

Submission by the Oxford Commission on AI and Good Governance (OxCAIGG) The Oxford Internet Institute, University of Oxford. Contact: Professor Philip Howard: [Philip.howard@oii.ox.ac.uk](mailto:Philip.howard@oii.ox.ac.uk)

Summary: A list of questions for consideration and reflections on views on AI in EU MS. A look at the interplay between regulation and digital technical standards. An overview of skills and capacity for regulators and participants in standards. Reflections on the proposed extra-territorial effect for the draft AI Regulation – risks and benefits.

Questions to be asked:

- What types of bodies or public agencies are needed? Are existing bodies fit to regulate AI?
- At what level(s) should AI be regulated? How should power be balanced between the EU Institutions and the Member States?
- Could there be some type of resource agency that brings together knowledge and expertise to assist governments in adopting AI?
- What bodies will provide oversight into regulation?
- What bodies will be the final arbiter on violations of the regulations?
  - An arbitration board with appeal's mechanisms?
- How will the regulatory body maintain its independence?
- How will all the elements be funded?
- How will the EU collaborate with industry?
  - Should be independent of funding.
- What kind of data protection principles will there be?
- How can good governance norms be correctly implemented?
- How will the EU keep up with the pace of development so that regulation remains relevant? How will it anticipate and deal with loopholes?
  - Regulatory sandboxes might be an approach
- How will ethics considerations be incorporated into the regulator?
- How will the skills set be maintained and developed to run regulation?
- How will the EU engage with other key players in particular those disconnected from the mainstream discourse such as China? How will it share best practice and lessons learned?

## **AI and the EU**

Our research at the Oxford Commission on AI & Good Governance shows that opinions regarding Artificial Intelligence in the EU are divided. Using survey data from a sample of 154,195 respondents in 142 countries, we analyze basic indicators of public perceptions about the potential harms and opportunities of involving AI in our personal affairs and public life.

1. There are regional and East-West divides in public attitudes towards AI-driven automated decision making, with worries that AI will be harmful running highest in North America (47%) and Latin America (49%), and notably smaller proportions of respondents in Southeast Asia (25%) and East Asia (11%) concerned that AI will be harmful.

2. Enthusiasm and optimism around the potential of AI in decision making runs highest in China, where only a small proportion of respondents believe that the development of intelligent machines or robots that can think and make decisions in the next twenty years will mostly cause harm (9%).
3. Across the professions, business and government executives (47%) and other professionals (44%) are among the most enthusiastic about AI decision making, whereas workers in manufacturing (35%) and service workers (35%) are less confident that automated decision making will mostly help society.

Table 1 shows that attitudes toward AI vary greatly across different countries in the EU. In the European Union overall, attitudes on AI are divided. Across all respondents in the EU, irrespective of their country, 42% of respondents thought that AI will mostly be beneficial and another 42% of respondents reported that they believe AI will mostly harm.

All Respondents	Percent Responding "Mostly Help"
Bosnia Herzegovina	11
Montenegro	16
Macedonia	16
Albania	18
Serbia	23
Greece	23
Moldova	23
Belgium	27
Cyprus	27
France	28
Kosovo	28
Romania	29
Croatia	29
Portugal	32
Ukraine	32
Russia	33
Switzerland	34
Luxembourg	35
Bulgaria	35
Poland	35
Latvia	36
Lithuania	36
Hungary	36
Estonia	37
Belarus	38
Slovakia	38
Spain	40
Austria	40
Malta	42
Germany	43
Italy	45
United Kingdom	46
Ireland	46
Slovenia	50
Norway	50
Netherlands	51
Sweden	54
Finland	55
Denmark	60

Table 1: Will machines or robots that can think and make decisions, often known as artificial intelligence, mostly help people in the next 20 years?

Lisa-Maria Neudert, Aleksi Knuutila, Philip N. Howard (2020). Global Attitudes Towards AI, Machine Learning & Automated Decision Making. Working paper 2020.10 Oxford, UK:

Oxford Commission on AI & Good Governance, 10pp.

Retrieved from: <https://oxcaigg.oii.ox.ac.uk>

Engagement with private technology companies to influence and promote the responsible development and use of data and new technologies:

Research from the Oxford Commission on AI & Good Governance suggests that data sharing between different government entities and across government and industry is pivotal in determining the success of data-driven projects within local governments with the example of the UK. OxCAIGG recommends a formal mechanisms for collaboration across all local authorities and with industry; and a platform to complete all relevant information about information technology projects in local authorities.

Thomas Vogl (2021). Artificial Intelligence in Local Government. Working paper 2021.2 Oxford, UK: Oxford Commission on AI & Good Governance. 18pp.

Retrieved from: <https://oxcaigg.oii.ox.ac.uk> .

How can the EU build resilience in civil society, with Government and business against the threats posed by abuses of new technologies by state and non-state actors?

Research from the Oxford Commission on AI & Good Governance has developed four overarching principles for the use and implementation of artificial intelligence within government and public service that may offer useful guidance here.

- Inclusive Design: issues around discrimination and bias of AI in relation to inadequate data sets, exclusion of minorities and under-represented groups, and the lack of diversity in design.
- Informed Procurement: issues around the acquisition and development in relation to due diligence, design and usability specifications and the assessment of risks and benefits.
- Purposeful Implementation: issues around the use of AI in relation to interoperability, training needs for public servants, and integration with decision-making processes.
- Persistent Accountability: issues around the accountability and transparency of AI in relation to ‘black box’ algorithms, the interpretability and explainability of systems, monitoring and auditing.

Lisa-Maria Neudert & Philip N. Howard (2020). Four Principles for Integrating AI & Good Governance. Working paper 2020.1 Oxford, UK: Oxford Commission on AI & Good Governance. 15 pp.

Retrieved from: <https://oxcaigg.oii.ox.ac.uk>

### **Interplay between regulation and digital technical standards**

Digital technical standards have risen up the political agenda in democracies, following the recognition of China’s strategic use of technical standardisation to embed values inimical to

human rights within standards, and obtain the benefits of WTO protections for technologies standardised through bodies such as the UN's International Telecommunication Union (ITU). The recent EU-US joint statement (15 June 2021) recognises the dual role of regulation and standards in shaping the future of emerging technologies, particularly those with wide societal impact. The statement commits to "cooperation on the development and deployment of new technologies based on our shared democratic values, including respect for human rights and that encourages compatible standards and regulations." The 2021 G7 summit outcomes reflect similar sentiments.

Currently, no mechanisms exist to set aside digital technical standards on human rights grounds. Therefore, technologies built to standards that do not reflect democratic values or respect fundamental rights can enjoy protection under international trade rules.

Stacie Hoffmann, Dominique Lazanski & Emily Taylor (2020) Standardising the splinternet: how China's technical standards could fragment the internet, *Journal of Cyber Policy*, 5:2, 239-264, DOI: 10.1080/23738871.2020.1805482

Carolina Caiero, Kate Jones & Emily Taylor (forthcoming) "Technical Standards and Human Rights: The case of New IP", book chapter.

### **Skills and capacity for regulators and participants in standards**

For emerging technologies that have wide societal impact, it is essential that a wide range of stakeholders participate in the relevant standards process. There are multiple capacity challenges relating to the regulation and standardisation of AI.

The capacity of officials to understand the potential policy impacts of emerging technologies needs to be developed across the European institutions (not just those retained in technology-focused roles).

To ensure that future technologies reflect democratic values, as well as remaining open and interoperable, engagement in technical standards development needs to be more diverse and inclusive. Unless regulation and standards relating to emerging technologies with wide societal impacts such as AI have the benefit of input from as diverse a group of inputs as possible. Women, civil society and human rights groups and SMEs are under-represented in standards development organisations, and often lack the training and mentorship to participate effectively.

RightsCon21 – Splinternet by stealth China's digital Silk Road and the risks of a two-gauge internet <https://rightscon.summit.tc/t/2021/events/splinternet-by-stealth-chinas-digital-silk-road-and-the-risks-of-a-two-gauge-internet-pxRC2derLzwB33H8RYrVLF>

### **Extra-territorial effect**

The proposed extra-territorial effect for the draft AI Regulation carries both benefits and risks. Similar provisions within the GDPR brought into the compliance regime the major US platforms and services used by Europeans. The export of regulatory values therefore has

benefits for European citizens by ensuring that their data is subject to the same rules by companies offering them services, no matter where in the world their data is processed.

A simulation exercise on the impact of regulation on international data flows conducted by Chatham House in 2020 focused on regulatory contention between the proposed Indian Personal Data Protection Bill and European data protection regimes.

Similar risks apply in the field of AI governance. Unless there is a strong, consistent framework for data governance, the risk is that a complex, inconsistent set of rules for the governance of AI in the future. In turn, the phenomenon is likely to lead to regulatory arbitrage in the avoidance of laws in individual jurisdictions, whereby parties could make business choices designed to deliberately avoid the reach of unfavourable laws.

UK- India Cyber Simulation on Data Security and Privacy 2020, Chatham House  
<https://chathamhouse.soutron.net/Portal/DownloadImageFile.ashx?fieldValueId=5826>

### **About OxCAIGG**

The Oxford Commission on AI and Good Governance investigates the procurement and implementation challenges surrounding the use of AI for good governance faced by democracies around the world, identifying best practices for evaluating and managing risks and benefits, and recommend strategies in an effort to take full advantage of technological capacities while mitigating potential harms of AI-enabled public policy.

Drawing from input from experts across a wide range of geographic regions and areas of expertise, including stakeholders from government, industry, technical and civil society, OxCAIGG will bring forward applicable and relevant recommendations for the use of AI for good governance.

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