadmap on Artificial Intelligence (AI).”⁵⁶ Over an 18-month period, AIDA organized hearings and workshops with key stakeholders, including experts, policy-makers, and the business community. In November 2021, members of the AIDA committee met with policymakers, NGOs, and business groups in Washington, DC.

⁵³ European Parliament, *Setting up a special committee on artificial intelligence in a digital age, and defining its responsibilities, numerical strength and term of office* (June 18, 2020), https://www.europarl.europa.eu/doceo/document/TA-9-2020-0162_EN.html

⁵⁴ European Parliament, *Digital Services Act: Opportunities and Challenges for the Digital Single Market and Consumer Protection*, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652712/IPOL_BRI\(2020\)652712_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/652712/IPOL_BRI(2020)652712_EN.pdf)

⁵⁵ Matthew Broersma, *New EU Rules ‘Would Open Tech Giants’ Algorithms To Scrutiny*, Silicon.co (Nov. 2, 2020) <https://www.silicon.co.uk/workspace/algorithms-tech-giants-348707>

⁵⁶ European Parliament, AIDA Committee, *About: Welcome Words*, <https://www.europarl.europa.eu/committees/en/aida/about>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

In January 2022, the rapporteur of the AIDA Committee published a draft report on artificial intelligence in a digital age.⁵⁷ Approximately 1,400 amendments were received.⁵⁸ AIDA committee anticipated the finalization of the report and a vote on the associated resolution in March 2022.

Two committees in the European Parliament will then take the reins for the proposed EU AI Act. The IMCO Committee is responsible for the legislative oversight and scrutiny of EU rules on the single market, including the digital single market, customs and consumer protection.⁵⁹ The LIBE Committee is “is responsible for the majority of legislation and democratic oversight of policies that enable the European Union to offer its citizens an area of freedom, security and justice (Article 3 TEU). While doing so, we ensure, throughout the EU, the full respect of and compliance with the EU Charter of Fundamental Rights, in conjunction with the European Convention on Human Rights.”⁶⁰

A joint hearing between IMCO and LIBE was held on January 25, 2022.⁶¹ The two rapporteurs expressed their views on the AI Act. Brando Benifei, co-rapporteur for the Internal Market and Consumer Protection Committee, stated “Our aim is to protect citizens and consumers, and stimulate positive innovation at the same time, while focussing especially on SMEs and start-ups. A legislative framework ensuring that AI systems entering the EU single market are safe, human-centric and respect our fundamental rights and freedoms will stimulate trust among citizens, which is key to a successful and inclusive uptake of AI on our continent. That is what we will strive for.” Dragoș Tudorache, co-rapporteur for the Civil Liberties, Justice and Home Affairs Committee, said, “The AI Act is a central piece of the European regulatory environment for the digital future and the first of its kind worldwide. We have a chance to lead by example

⁵⁷ Special Committee on Artificial Intelligence in a Digital Age, *Draft Report on artificial intelligence in a digital age*, (2020/2266(INI)) (Nov. 2, 2021), https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/AIDA/PR/2022/01-13/1224166EN.pdf

⁵⁸ AIDA, *AIDA Committee Meeting, Consideration of Amendments* (Feb. 1, 2022), <https://www.europarl.europa.eu/committees/en/aida-committee-meeting-consideration-of-product-details/20220117CAN64673>

⁵⁹ European Parliament, *About IMCO, Welcome Words*, <https://www.europarl.europa.eu/committees/en/imco/about>

⁶⁰ European Parliament, *About LIBE, Welcome Words*, <https://www.europarl.europa.eu/committees/en/libe/about>

⁶¹ *Artificial Intelligence Act: EP lead committees to launch joint work on 25 January* (Jan. 24, 2022), <https://portal.ieu-monitoring.com/editorial/artificial-intelligence-act-ep-lead-committees-to-launch-joint-work-on-25-january>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

and to shape the rules of the digital world according to our values. As the heart of European democracy, the European Parliament has a key role to play: we need to find the right balance between enhancing the protection of our fundamental rights and boosting Europe's competitiveness and capacity to innovate.”

According to a draft schedule, the IMCO and LIBE committees anticipate that reports will be made final by June 20, 2022 and a vote on the reports will occur September 29, 2022. The Parliament is expected to vote on November 9, 2022.

The Two Councils

The European Council defines the EU's overall political direction and priorities.⁶² Its members are the heads of state or government of the 27 EU member states, the European Council President, and the President of the European Commission. The European Council is not one of the EU's legislating institutions, so does not negotiate or adopt EU laws. This is the prerogative of the Council of the European Union (“Council”), composed of representatives of member states’ ministers.

In June 2020, the Council of the European Union set out Conclusions for Shaping Europe's Digital Future.⁶³ Regarding AI, the Council stressed, some “some artificial intelligence applications can entail a number of risks, such as biased and opaque decisions affecting citizens’ well-being, human dignity or fundamental rights, such as the rights to non-discrimination, gender equality, privacy, data protection and physical integrity, safety and security, thus reproducing and reinforcing stereotypes and inequalities. Other risks include the misuse for criminal or malicious purposes such as disinformation.”

And then in October 2020, the European Council issued conclusions on the charter of fundamental rights in the context of artificial intelligence and digital change.⁶⁴ “These conclusions are designed to anchor the EU's fundamental rights and values in the age of digitalisation, foster the EU's digital sovereignty and actively contribute to the global debate on the use of artificial intelligence with a view to shaping the international framework,” the Presidency of the Council stated.

⁶² European Council <https://www.consilium.europa.eu/en/european-council/>

⁶³ Council of the European Union, *Shaping Europe's Digital Future* (June 9, 2020), <https://data.consilium.europa.eu/doc/document/ST-8711-2020-INIT/en/pdf>

⁶⁴ Council of the European Union, *Artificial intelligence: Presidency issues conclusions on ensuring respect for fundamental rights* (Oct. 21, 2020), <https://www.consilium.europa.eu/en/press/press-releases/2020/10/21/artificial-intelligence-presidency-issues-conclusions-on-ensuring-respect-for-fundamental-rights/#>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

The Presidency recommended a “fundamental rights-based” approach to AI and emphasized dignity, freedoms, equality, solidarity, citizen’s rights, and justice.⁶⁵ The Council urged the Union and Member States to “consider effective measures for identifying, predicting and responding to the potential impacts of digital technologies, including AI, on fundamental rights.” The Council said the “Commission’s announced proposal for a future regulatory framework for AI, should strengthen trust, strike a fair balance between the various interests and leave room for research and development and further innovation and technical and socio-technical developments.” The Council also acknowledged the work of the FRA on AI.

The Council of the European Union, through the Transport, Telecommunications and Energy Council, has already set out proposed changes to the EU AI Act. The Slovenian Presidency (July to December 2021) published in late November 2021 compromise text Articles 1 – 7 of the AI Act.⁶⁶ The text strengthens certain provisions but would also exempt general purpose AI systems.

A compromise text dated January 13th was proposed by the French Presidency (January to June 2022), addressing Articles 8-15 and Annex IV.⁶⁷ The French Presidency aims at adopting a Council position before July 2022. The French proposal would extend the ban on social scoring to private actors, make clear that obligations for high-risk systems apply to both public and private authorities, add insurance to the list of high-risk systems, expand the definition of prohibited system that distort human behaviour, and expand the limitation on remote identification systems. At the same time, the French proposal would exclude AI systems “exclusively developed or used for military purposes” as long as it is used only for military purposes. A related provision would exclude AI systems that are exclusively developed or used for national security purposes

The Czech Republic will take up the presidency of the Council for the second half of 2022. However, since the Parliament is not expected to finalize its position on the EU AI Act until late 2022, the final negotiations

⁶⁵ COE, *Presidency conclusions: The Charter of Fundamental Rights in the context of Artificial Intelligence and Digital Change*, 11481/20 (Oct. 21, 2020), <https://www.consilium.europa.eu/media/46496/st11481-en20.pdf>

⁶⁶ Council of the European Union, *Presidency Compromise Text* (Nov. 29, 2021), <https://data.consilium.europa.eu/doc/document/ST-14278-2021-INIT/en/pdf>

⁶⁷ Council of the European Union, *Presidency compromise text - Articles 8-15 and Annex IV* (Jan. 13, 2022), <https://www.caidp.org/app/download/8367910663/CAIDP-Congress-TTC-Statement-01172022.pdf>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

between the Parliament, the Council, and the Commission are expected to take place under the Swedish presidency (January – June 2023).

The Court of Justice of the European Union

Although the Court of Justice has yet to rule directly on AI policies, the Court will play a significant role as AI policies evolve and AI law is adopted.⁶⁸ Judgments of the Court concerning data transfers will also impact the development of AI systems. In the 2020 Schrems II judgment, the Court struck down the Privacy Shield framework that permitted the transfer of personal data from the European Union to the United States.⁶⁹ The Schrems II judgment will likely limit the collection and use of personal data for AI systems.

A case currently before the Court of Justice concerns the application of Article 22 of the GDPR to credit scoring in Germany. The case was referred by a German court and poses the question whether Article 22(1) prohibits the “the automated establishment of a probability value concerning the ability of a data subject to service a loan in the future.”⁷⁰ AlgorithmWatch has established OpenSchufa, with the goal of making credit report scoring transparent.⁷¹ According to AlgorithmWatch, “Germany's leading credit bureau, SCHUFA, has immense power over people's lives. A low SCHUFA score means landlords will refuse to rent you an apartment, banks will reject your credit card application and network providers will say 'no' to a new Internet contract.”⁷²

The European Data Protection Board

The European Data Protection Board (EDPB) is an independent European body, which contributes to the consistent application of data protection rules throughout the European Union and promotes cooperation between the EU's data protection authorities.⁷³

⁶⁸ CAIDP Update 1.1, *EU Privacy Decision Will Have Global Consequences*, (July 19, 2020), <https://dukakis.org/news-and-events/center-for-ai-and-digital-policy-update-eu-privacy-decision-will-have-global-consequences/>

⁶⁹ CJEU, *The Court of Justice invalidates Decision 2016/1250 on the adequacy of the protection provided by the EU-US Data Protection Shield* (July 16, 2020), <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-07/cp200091en.pdf>

⁷⁰ Court of Justice of the European Union, *SCHUFA Holding*, Case C-634-21, Request for a Preliminary Ruling (Oct. 15, 2021).

⁷¹ *OpenSchufa, cracking the Schufa Code*, <https://www.startnext.com/en/openschufa>

⁷² AlgorithmWatch, *OpenSCHUFA – shedding light on Germany's opaque credit scoring* (May 22, 2018), <https://algorithmwatch.org/en/openschufa-shedding-light-on-germanys-opaque-credit-scoring-2/>

⁷³ EDPB, *Who we are*, https://edpb.europa.eu/about-edpb/about-edpb_en

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

In a January 2020 letter to Sophie in't Veld, EDPB Chair Andrea Jelinek addressed “the appropriateness of the GDPR as a legal framework to protect citizens from unfair algorithms” and also whether the EDPB would issue guidance on the topic.⁷⁴ Jelinek responded that the GDPR is a “robust legal framework” to protect citizens’ right to data protection, and highlighted several articles in the GDPR that would apply to AI systems, including Article 22, regarding the legal effects of automated processing, and Article 35, about the obligation to undertake Data Protection Impact Assessments prior to processing.

Jelinek also warned of specific challenges arising from AI. The “data maximization presumption of AI “creates an incentive for large and possibly unlawful data collection and further processing of data.” She also warned that the opacity of algorithms (the “black box”) can lead to lack of transparency towards the data subject and also “a loss of human autonomy for those working with algorithms.” But Jelinek concluded that it would be “premature at this time” to issue guidance on what constitutes a “fair algorithm.”

In a June 2020 letter to several members of the European Parliament about facial recognition and the company ClearView AI, EDPB Chair Jelinek stated “Facial recognition technology may undermine the right to respect for private life and the protection of personal data . . . It may also affect individuals’ reasonable expectation of anonymity in public spaces. Such technology also raises wider issues from an ethical and societal point of view.” But Jelinek failed to state whether the use of facial recognition in public spaces was permissible under the GDPR.⁷⁵

The European Data Protection Supervisor

The European Data Protection Supervisor is the European Union’s independent data protection authority.⁷⁶ The EDPS responsibilities include the mission to “monitor and ensure the protection of personal data and privacy when EU institutions and bodies process the personal information of individuals.” In comments on the Commission’s White Paper on Artificial Intelligence, the EDPS stated, “benefits, costs and risks should be considered by anyone adopting a technology, especially by public

⁷⁴ EDPB, *Letter to MEP Sophie in't Veld* (OUT2020-0004), https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_letter_out2020_0004_intveldalgorithms_en.pdf

⁷⁵ EDPB *Letter Members of the European Parliament* (OUT2020-0052) (June 10, 2020), https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_letter_out_2020-0052_facialrecognition.pdf

⁷⁶ EDPS, *About*, https://edps.europa.eu/about-edps_en

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

administrations who process great amounts of personal data.”⁷⁷ The EDPS also expressed support for a moratorium on facial recognition in public space, “so that an informed and democratic debate can take place and until the moment when the EU and Member States have all the appropriate safeguards.”

In June 2021, the EDPB Chair Andrea Jelinek and the EDPS Wojciech Wiewiórowski issued a joint opinion on the European Commission’s Proposal for a Regulation laying down harmonized rules on artificial intelligence (AI).⁷⁸ They stressed the need to make clear that existing EU data protection legislation, including the GDPR, applies to the processing of personal data falling under the scope of the draft AI Regulation. They also proposed that compliance with legal obligations arising from EU legislation - including on personal data protection - should be a precondition for entering the European market as CE marked product.

They also recommended several “red lines” for AI deployment, including general ban on any use of AI for automated recognition of human features in publicly accessible spaces, such as recognition of faces, gait, fingerprints, DNA, voice, keystrokes and other biometric or behavioral signals. They proposed a ban on AI systems using biometrics to categorize individuals into clusters based on ethnicity, gender, political or sexual orientation, or other grounds on which discrimination is prohibited under Article 21 of the Charter of Fundamental Rights. Furthermore, the EDPB and the EDPS said that the use of AI to infer emotions of a natural person should be prohibited, except for very specified cases. Andrea Jelinek, EDPB Chair, & Wojciech Wiewiórowski, EDPS, said:

Deploying remote biometric identification in publicly accessible spaces means the end of anonymity in those places. Applications such as live facial recognition interfere with fundamental rights and freedoms to such an extent that they may call into question the essence of these rights and freedoms. This calls for an immediate application of the precautionary approach. A general ban on the use of facial

⁷⁷ EDPS, *Opinion 4/2020, EDPS Opinion on the European Commission’s White Paper on Artificial Intelligence – A European approach to excellence and trust* (June 29, 2020), https://edps.europa.eu/sites/edp/files/publication/20-06-19_opinion_ai_white_paper_en.pdf

⁷⁸ EDPB, *EDPB & EDPS call for ban on use of AI for automated recognition of human features in publicly accessible spaces, and some other uses of AI that can lead to unfair discrimination* (June 21, 2021), https://edpb.europa.eu/news/news/2021/edpb-edps-call-ban-use-ai-automated-recognition-human-features-publicly-accessible_en

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

recognition in publicly accessible areas is the necessary starting point if we want to preserve our freedoms and create a human-centric legal framework for AI. The proposed regulation should also prohibit any type of use of AI for social scoring, as it is against the EU fundamental values and can lead to discrimination.

Fundamental Rights Agency

The EU Agency for Fundamental Rights is also examining the impact of AI. In 2018, the FRA launched a project on Artificial Intelligence, Big Data and Fundamental Rights to assess the use of AI for public administration and business in the EU.⁷⁹ A 2018 report explores discrimination in AI⁸⁰ and a 2019 FRA report examines facial recognition.⁸¹

In mid-December 2020, the German presidency of the EU, in collaboration with the EU Fundamental Rights Agency and German Ministry of Justice and Consumer Protection, organized a conference on AI and the European Way.⁸² The conference highlighted recent papers on AI policy from the FRA. The organizers reposted the 2018 FRA report on discrimination in AI and the 2019 FRA report on facial recognition. One paper also summarized FRA AI policy initiatives between 2016 and 2020.⁸³ The German Government also provided its comments on the Commission White Paper on AI⁸⁴ and the detailed 2019 Opinion of the Data Ethics Commission concerning algorithm-based decision-making, AI, and data.⁸⁵

⁷⁹ FRA, *Artificial Intelligence, Big Data and Fundamental Rights* (May 30, 2018), <https://fra.europa.eu/en/project/2018/artificial-intelligence-big-data-and-fundamental-rights>

⁸⁰ FRA, *Big Data: Discrimination in data-supported decision-making* (May 29, 2018), <https://fra.europa.eu/en/publication/2018/bigdata-discrimination-data-supported-decision-making>

⁸¹ FRA, *Facial recognition technology: fundamental rights considerations in the context of law enforcement* (Nov. 27, 2019), <https://fra.europa.eu/en/publication/2019/facial-recognition-technology-fundamental-rights-considerations-context-law>

⁸² *Doing AI the European way: Protecting Fundamental Rights in an Era of Artificial Intelligence* (Dec. 14, 2020), <https://eu2020-bmjv-european-way-on-ai.de/en/>

⁸³ *Policy initiatives in the area of artificial intelligence* (last updated Apr. 29, 2020), [https://eu2020-bmjv-european-way-on-ai.de/storage/documents/AI_policy_initiatives_\(2016-2020\).pdf](https://eu2020-bmjv-european-way-on-ai.de/storage/documents/AI_policy_initiatives_(2016-2020).pdf)

⁸⁴ Die Bundesregierung, *Comments from the Federal Government of the Federal Republic of Germany on the White Paper on Artificial Intelligence - A European Concept for Excellence and Trust*, COM (2020) 65 final, https://eu2020-bmjv-european-way-on-ai.de/storage/documents/Federal_Government's_Comments_on_the_AI_White_Paper.pdf

⁸⁵ Daten Ethik Kommission, *Opinion of the Data Ethics Commission* (2019), https://eu2020-bmjv-european-way-on-ai.de/storage/documents/Data_Ethics_Commission_Full_Report_in_English.pdf

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

In December 2020, the FRA also issued a report on “Getting the future right-Artificial intelligence and fundamental rights in the EU.”⁸⁶

High-Level Expert Group on AI

Following the launch of the Artificial Intelligence Strategy in 2018, the European Commission appointed a group of 52 experts to advise for its implementation.⁸⁷ The group members were selected following an open selection process and comprised representatives from academia, civil society and industry. The High-Level Expert Group on Artificial Intelligence (AI HLEG) has produced four reports: Ethics Guidelines for Trustworthy AI, Policy and Investment Recommendations for Trustworthy AI, The final Assessment List for Trustworthy AI, and Sectoral Considerations on the Policy and Investment Recommendations.

According to the ethical guidelines AI should be 1 lawful — respect laws and regulations (including the EU Charter on Fundamental Rights, UN Human Rights Treaties and the Council of Europe Convention on Human Rights); 2. ethical - respect ethical principles and values and 3. robust — from a technical perspective and with consideration of its social environment.⁸⁸ Since publication in 2019, the ethics guidelines have helped frame EU policy processes with among others key requirements derived from the guidelines in the European Commission’s 2021 “AI Act” proposal.⁸⁹

International outreach for human-centric artificial intelligence initiative

In September 2021, The European Commission’s Service for Foreign Policy Instruments (FPI) and the Directorate General for Communications Networks, Content and Technology (DG CONNECT), in collaboration with the European External Action Services (EEAS), launched the International outreach for human-centric artificial intelligence initiative (InTouchAI.eu) - a large foreign policy instrument project to engage with international partners on regulatory and ethical matters and

⁸⁶ FRA, *Getting the future right- Artificial intelligence and fundamental rights* (Dec. 14, 2020) <https://fra.europa.eu/en/themes/artificial-intelligence-and-big-data>

⁸⁷ European Commission, *High-Level Expert Group on Artificial Intelligence*, <https://ec.europa.eu/digital-single-market/en/high-level-expert-group-artificial-intelligence>

⁸⁸ European Union, *Ethics guidelines for trustworthy AI* (Nov. 8, 2019), <https://op.europa.eu/en/publication-detail/-/publication/d3988569-0434-11ea-8c1f-01aa75ed71a1>

⁸⁹ European Commission, *Proposal for a Regulation of the European Parliament and the Council, Laying Down Harmonized Rules for Artificial Intelligence (Artificial Intelligence Act)*, (Apr. 21, 2021), <https://op.europa.eu/en/publication-detail/-/publication/d3988569-0434-11ea-8c1f-01aa75ed71a1>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

promote the responsible development of trustworthy AI at global level with the main vision to ensure that AI “works for people and protects fundamental rights.”⁹⁰

G7

The Group of Seven (G7) is an inter-governmental political forum consisting of Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States. The members constitute the wealthiest liberal democracies. The group is officially organized around shared values of pluralism and representative government. The G7 is also the incubator for significant work on AI policy.

In advance of the 2016 G7 summit in Japan, then Prime Minister Shinzo Abe urged his government to develop policies for AI that could provide the basis for a global standard.⁹¹ At the subsequent meeting of G7 ICT ministers, Japan’s Communications Minister proposed international rules that would make “AI networks controllable by human beings and respect for human dignity and privacy.”⁹² She introduced eight basic principles Japan proposed for AI. These principles are very similar to those later adopted by the OECD and then the G20.

Prior to the 2018 G7 summit, France and Canada announced a joint undertaking on Artificial Intelligence that led to the creation of the Global Partnership on AI.⁹³ According to the Mission Statement of the two countries, the goal “will be to support and guide the responsible adoption of AI that is human-centric and grounded in human rights, inclusion, diversity, innovation and economic growth.”⁹⁴

In advance of the 2019 G7 summit, hosted by France, leaders of scientific societies set out a declaration on Artificial Intelligence and

⁹⁰ European Commission, *International outreach for human-centric artificial intelligence initiative*, <https://digital-strategy.ec.europa.eu/en/policies/international-outreach-ai>

⁹¹ CAIDP Update, *Prime Minister Abe’s AI and Data Governance Legacy* (Aug. 30, 2020), <https://www.japantimes.co.jp/news/2016/04/29/national/japan-pushes-basic-ai-rules-g-7-tech-meeting/>

⁹² Japan Times, *Japan pushes for basic AI rules at G-7 tech meeting* (Apr. 29, 2016), <https://www.japantimes.co.jp/news/2016/04/29/national/japan-pushes-basic-ai-rules-g-7-tech-meeting/>

⁹³ France Diplomacy, *French-Canadian Declaration on Artificial Intelligence* (June 7, 2018), <https://www.diplomatie.gouv.fr/en/country-files/canada/events/article/french-canadian-declaration-on-artificial-intelligence-07-06-18>

⁹⁴ Canada, Prime Minister of Canada, *Mandate for the International Panel on Artificial Intelligence* (Dec. 6, 2018), <https://pm.gc.ca/en/news/backgrounders/2018/12/06/mandate-international-panel-artificial-intelligence>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Society in which they stated, “Artificial intelligence (AI) is one of the technologies that is transforming our society and many aspects of our daily lives. AI has already provided many positive benefits and may be a source of considerable economic prosperity. It also gives rise to questions about employment, confidentiality of data, privacy, infringement of ethical values and trust in results.”⁹⁵

At the 2021 G7 summit hosted by the UK, the G7 Leaders committed to work together for a “values-driven digital ecosystem for the common good that enhances prosperity in a way that is sustainable, inclusive, transparent and human-centric.”⁹⁶ They called for a “human centric approach to artificial intelligence,” building on the work of the Global Partnership for Artificial Intelligence (GPAI) advanced by the Canadian and French G7 Presidencies in 2018 and 2019.

The G7 Leaders committed to work together for a “values-driven digital ecosystem for the common good that enhances prosperity in a way that is sustainable, inclusive, transparent and human-centric.” They called for a “human centric approach to artificial intelligence,” building on the work of the Global Partnership for Artificial Intelligence (GPAI) advanced by the Canadian and French G7 Presidencies in 2018 and 2019, and looking forward to the GPAI Summit in Paris in November 2021.

At the 2021 G7 privacy officials also issued a statement on Data Free Flows with Trust.⁹⁷ Regarding artificial intelligence, the officials said, “human dignity, must be central to AI design; AI must be transparent, comprehensible, and explainable; and the data protection principles of purpose limitation and data minimization must apply to AI.” They further said that “‘red lines’ are needed for AI systems that are not compatible with our values and fundamental rights.”

G20

The G20 is an international forum, made up of 19 countries and the European Union, representing the world’s major developed and emerging economies.⁹⁸ Together, the G20 members represent 85 % of global GDP,

⁹⁵ Summit of the G7 Science Academies, Artificial intelligence and society (Mar. 26, 2019), <https://royalsociety.org/-/media/about-us/international/g-science-statements/2019-g7-declaration-artificial-intelligence-and-society.pdf>

⁹⁶ The White House, *Carbis Bay G7 Summit Communique* (June 13, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/13/carbis-bay-g7-summit-communique/>

⁹⁷ G7 United Kingdom 2021, *Data Free Flows with Trust* (Sept. 8, 2021), <https://www.caidp.org/app/download/8342900463/g7-attachment-202109.pdf>

⁹⁸ OECD, *What is the G20?* <https://www.oecd.org/g20/about/>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

75% of international trade and two-thirds of the world's population. According to the OECD, because of its size and strategic importance, the G20 has a crucial role in setting the path for the future of global economic growth.

In the last few years, and in collaboration with the OECD, the G20 has taken a leading role in the promulgation of the global framework for AI policy. At the Osaka summit in 2019, former Prime Minister Abe and OECD Secretary General Gurría gathered support for the OECD AI Principles from the G20 countries. The preparatory work for the 2020 summit in Riyadh provided the first opportunity to assess progress toward implementation of the OECD AI Principles.⁹⁹

In November 2020, the G20 Leaders Declaration addressed both Artificial Intelligence and the digital economy. On AI, the G20 nations said, “We will continue to promote multi-stakeholder discussions to advance innovation and a human-centered approach to Artificial Intelligence (AI), taking note of the Examples of National Policies to Advance the G20 AI Principles. We welcome both the G20 Smart Mobility Practices, as a contribution to the well-being and resilience of smart cities and communities, and the G20 Roadmap toward a Common Framework for Measuring the Digital Economy.”¹⁰⁰

On the Digital Economy, the G20 said in 2020, “We acknowledge that universal, secure, and affordable connectivity, is a fundamental enabler for the digital economy as well as a catalyst for inclusive growth, innovation and sustainable development. We acknowledge the importance of data free flow with trust and cross-border data flows.” The G20 Declaration further said, “We support fostering an open, fair, and non-discriminatory environment, and protecting and empowering consumers, while addressing the challenges related to privacy, data protection, intellectual property rights, and security.”

The G20 advanced AI policy in the 2021 Leaders' Declaration, issued at the conclusion of the Summit in Rome.¹⁰¹ Recognizing the “benefits stemming from the responsible use and development of trustworthy human-centered Artificial Intelligence (AI),” the G20 Leaders said in Rome they would encourage competition and innovation, “as well

⁹⁹ OECD G20 Digital Economy Task Force, *Examples of AI National Policies* (2020), <https://www.mcit.gov.sa/sites/default/files/examples-of-ai-national-policies.pdf>

¹⁰⁰ G20 Riyadh Summit, *Leaders Declaration* (Nov. 21-22, 2020), https://g20.org/en/media/Documents/G20%20Riyadh%20Summit%20Leaders%20Declaration_EN.pdf

¹⁰¹ G20 Information Centre, *G20 Rome Leaders' Declaration* (Oct. 31, 2021), <http://www.g20.utoronto.ca/2021/211031-declaration.html>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

as diversity and inclusion,” and the importance of international cooperation to promote research, development, and application of AI

In advance of the 2021 Summit, the G20 Digital Economy Ministers reaffirmed “their willingness to implement trustworthy Artificial Intelligence (AI) and to commit to a human-centered approach, as . . . guided by the G20 AI Principles, drawn from the OECD Recommendations on AI.”¹⁰² The Ministers also noted that the “measurement of AI, notably its diffusion and impact across the economy and the international comparability of indicators on AI, needs to be improved.”

“Privacy and data protection” figured prominently in the 2021 G20 Leaders Statement with multiple references in policies concerning health and COVID, transportation and travel, the digital economy and higher education, data free flows with trust, and digital identity tools. The G20 Leaders also prioritized Gender Equality and Women’s Empowerment, a focus area for AI policy. And the G20 Leaders said they would work in 2022 “towards enhancing confidence in the digital environment by improving internet safety and countering online abuse, hate speech, online violence and terrorism while protecting human rights and fundamental freedoms.”

Global Privacy Assembly

The Global Privacy Assembly is the global network of privacy officials and experts. The Global Privacy Assembly meets annually to discuss emerging privacy issues and to adopt resolutions. In recent years, the focus of the GPA has moved toward AI.¹⁰³

The GPA adopted a foundational Declaration in 2018 on Ethics and Data Protection in Artificial Intelligence.¹⁰⁴ The 2018 GPA 2018 Resolution on Ethics in AI emphasized fairness, vigilance, transparency and intelligibility, and measures to reduce unlawful bias and discrimination.

In 2020, The Assembly adopted a significant Resolution on Accountability and AI that urged organizations deploying AI systems to

¹⁰² G20 Information Centre, *Declaration of G20 Digital Ministers: Leveraging Digitalisation for a Resilient, Strong, Sustainable and Inclusive Recovery* (Aug. 5, 2021), <http://www.g20.utoronto.ca/2021/210805-digital.html>

¹⁰³ CAIPD Update 1.15, *Privacy Commissioners Adopt Resolutions on AI, Facial Recognition* (Oct. 19, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/caidp-update-privacy-commissioners-adopt-resolutions-on-ai-facial-recognition/>

¹⁰⁴ International Conference of Data Protection and Privacy Commissioner, *Declaration on Ethics and Data Protection in Artificial Intelligence* (Oct. 23, 2018), http://globalprivacyassembly.org/wp-content/uploads/2018/10/20180922_ICDPPC-40th_AI-Declaration_ADOPTED.pdf. See also complete text in Reference section.

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

implement accountability measures, including a human rights impact assessment.¹⁰⁵ The Privacy Assembly also urged governments to make changes to data protection law “to make clear the legal obligations regarding accountability in the development and use of AI.” The 2020 GPA AI Accountability Resolution builds on a recent a recent GPA survey that identified accountability measures that are “very important or important for either AI developers or AI users.” The GPA Resolution reiterated several key principles for data protection, such as fairness and transparency, but stopped short of endorsing a formal ban which had been urged by many human rights advocates at the 2019 conference in Tirana. More than 100 organizations and 1,200 experts recommended that “countries suspend the further deployment of facial recognition technology for mass surveillance” and “establish the legal rules, technical standards, and ethical guidelines necessary to safeguard fundamental rights and comply with legal obligations before further deployment of this technology occurs.” The Assembly said it would consider the “circumstances when facial recognition technology poses the greatest risk to data protection and privacy rights,” and develop a set of principles that could be adopted at the next conference.

The OECD

The OECD is an international organization that “works to build better policies for better lives.”¹⁰⁶ The goal of the OECD is to “shape policies that foster prosperity, equality, opportunity and well-being for all.”

The OECD has led the global effort to develop and establish the most widely recognized framework for AI policy. This is a result of a concerted effort by the OECD and the member states to develop a coordinated international strategy. The OECD AI Principles also build on earlier OECD initiatives such as the OECD Privacy Guidelines, a widely recognized framework for transborder data flows and the first global framework for data protection.¹⁰⁷ OECD policy frameworks are not treaties, do not have legal force, and are not directly applicable to OECD member

¹⁰⁵ Global Privacy Assembly, *Adopted Resolution on Accountability in the Development and Use of Artificial Intelligence* (Oct. 2020), <https://globalprivacyassembly.org/wp-content/uploads/2020/10/FINAL-GPA-Resolution-on-Accountability-in-the-Development-and-Use-of-AI-EN.pdf>. See also complete text in Reference section

¹⁰⁶ OECD, *Who we are*, <https://www.oecd.org/about/>

¹⁰⁷ OECD, *OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data* (1981), <https://www.oecd.org/sti/ieconomy/oecdguidelinesonthe protection of privacy and transborder flows of personal data.htm>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

states. However, there are many instances of countries adopting national laws based on OECD policies, and a clear convergence of legal norms, particularly in the field of data protection.

Following the publication of the OECD AI Principles in 2019, the OECD continues extensive work on the adoption and implementation of AI policies.¹⁰⁸

Global Partnership on AI

The Global Partnership on Artificial Intelligence (GPAI) emerged from the OECD Recommendation on Artificial Intelligence.¹⁰⁹ GPAI activities are intended to foster the responsible development of AI grounded in “human rights, inclusion, diversity, innovation, and economic growth.”¹¹⁰ The GPAI aims to “bridge the gap between theory and practice on AI by supporting cutting-edge research and applied activities on AI-related priorities.” The GPAI developed within the G7 under the Canadian and French presidencies. As of January 2022, GPAI’s members now include Australia, Belgium, Brazil, Canada, Czech Republic, Denmark, France, Germany, India, Ireland, Israel, Italy, Japan, Mexico, the Netherlands, New Zealand, Poland, the Republic of Korea, Singapore, Slovenia, Spain, Sweden, the United Kingdom, the United States, and the European Union.

The GPAI held the Montreal Summit in early 2020.¹¹¹ The five key themes at the first GPAI meeting were the Responsible Use of AI, Data Governance, The Future of Work, AI and the Pandemic Response, Innovation, and Commercialization. The organizers of the Montreal Summit included an AI Art Session to learn how AI will “advance art artistry.”

OECD AI Observatory

The OECD AI Observatory, launched in February 2020, provides extensive data and multi-disciplinary analysis on artificial intelligence across a wide range of policy areas.¹¹² According to the OECD, the AI Policy Observatory is based on multidisciplinary, evidence-based analysis, and Global multi-stakeholder partnerships.

¹⁰⁸ CAIP Update 1.13, *OECD Report Examines Implementation of AI Principles* (Oct. 5, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/caidp-update-oecd-report-examines-implementation-of-ai-principles/>

¹⁰⁹ GPAI, *The Global Partnership on Artificial Intelligence*, <https://gpai.ai>

¹¹⁰ GPAI, *About GPAI*, <https://gpai.ai/about/>

¹¹¹ GPAI, *Montreal Summit 2020*, <https://www.c2montreal.com/en/lp/global-partnership-on-artificial-intelligence/>

¹¹² OECD, *AI Policy Observatory*, <https://www.oecd.ai/>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

National Implementation

The OECD also published the first report that attempts to assess the implementation of the OECD AI Principles among the G-20 nations in 2020.¹¹³ Examples of AI National Policies surveys “rationales and illustrative actions” for the 10 principles that make up the OECD/G-20 Guidelines on AI policy. The report was prepared by the G20 Digital Economy Task Force. Key observations from the Task Force report:

- G20 countries are moving quickly to build trustworthy AI ecosystems, though most initiatives are very recent
- Many national AI strategies address multiple G20 AI Principles simultaneously, which the OECD contends reinforce the strong complementarity of the Principles
- So far, few national policies emphasize Principles of robustness, security and safety, and accountability,
- Many national policies emphasize R&D, fostering a digital ecosystem, human capacity, and international cooperation

The Task Force also found that “there is potential for steering public research towards socially oriented applications and issues, and for leveraging R&D activities to make progress on issues such as accountability, explainability, fairness and transparency.” The Task Force emphasized that there “is currently a critical window for G20 members to continue their leadership on AI policy issues and to promote implementation of the G20 AI Principles. Development, diffusion and use of AI technologies are still at a relatively early level of maturity across many countries and firms, and policy-making on AI is in an active experimental phase.”¹¹⁴

A second report on implementation was published in 2021.¹¹⁵ The report builds both on the expert input provided at meetings of the OECD.AI Network of Experts working group on national AI policies that took place online from February 2020 to April 2021 and on the EC-OECD database of national AI strategies and policies. The expert group leveraged the OECD AI Policy Observatory www.oecd.ai (OECD.AI), containing a database of national AI policies from OECD countries and partner economies and the EU. These resources help policy makers keep track of national initiatives to

¹¹³ CAIP Update 1.13, *OECD Report Examines Implementation of AI Principles* (Oct. 5, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/caidp-update-oecd-report-examines-implementation-of-ai-principles/>

¹¹⁴ OECD G20 Digital Economy Task Force, *Examples of AI National Policies* (2020), <https://www.mcit.gov.sa/sites/default/files/examples-of-ai-national-policies.pdf>

¹¹⁵ OECD, *State of Implementation of the OECD AI Principles: Insights from National AI Policies* (June 2021), <https://oecd.ai/en/policies>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

implement the recommendations to governments contained in the OECD AI Principles. National policy makers are the primary audience for this report. The expert group met monthly between June 2020 and March 2021 to discuss case studies from selected countries during 90-minute online meetings. Over this period, 24 case studies were discussed during ten virtual meetings. These discussions provided “deep dives” into national experiences in implementing AI policies and were rich in lessons learned and good practices identified for each phase of the AI policy cycle.

OECD Secretary General Angel Gurría remarks at the 2020 G-20 Digital Economy Ministers Meeting in Riyadh also provide insight into the work of the OECD on AI.¹¹⁶ Secretary Gurría, addressing the global challenges of the COVID-19 crisis, urged countries to “use digital technologies to build our economies back in a better way: more resilient, inclusive and sustainable.” He also spoke about the need to bridge the digital divide, to shift to smart mobility practices, and to continue work on measurement of the digital economy.

“As this year’s G20 AI Dialogue showed,” Secretary Gurría said in 2020, “AI’s full potential is still to come. To achieve this potential, we must advance a human-centred and trustworthy AI, that respects the rule of law, human rights, democratic values and diversity, and that includes appropriate safeguards to ensure a fair and just society. This AI is consistent with the G20 AI Principles you designed and endorsed last year, drawing from the OECD’s AI Principles.”

The OECD ONE PAI

The OECD has also established a Working Group on Policies for AI (ONE PAI).¹¹⁷ The Working Group is developing practical guidance for policymakers on a wide array of topics: investing in AI R&D; data, infrastructure, software & knowledge; regulation, testbeds and documentation; skills and labor markets; and international co-operation.

The ONE PAI leverages lessons learned by other OECD bodies, as well as analysis of national AI policies. The working group is focusing on the practical implementation of the OECD AI Principles throughout the AI policy cycle for:

- Policy design – focusing on national AI governance policies and approaches;

¹¹⁶ CAIP Update 1.2, *OECD’s Gurría Underscores AI Fairness at G-20* (July 26, 2020), <https://dukakis.org/center-for-ai-and-digital-policy/center-for-ai-policy-update-oecdsgurría-underscores-ai-fairness-at-g-20-meeting/>

¹¹⁷ OECD, OECD Network of Experts on AI (ONE AI), <https://oecd.ai/network-of-experts>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

- Policy implementation – focusing on lessons learned to date through national implementation examples;
- Policy intelligence – identifying different evaluation methods and monitoring exercises; and
- Approaches for international and multi-stakeholder co-operation on AI policy.

The OECD ONE PAI held five virtual meetings between June and September 2020 which provided “deep dives” into national experience in implementing AI policies in practice.

United Nations

The United Nations launched work on AI in 2015 with the General Assembly event *Rising to the Challenges of International Security and the Emergence of Artificial Intelligence*.¹¹⁸ In 2015, the UN Interregional Crime and Justice Research Institute (UNICRI) launched a program on AI and Robotics.

The Secretary General

In its 2020 Roadmap for Digital Cooperation, the UN Secretary General stated that “Digital technologies provide new means to advocate, defend and exercise human rights, but they can also be used to suppress, limit and violate human rights,” noting with emphasis lethal autonomous weapons and facial recognition.¹¹⁹ He also announced the creation of an advisory body on global artificial intelligence cooperation to provide guidance to the Secretary General and the international community on artificial intelligence that is trustworthy, human-rights based, safe and sustainable and promotes peace. The advisory body will comprise Member States, relevant United Nations entities, interested companies, academic institutions, and civil society groups.

The Roadmap echoes the UN Secretary General 2018 Strategy on New Technologies whose goal was to “define how the United Nations system will support the use of these technologies to accelerate the

¹¹⁸ UNICRI, *Rising to the Challenges of International Security and the Emergence of Artificial Intelligence* (Oct. 7, 2015),

http://www.unicri.it/news/article/cbrn_artificial_intelligence

¹¹⁹ UN Secretary General, *Report - Roadmap for Digital Cooperation* (June 2020,

[https://www.un.org/en/content/digital-cooperation-](https://www.un.org/en/content/digital-cooperation-roadmap/assets/pdf/Roadmap_for_Digital_Cooperation_EN.pdf)

[roadmap/assets/pdf/Roadmap_for_Digital_Cooperation_EN.pdf](https://www.un.org/en/content/digital-cooperation-roadmap/assets/pdf/Roadmap_for_Digital_Cooperation_EN.pdf)); see also UN Secretary General, *The Highest Aspiration - A Call to Action for Human*

Rights (2020) https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Aspiration_A_Call_To_Action_For_Human_Right_English.pdf

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

achievement of the 2030 Sustainable Development Agenda and to facilitate their alignment with the values enshrined in the UN Charter, the Universal Declaration of Human Rights and the norms and standards of International Laws" with the first principle: "Protect and Promote Global Values" and the second principle: "Foster inclusion and transparency."¹²⁰

In a 2021 report *Our Common Agenda*, the UN Secretary General also proposed the creation of a Digital Global Compact which could "promote regulation of artificial intelligence to ensure that this is aligned with shared global values." The Compact would be agreed on during a Summit of the Future, prepared in part by "a multi-stakeholder digital technology track."¹²¹

On January 26, 2022, Maria-Francesca Spatolisano was designated as the Acting UN Envoy on Technology. She is in charge of coordinating the implementation of the Secretary-General's Roadmap on Digital Cooperation and advancing work towards the Global Digital Compact proposed in the Common Agenda, in close consultation with Member States, the technology industry, private companies, civil society, and other stakeholders.¹²²

In December 2021, Secretary-General Antonio Guterres encouraged the Review Conference of the U.N.'s Convention on Certain Conventional Weapons "to agree on an ambitious plan for the future to establish restrictions on the use of certain types of autonomous weapons."¹²³ This follows his call for an international legal ban on LAWS which he qualified in a 2019 message to Meeting of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems as "politically unacceptable, morally repugnant."¹²⁴

¹²⁰ UN Secretary General, *Strategy on New Technologies* (Sept. 2018), <https://www.un.org/en/newtechnologies/images/pdf/SGs-Strategy-on-New-Technologies.pdf>)

¹²¹ UN Secretary General, Report: *Our Common Agenda* (2021), https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf).

¹²² <https://www.un.org/techenvoy/content/about>

¹²³ United Nation, *Secretary-General's message to the Sixth Review Conference of High Contracting Parties to the Convention on Certain Conventional Weapons* (Dec. 13, 2021) <https://www.un.org/sg/en/node/261134>

¹²⁴ United Nations, *Secretary-General's message to Meeting of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems* (March 25, 2019) <https://www.un.org/sg/en/content/sg/statement/2019-03-25/secretary-generals-message-meeting-of-the-group-of-governmental-experts-emerging-technologies-the-area-of-lethal-autonomous-weapons-systems>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

UNESCO Recommendation on AI Ethics

In 2020 UNESCO embarked on a two-year project to develop a global standard for Artificial Intelligence. UNESCO Director General Audrey Azoulay stated, "Artificial intelligence can be a great opportunity to accelerate the achievement of sustainable development goals. But any technological revolution leads to new imbalances that we must anticipate."¹²⁵

In 2020 UNESCO published a draft Recommendation on the Ethics of Artificial Intelligence. UNESCO stated that the Recommendation "aims for the formulation of ethical values, principles and policy recommendations for the research, design, development, deployment and usage of AI, to make AI systems work for the good of humanity, individuals, societies, and the environment." The UNESCO draft Recommendation sets out about a dozen principles, five Action Goals, and eleven Policy Actions. Notable among the UNESCO recommendations is the emphasis on Human Dignity, Inclusion, and Diversity. UNESCO also expresses support for Human Oversight, Privacy, Fairness, Transparency and Explainability, Safety and Security, among other goals. Understandably, UNESCO is interested in the scientific, educational, and cultural dimensions of AI, the agency's program focus.

The UNESCO Recommendation was adopted on November 24, 2021, at the 41st General Conference at its 41st session. This is the first global agreement on the Ethics of Artificial Intelligence.¹²⁶ UNESCO Director General Audrey Azoulay stated, "The world needs rules for artificial intelligence to benefit humanity. The recommendation on the ethics of AI is a major answer. It sets the first global normative framework while giving member states the responsibility to apply it at their level. UNESCO will support its 193 member states in its implementation and ask them to report regularly on their progress and practices."

The UNESCO Recommendation was the outcome of a multi-year process and was drafted with the assistance of more than 24 experts.¹²⁷ According to UNESCO, the "historical text defines the common values and principles which will guide the construction of the necessary legal

¹²⁵ UNESCO, *Artificial intelligence with human values for sustainable development*, <https://en.unesco.org/artificial-intelligence>

¹²⁶ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021), <https://unesdoc.unesco.org/ark:/48223/pf0000380455>

¹²⁷ UNESCO, *Preparation of a draft text of the Recommendation: Ad Hoc Expert Group*, <https://en.unesco.org/artificial-intelligence/ethics#aheg>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

infrastructure to ensure the healthy development of AI.”¹²⁸ UNESCO explained, “The Recommendation aims to realize the advantages AI brings to society and reduce the risks it entails. It ensures that digital transformations promote human rights and contribute to the achievement of the Sustainable Development Goals, addressing issues around transparency, accountability and privacy, with action-oriented policy chapters on data governance, education, culture, labour, healthcare and the economy.” The key achievements of the UNESCO AI Recommendation include:

1. **Protecting data.** The UNESCO Recommendation calls for action beyond what tech firms and governments are doing to guarantee individuals more protection by ensuring transparency, agency and control over their personal data.
2. **Banning social scoring and mass surveillance.** The UNESCO Recommendation explicitly bans the use of AI systems for social scoring and mass surveillance.
3. **Monitoring and Evaluation.** The UNESCO Recommendation establishes new tools that will assist in implementation, including Ethical Impact Assessments and a Readiness Assessment Methodology.
4. **Protecting the environment.** The UNESCO Recommendation emphasizes that AI actors should favor data, energy and resource-efficient AI methods that will help ensure that AI becomes a more prominent tool in the fight against climate change and on tackling environmental issues.

The Recommendation aims to provide a basis to make AI systems work for the good of humanity, individuals, societies and the environment and ecosystems, and to prevent harm. It also aims at stimulating the peaceful use of AI systems. The Recommendation provides a universal framework of values and principles of the ethics of AI. It sets out four values: respect, protection and promotion of human rights and fundamental freedoms and human dignity; environment and ecosystem flourishing; ensuring diversity and inclusiveness; living in peaceful, just and interconnected societies.

¹²⁸ UNESCO, *UNESCO member states adopt the first ever global agreement on the Ethics of Artificial Intelligence* (Nov. 25, 2021), <https://en.unesco.org/news/unesco-member-states-adopt-first-ever-global-agreement-ethics-artificial-intelligence>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

Further, the Recommendation outlines 10 principles – proportionality and do no harm, safety and security, fairness and non-discrimination, sustainability, right to privacy and data protection, human oversight and determination, transparency and explainability, responsibility and accountability, awareness and literacy – backed up by more concrete policy actions on how they can be achieved. The Recommendation also introduces red-lines to unacceptable AI practices. For example, it states that “AI systems should not be used for social scoring or mass surveillance purposes.”

The Recommendation focuses not only on values and principles, but also on their practical realization, via concrete eleven policy actions. It encourages Member States to introduce frameworks for ethical impact assessments, oversight mechanisms etc. Member States should ensure that harms caused through AI systems are investigated and redressed, by enacting strong enforcement mechanisms and remedial actions, to make certain that human rights and fundamental freedoms and the rule of law are respected.

UN High Commissioner for Human Rights

In the Roadmap for Digital Cooperation, the Secretary General stated, "To address the challenges and opportunities of protecting and advancing human rights, human dignity and human agency in a digitally interdependent age, the Office of the United Nations High Commissioner for Human Rights will develop system-wide guidance on human rights due diligence and impact assessments in the use of new technologies, including through engagement with civil society, external experts and those most vulnerable and affected."¹²⁹

In September 2021, the UN High Commissioner for Human Rights Michelle Bachelet called for a moratorium on the sale and use of AI that pose a serious risk to human rights until adequate safeguards are put in place.¹³⁰ She also called for a ban on AI applications that do not comply with international human rights law. “Artificial intelligence can be a force for good, helping societies overcome some of the great challenges of our

¹²⁹ UN Secretary General, *Report - Roadmap for Digital Cooperation* (June 2020) https://www.un.org/en/content/digital-cooperation-roadmap/assets/pdf/Roadmap_for_Digital_Cooperation_EN.pdf

¹³⁰ UN Human Rights, Office of the High Commissioner, *Artificial intelligence risks to privacy demand urgent action – Bachelet* (Sept. 15, 2021), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27469&LangID=E>; see also *UN Urges Moratorium on AI that Violates Human Rights*, CAIDP Update 2.34 (Sept. 15, 2021), <https://www.caidp.org/app/download/8343909663/CAIDP-Update-2.34.pdf>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

times. But AI technologies can have negative, even catastrophic, effects if they are used without sufficient regard to how they affect people's human rights," Bachelet said.

The High Commissioner's statement accompanied the release of a new report on The Right to Privacy in the Digital Age. The UN Report details how AI systems rely on large data sets, with information about individuals collected, shared, merged and analyzed in multiple and often opaque ways. The UN Report finds that data used to guide AI systems can be faulty, discriminatory, out of date or irrelevant. Long-term storage of data also poses particular risks, as data could in the future be exploited in as yet unknown ways.¹³¹

International Telecommunications Union

In 2017 and 2018, the International Telecommunications Union (ITU) organized the AI for Good Global Summits, "the leading United Nations platform for dialogue on AI."¹³² Houlin Zhao, Secretary General of the ITU stated, "As the UN specialized agency for information and communication technologies, ITU is well placed to guide AI innovation towards the achievement of the UN Sustainable Development Goals. We are providing a neutral platform for international dialogue aimed at building a common understanding of the capabilities of emerging AI technologies." The 2018 ITU report *Artificial Intelligence for global good* focused on the relationship between AI and progress towards the United Nations' Sustainable Development Goals (SDGs).¹³³

UN Special Rapporteur

An extensive 2018 report by a UN Special Rapporteur explored the implications of artificial intelligence technologies for human rights in the information environment, focusing in particular on rights to freedom of opinion and expression, privacy and non-discrimination.¹³⁴ The *Report of the Special Rapporteur on the promotion and protection of the right to*

¹³¹ Human Rights Council, *The right to privacy in the digital age, Report of the United Nations High Commissioner for Human Rights* (Sept. 13, 2021), https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session48/Documents/A_HRC_48_31_AdvanceEditedVersion.docx

¹³² ITU, AI for Good Global Summit 2018, <https://www.itu.int/en/ITU-T/AI/2018/Pages/default.aspx>

¹³³ ITU News Magazine, Artificial Intelligence for global good (Jan. 2018), https://www.itu.int/en/itunews/Documents/2018/2018-01/2018_ITUNews01-en.pdf

¹³⁴ UN Special Rapporteur, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, A/73/348 (Aug. 29, 2018), <https://freedex.org/wp-content/blogs.dir/2015/files/2018/10/AI-and-FOE-GA.pdf>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

freedom of opinion and expression report defines key terms “essential to a human rights discussion about artificial intelligence”; identifies the human rights legal framework relevant to artificial intelligence; and presents preliminary to ensure that human rights are considered as AI systems evolve. The report emphasizes free expression concerns and notes several frameworks, including the International Covenant on Civil and Political Rights and the UN Guiding Principles on Business and Human Rights.

Among the Recommendations, the Special Rapporteur proposed “Companies should make all artificial intelligence code fully auditable and should pursue innovative means for enabling external and independent auditing of artificial intelligence systems, separately from regulatory requirements. The results of artificial intelligence audits should themselves be made public.” The report emphasizes the need for transparency in the administration of public services. “When an artificial intelligence application is being used by a public sector agency, refusal on the part of the vendor to be transparent about the operation of the system would be incompatible with the public body’s own accountability obligations,” the report advises.

UN and Lethal Autonomous Weapons

One of the first AI applications to focus the attention of global policymakers was the use of AI for warfare.¹³⁵ In 2016, the United Nations established the Group of Governmental Experts (GGE) on Lethal Autonomous Weapons Systems (LAWS) following a review of the High Contracting Parties to the Convention on Certain Conventional Weapons (CCW).¹³⁶ In November 2019,¹³⁷ the CCW High Contracting Parties endorsed 11 Guiding Principles for LAWS.¹³⁸ But concerns about future of

¹³⁵ The Computer Professionals for Social Responsibility (CPSR), a network of computer scientists based in Palo Alto, California, undertook early work on this topic in the 1980s. CPSR History, <http://cpsr.org/about/history/>. See also David Bellin and Gary Chapman, *Computers in Battle Will They Work?* (1987).

¹³⁶ United Nations, *2018 Group of Governmental Experts on Lethal Autonomous Weapons Systems (LAWS)*, [https://www.unog.ch/80256EE600585943/\(httpPages\)/7C335E71DFCB29D1C1258243003E8724](https://www.unog.ch/80256EE600585943/(httpPages)/7C335E71DFCB29D1C1258243003E8724)

¹³⁷ Meeting of the High Contracting Parties to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, *Final Report* (Dec. 13, 2019), <https://undocs.org/Home/Mobile?FinalSymbol=CCW%2FMSP%2F2019%2F9&Language=E&DeviceType=Desktop>

¹³⁸ Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons System, *Report of the 2019 session of the Group of Governmental Experts on Emerging Technologies in the Area of Lethal Autonomous Weapons Systems*

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

regulation of lethal autonomous weapons remain. At present, some countries believe that current international law “mostly suffices” while others believe new laws are needed.¹³⁹ Human Rights Watch provided an important overview of country positions on the future of banning fully autonomous weapons in August 2020.¹⁴⁰ Concerns over killer reports also arose at the 75th UN Assembly in October 2020.¹⁴¹ Pope Francis warned that lethal autonomous weapons systems would “irreversibly alter the nature of warfare, detaching it further from human agency.” He called on states to “break with the present climate of distrust” that is leading to “an erosion of multilateralism, which is all the more serious in light of the development of new forms of military technology.”¹⁴² The Permanent Representative of the Holy See to the UN called for a ban on autonomous weapons in 2014.¹⁴³

The Vatican

Pope Francis has emerged as a leading figure the world of AI policy. In addition to his statements on autonomous weapons, in November 2020 the Pope warned that AI could exacerbate economic inequalities around the world if a common good is not pursued. “Artificial intelligence is at the

(Sept. 25, 2019), [https://documents-dds-](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/285/69/PDF/G1928569.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/G19/285/69/PDF/G1928569.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/285/69/PDF/G1928569.pdf?OpenElement)

¹³⁹ Dustin Lewis, *An Enduring Impasse on Autonomous Weapons*, Just Security (Sept. 28, 2020), <https://www.justsecurity.org/72610/an-enduring-impasse-on-autonomous-weapons/>

¹⁴⁰ Human Rights Watch, *Stopping Killer Robots: Country Positions on Banning Fully Autonomous Weapons and Retaining Human Control* (Aug. 10, 2020), <https://www.hrw.org/report/2020/08/10/stopping-killer-robots/country-positions-banning-fully-autonomous-weapons-and#>

¹⁴¹ Stop Killer Robots, 75th UN Assembly (Oct. 30, 2020), <https://www.stopkillerrobots.org/2020/10/un-diplomacy/>

¹⁴² Address of His Holiness Pope Francis to the Seventy-fifth Meeting of the General Assembly of the United Nations, *The Future We Want, the United Nations We Need: Reaffirming our Joint Commitment through Multilateralism* (Sept. 25, 2020), https://reachingcriticalwill.org/images/documents/Disarmament-fora/unga/2020/25Sept_HolySee.pdf

¹⁴³ Statement by H.E. Archbishop Silvano M. Tomasi, Permanent Representative of the Holy See to the United Nations and Other International Organizations in Geneva at the meeting of Experts on Lethal Autonomous weapons systems of the High Contracting Parties to the Convention, *On Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effect* (May 13, 2014), [https://www.unog.ch/80256EDD006B8954/\(httpAssets\)/D51A968CB2A8D115C1257CD8002552F5/\\$file/Holy+See+MX+LAWS.pdf](https://www.unog.ch/80256EDD006B8954/(httpAssets)/D51A968CB2A8D115C1257CD8002552F5/$file/Holy+See+MX+LAWS.pdf)

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

heart of the epochal change we are experiencing. Robotics can make a better world possible if it is joined to the common good. Indeed, if technological progress increases inequalities, it is not true progress. Future advances should be oriented towards respecting the dignity of the person and of Creation.”¹⁴⁴

Earlier in 2020, the Pope endorsed the Rome Call for AI Ethics.¹⁴⁵ The goal of the Rome Call is to “support an ethical approach to Artificial Intelligence and promote a sense of responsibility among organizations, governments and institutions.” The Pope said, “The Call’s intention is to create a movement that will widen and involve other players: public institutions, NGOs, industries and groups to set a course for developing and using technologies derived from AI.” The Pope also said that the Rome Call for Ethics is the “first attempt to formulate a set of ethical criteria with common reference points and values, offering a contribution to the development of a common language to interpret what is human.”¹⁴⁶

The key principles of the Rome Call are 1) Transparency: AI systems must be explainable; 2) Inclusion: the needs of all human beings must be taken into consideration so that everyone can benefit and all individuals can be offered the best possible conditions to express themselves and develop; 3) Responsibility: those who design and deploy the use of AI must proceed with responsibility and transparency; 4) Impartiality: do not create or act according to bias, thus safeguarding fairness and human dignity; 5) Reliability: AI systems must be able to work reliably; 6) Security and privacy: AI systems must work securely and respect the privacy of users. These principles are described as “fundamental elements of good innovation.”

Technical Societies

Technical societies have also played a leading role in the articulation of AI principles. The IEEE led several initiatives, often in cooperation with government policymakers, to develop and promote Ethically Aligned Design (EAD).¹⁴⁷ The initial report *A Vision for Prioritizing Human Well-being with Autonomous and Intelligent Systems* was published in 2015. The

¹⁴⁴ Vatican News, *Pope’s November prayer intention: that progress in robotics and AI “be human”* (Nov. 2020), <https://www.vaticannews.va/en/pope/news/2020-11/pope-francis-november-prayer-intention-robotics-ai-human.html>

¹⁴⁵ *Rome Call AI Ethics*, <https://romecall.org>

¹⁴⁶ Pontifical Academy for Life, *Rome Call for Ethics* (Feb. 28, 2020), <http://www.academyforlife.va/content/pav/en/events/intelligenza-artificiale.html>

¹⁴⁷ IEEE Ethics in Action in Autonomous and Intelligent Systems, <https://ethicsinaction.ieee.org>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

IEEE published the second edition in 2017.¹⁴⁸ In 2019 the IEEE issued a Positions Statement on Artificial Intelligence, concluding that “AI systems hold great promise to benefit society, but also present serious social, legal and ethical challenges, with corresponding new requirements to address issues of systemic risk, diminishing trust, privacy challenges and issues of data transparency, ownership and agency.”¹⁴⁹

ACM, an international society of computer scientists and professionals, has also contributed to the global AI policy landscape.¹⁵⁰ In 2017 ACM released a Statement on Algorithmic Transparency and Accountability, identifying key principles to minimize bias and risks in algorithmic decision-making systems, including transparency, accountability, explainability, auditability, and validation.¹⁵¹ In 2020, in response to growing concerns about the use of facial recognition technologies in public spaces, ACM released another statement addressing the unique issues of biometric data systems and the potential bias and inaccuracies that have significant consequences for violation of human rights.¹⁵²

Civil Society

Latin America

In Latin America, NGOs have been active in AI-related aspects, particularly in connection with the use of facial recognition technology. In Argentina, the Association for Civil Rights (*Asociación por los Derechos Civiles*), a very-well known Argentinian human rights organization has criticized the increasing and unaccountable use of facial recognition technology. These efforts have led to the creation of a national campaign using the slogan “Con mi Cara No” (“No with my face”). The organization

¹⁴⁸ IEEE Standards Association, *IEEE Releases Ethically Aligned Design, Version 2 to show "Ethics in Action" for the Development of Autonomous and Intelligent Systems (A/IS)* (Dec. 12, 2017), https://standards.ieee.org/news/2017/ead_v2.html

¹⁴⁹ IEEE, *Artificial Intelligence* (June 24, 2019), <https://globalpolicy.ieee.org/wp-content/uploads/2019/06/IEEE18029.pdf>

¹⁵⁰ Association for Computing Machinery, www.acm.org/public-policy

¹⁵¹ ACM, US Public Policy Council, *Statement on Algorithmic Transparency and Accountability*, (Jan. 12, 2017), https://www.acm.org/binaries/content/assets/publicpolicy/2017_usacm_statement_algorithmics.pdf.

¹⁵² ACM, US Technology Policy Committee, *Statement on Principles and Prerequisites for the Development, Evaluation and Use of Unbiased Facial Recognition Technologies* (June 30, 2020), <https://www.acm.org/binaries/content/assets/public-policy/ustpc-facial-recognition-tech-statement.pdf>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

aims to raise awareness about the dangers of facial recognition technology, particularly when their data is included within opaque and unaccountable systems.¹⁵³ Furthermore, during 2020, the Association made contributions to *Future City: AI Strategy* (*Ciudad Futuro: Plan Estratégico Inteligencia Artificial*) of the Autonomous City of Buenos Aires.¹⁵⁴ It also participates in the Trustworthy Artificial Intelligence (TAI) program organized by Mozfest, and the working group “Making use of the Civic Voice in AI Impact Assessment” with more than thirty members of different civil society organizations around the world.

The Igarape Institute, an independent Brazilian think tank, also publishes AI-related research: in 2019, the Institute published a study on Future Crime providing an overview of the opportunities and pitfalls of new technologies to fight crime and stated recommendations to ensure transparency and accountability.¹⁵⁵ The emphasis was on predictive analytics and the Institute recommended that enforcement agencies are informed about the challenges and caveats associate applying these new crime prediction platforms. The principles of transparency and accountability were also highlighted, as well as the need to ensure the safety, dignity and rights of people in the crime forecasting process, including when advanced software packages are deployed. Predictive tools need not replace the intuition and experience of law enforcement officers, but rather complement them in an agile and auditable manner.

Furthermore, in relation to the São Paulo Metro operator, ViaQuatro, that installed and used an AI crowd analytics system that claims to predict the emotion, age, and gender of metro passengers without processing personal data, Access Now filed an expert opinion criticizing this initiative.¹⁵⁶

Fundación Karisma, another civil society organization dedicated to supporting the responsible use of tech highlights the pitfalls of these systems. In their report titled Discreet Cameras, they point out that surveillance technology and biometric identification systems in Colombia only take into consideration the technical and impact considerations while assessing systems. There is no analysis using necessity, proportionality or

¹⁵³ Asociación por los Derechos Civiles, <https://conmicarano.adc.org.ar/>

¹⁵⁴ Asociación por los Derechos Civiles, *Yearbook 20021* <https://adc.org.ar/wp-content/uploads/2022/01/ADC-Yearbook-2021.pdf>

¹⁵⁵ Igarape Institute, *Future Crime - Assessing twenty first century crime prediction* (Feb. 3, 2019),

<https://igarape.org.br/en/future-crime-assessing-twenty-first-century-crime-prediction/>

¹⁵⁶ Brazilian Institute of Consumer Protection, Autos no.: 1090663-42.2018.8.26.0100, https://www.accessnow.org/cms/assets/uploads/2020/06/Expert_Opinion_Brazil_Facial_Categorization.pdf

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

the possible effect of the technology on human rights. Although the government tries to ensure transparency by sharing the location of video surveillance systems that use facial recognition technology, the right to privacy and other fundamental rights of individuals are still ignored.¹⁵⁷

In addition, when Uruguay began developing a facial identification database some civil society organizations warned that “this system was approved using the National Budget Act as an ‘omnibus law,’ thus preventing proper discussion about the issue due to the tight deadlines for approval of this type of law.”¹⁵⁸

More broadly, several civil society organizations under the banner “AI Sur” in Latin America that seeks to strengthen human rights in the digital environment responded to the public consultation on “Ethics and Data Protection in Artificial Intelligence: continuing the debate” promoted by the International Conference of Data Protection and Privacy Commissioners (ICDPPC).¹⁵⁹

Africa

In relation to Africa, research shows more limited engagement with AI-related questions. In relation to Nigeria, Paradigm Initiative, which operates regional offices in Cameroon, Kenya, Nigeria, Senegal, Zambia, and Zimbabwe, has observed that Nigeria conducts surveillance activities without judicial oversight and a comprehensive framework for data protection and recommended the enactment of a comprehensive framework for data protection and privacy and judicial oversight over surveillance.¹⁶⁰ With regard to AI, Paradigm Initiative has published policy briefs and factsheets, providing a series of recommendations, namely: assessment of Nigeria’s strategic priorities, strengths and weaknesses, alignment with supranational AI standards, concerns regarding the use of AI in certain sectors, such as law enforcement, criminal justice, immigration and national

¹⁵⁷ Fundación Karisma, *Discreet Cameras*, (Feb. 2, 2018),

<https://web.karisma.org.co/camaras-indiscretas/>

¹⁵⁸ DATYSOC, *Organizaciones de la sociedad civil y académicas expresan su preocupación por reconocimiento facial en el Proyecto de Ley de Presupuesto de Uruguay* (Nov. 17, 2020), <https://datysoc.org/2020/11/17/organizaciones-de-la-sociedad-civil-y-academicas-expresan-su-preocupacion-por-reconocimiento-facial-en-el-proyecto-de-ley-de-presupuesto-de-uruguay/>

¹⁵⁹ *Ethics and Data Protection in Artificial Intelligence: continuing the debate. A contribution from Latin America & the Caribbean*, <https://web.karisma.org.co/ethics-and-data-protection-in-artificial-intelligence-continuing-the-debate-a-contribution-from-latin-america-the-caribbean/>

¹⁶⁰ https://paradigmhq.org/wp-content/uploads/2021/05/Digital-Rights-and-Privacy-in-Nigeria_0.pdf

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

security; a human-centric approach to data governance; reinforcing the responsibility of the Nigerian State to protect citizens human rights, and the responsibility of businesses to respect these rights; prioritizing local AI and ensuring a transparent procurement process for AI systems from abroad: and calling for AI upskilling and reskilling.¹⁶¹

Paradigm Initiative has also published a policy brief on the AI policy of Kenya highlighting the challenges faced in the adoption of AI systems, which include the lack of relevant data for the development of the systems, lack of regulatory framework governing the AI ecosystem in the country, lack of relevant AI skills, connectivity divide in the country, and the lack of investment in research on development of AI systems and protection of human rights.¹⁶² Paradigm Initiative also stressed the risks posed by the use of AI systems on human rights, focusing not only on bias caused by the systems, but also the weaponization of AI systems by the Government which may undermine freedom of expression and association, surveillance through the use of facial recognition technologies, and violation of rights through contents moderation.

In 2019, Witness and the Centre for Human Rights at the University of Pretoria, hosted an expert meeting on deepfakes and other forms of AI-enabled synthetic media.¹⁶³ The Centre for Human Rights also launched the #Tech4Rights initiative to, among several purposes, build stronger regional partnerships for advocacy on the effective use of digital technologies for human rights protection.¹⁶⁴

The African Internet Rights Alliance (AIRA) is made up of nine civil society organizations based in countries across Central, East, Southern and West Africa.¹⁶⁵ The work of AIRA is rooted in four values: accountability, transparency, integrity, and good governance. Using these values as a guide, AIRA undertakes collective interventions and executes strategic campaigns that engage the government, private sector, media and

¹⁶¹ Paradigm Initiative, *Towards A Rights-Respecting Artificial Intelligence Policy for Nigeria*,

(November 2021), <https://paradigmhq.org/wp-content/uploads/2021/11/Towards-A-Rights-Respecting-Artificial-Intelligence-Policy-for-Nigeria.pdf>

¹⁶² Paradigm Initiative, *Artificial Intelligence in Kenya*, (January 2022), <https://paradigmhq.org/wp-content/uploads/2022/02/Artificial-Intelligence-in-Kenya-1.pdf>

¹⁶³ *Centre for Human Rights and Witness Host Africa's first 'deepfakes' workshop in Pretoria* (Nov. 28, 2019), <https://www.chr.up.ac.za/news-archive/2019/1929-witness-and-centre-for-human-rights-host-africa-s-first-deepfakes-workshop-in-pretoria>

¹⁶⁴ Centre for Human Rights, *#Tech4Rights: Rethinking a human rights-based approach to new technologies in Africa* (Oct. 26, 2021), <https://www.chr.up.ac.za/tech4rights>

¹⁶⁵ Africa Internet Rights Alliance, *About Us*, <https://aira.africa/about-us/>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

civil society to institute and safeguard digital rights. In February 2022, the Alliance hosted a seminar on “Artificial Intelligence in Africa: Opportunities, Challenges, and Ethical Imperatives.”

Furthermore, the Digital Transformation Center, a German-Rwandan innovation hub, among other tasks, organises events about current ICT topics and trends, organizes training and capacity-development, as well as networking opportunities.¹⁶⁶

Moreover, the Rwandan government has engaged Future Society, an independent think tank, to support the development of Rwanda’s national artificial intelligence strategy, along with AI ethical guidelines, and a practical implementation strategy fit for the local context.¹⁶⁷ In 2021, the Future Society also organised workshops for employees working specific banks with branches in Africa regarding the concept of responsible AI, existing corporate guidelines, the ethical challenges raised by the use of algorithmic prediction for credit lending, and potential impact of facial recognition technologies (FRT) in the banking sector.¹⁶⁸ The Future Society has also published a briefing about the opportunities and challenges of AI in Healthcare in Africa, based on research conducted in TFS’ Responsible AI for Development (RAI4D) program.¹⁶⁹

Asia

In China, the Beijing Academy of Artificial Intelligence (BAAI) is a non-profit research institute aimed at promoting collaboration among academia and industries, as well as fostering top talents and a focus on long-term research on the fundamentals of AI technology. In 2019, the BAAI released the Beijing AI Principles for the research and development, use, and governance of AI.¹⁷⁰

¹⁶⁶ For example see Luisa Olaya Hernandez, How Rwanda’s AI policy helps to shape the evolving AI ecosystem, (Oct. 11, 2021), <https://digicenter.rw/how-rwandas-ai-policy-helps-to-shape-the-evolving-ai-ecosystem/>

¹⁶⁷ The Future Society, The Development of Rwanda’s National Artificial Intelligence Policy, (Aug. 31, 2020) <https://thefuturesociety.org/2020/08/31/development-of-rwandas-national-artificial-intelligence-policy/>

¹⁶⁸ The Future Society, Leveraging Responsible AI in the Banking Sector in Africa, (Oct. 21, 2021), <https://thefuturesociety.org/2021/10/21/leveraging-responsible-ai-in-the-banking-sector-in-africa/>

¹⁶⁹ The Future Society, Opportunities & Challenges of AI in Healthcare in Africa, (Jul. 21, 2021), <https://thefuturesociety.org/2021/07/22/opportunities-challenges-of-ai-in-healthcare-in-africa/>

¹⁷⁰ Beijing Principles, <https://www.baai.ac.cn/news/beijing-ai-principles-en.html>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

In India, the Artificial Intelligence Foundation Trust aims to spread and promote the quality education in the area of Artificial Intelligence and concerned engineering streams.¹⁷¹ The trust will also explore the applications of artificial intelligence in the life, i.e. agriculture, healthcare sector, business, social media, navigation and travel, banking and finance, security and surveillances, e-commerce and many other unexplored application areas.

In Indonesia, the Institute for Policy Research and Advocacy (ELSAM) is a civil society organisation that works to enhance the democratic political order by empowering civil society. With regard to Indonesia's national strategy on AI, ELSAM's researcher Alia Yofira Karunian said the national strategy should be centered around human needs and uphold principles of fairness, accountability and transparency as pillars in AI implementation.¹⁷² The Big Data and AI Association (ABDI) is also concerned with AI developments; in relation to the national strategy its Chairman Rudi Rusdiah commented that the government should prioritize trade and industrial affairs in AI development to reap the economic benefits.¹⁷³

Furthermore, the Association for Civil Rights in Israel, which is the oldest and most influential civil and human rights organization advocating across the broad spectrum of human rights and civil liberties, has been active in this field. It was one of the groups that brought before the Israel's Supreme Court a case concerning the Israeli Security Agency tracing the phone location of those who may be infected with Covid-19, eventually banned by the Court.¹⁷⁴

In Russia, the Human Rights Watch and Amnesty International have criticized the expansion of the use of facial recognition and highlighted threats to privacy taking into account Russia's track record of rights violations.¹⁷⁵ Amnesty International has also been critical of Russia's plans to broaden the use of widespread facial-recognition systems, saying their

¹⁷¹ Artificial Intelligence Foundation Trust <https://www.aifoundation.in/index.php>

¹⁷² The Jakarta Post, Indonesia sets sights on artificial intelligence in new national strategy (Aug. 14, 2020), <https://www.thejakartapost.com/news/2020/08/13/indonesia-sets-sights-on-artificial-intelligence-in-new-national-strategy.html>

¹⁷³ *ibid.* See ABID, <https://www.abdi.id/>

¹⁷⁴ BBC News, *Coronavirus: Israeli court bans lawless contact tracing* (Apr. 27, 2020), <https://www.bbc.com/news/technology-52439145>

¹⁷⁵ Human Rights Watch, *Russia Expands Facial Recognition Despite Privacy Concerns - Lack of Accountability, Oversight, Data Protection* (Oct. 2, 2020), <https://www.hrw.org/news/2020/10/02/russia-expands-facial-recognition-despite-privacy-concerns>

Artificial Intelligence and Democratic Values 2021

Center for AI and Digital Policy

expected deployment during public gatherings will “inevitably have a chilling effect” on protesters.¹⁷⁶

Europe

Civil Society organizations, particularly in Europe, are also shaping national AI policies and practices. Group such as Access Now have published detailed assessment of AI regulatory proposals¹⁷⁷ and a report on “trustworthy AI.”¹⁷⁸ AlgorithmWatch has drawn attention to controversies in the use of AI-based decision-making systems.¹⁷⁹ BEUC, the European consumer organization, has surveyed public attitudes toward AI,¹⁸⁰ and in October 2020 proposed specific AI rights for consumers.¹⁸¹ Privacy International has examined the impact of AI in several context, including advertising, welfare, and migration.¹⁸²

The European Commission’s White Paper on AI provided an opportunity for these groups to express their views on regulatory options. Several European NGOs said that the Commission has moved too slowly to establish a legislative framework and has placed too much emphasis on ethics rather than fundamental rights. Access Now and EDRi said that the Commission’s “risk-based approach” fails to safeguard fundamental rights.¹⁸³ As they explained, “the burden of proof to demonstrate that an AI system does not violate human rights should be on the entity that develops

¹⁷⁶ Radio Free Europe, *Watchdog Warns About 'Chilling Effect' Of Russia's Use Of Facial-Recognition Technology* (Jan. 31, 2020), <https://www.rferl.org/a/watchdog-warns-about-chilling-effect-of-russia-s-use-of-facial-recognition-technology/30410014.html>

¹⁷⁷ AccessNow, *Mapping Regulatory Proposals for Artificial Intelligence in Europe* (Nov. 2018), https://www.accessnow.org/cms/assets/uploads/2018/11/mapping_regulatory_proposals_for_AI_in_EU.pdf

¹⁷⁸ AccessNow, *Europe's Approach to Artificial Intelligence: How AI Strategy is Evolving* (Dec. 7, 2020), <https://www.accessnow.org/eu-trustworthy-ai-strategy-report/>

¹⁷⁹ AlgorithmWatch, *Automating Society Report 2020* (Oct. 2020), <https://automatingsociety.algorithmwatch.org>

¹⁸⁰ BEUC, *Survey: Consumers see potential of artificial intelligence but raise serious concerns* (Sept. 7, 2020), <https://www.beuc.eu/publications/survey-consumers-see-potential-artificial-intelligence-raise-serious-concerns/html>

¹⁸¹ BEUC, *AI Rights for Consumers* (2019), https://www.beuc.eu/publications/beuc-x-2019-063_ai_rights_for_consumers.pdf

¹⁸² Privacy International, *Artificial Intelligence* (“AI has the potential to revolutionise societies, however there is a real risk that the use of new tools by states or corporations will have a negative impact on human rights.”) <https://privacyinternational.org/learn/artificial-intelligence>

¹⁸³ Access Now and EDRi, *Attention EU regulators: we need more than AI “ethics” to keep us safe* (Oct. 21, 2020), <https://edri.org/our-work/attention-eu-regulators-we-need-more-than-ai-ethics-to-keep-us-safe/>