

AI Governance: An Abundance of Norms

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Center for AI and Digital Policy

TU Wien – DIGHUM
16 April 2024



- 📖 Universal Guidelines for AI (2018)
- 📖 OECD AI Principles / G20 AI Guidelines (2019)
- 📖 UNESCO Recommendation on AI Ethics (2021)
- 🏛️ CJEU Judgement on ML/AI in PNR Case (2022)
- 📖 US Executive Order on AI (2023)
- 📖 Bletchley Declaration (2023)
- 📖 EU AI Act (2024)
- 📖 UN Resolution on AI (2024)
- 📖 Council of Europe AI Treaty (forthcoming)

Assessing AI Policies

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Time to Assess National AI Policies

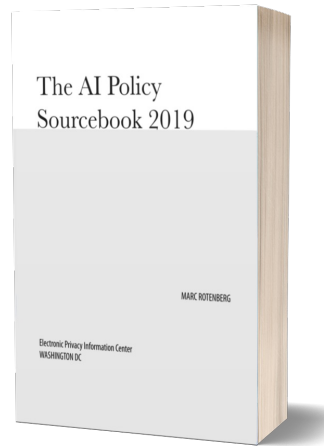
By Marc Rotenberg
November 24, 2020
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The artificial intelligence (AI) ethics field is booming. According to the Council of Europe, there are now more than 300 AI policy initiatives worldwide. Professional societies such as the ACM and the IEEE have drafted frameworks, as have private companies and national governments. Many of these guidelines set out similar goals: human-centric policies, fairness, transparency, and accountability. But little effort has been made to evaluate whether national governments have taken steps to implement AI policies.

The Center for AI and Digital Policy has undertaken the first comparative review of national AI policies. Our goal is to understand the commitments that governments have made, the AI initiatives they have launched, and the policies they have established to protect fundamental rights and to safeguard the public. Constructing the methodology for such a survey is not a simple task. A country can commit to "fairness" in AI decision-making, as many have, but to determine whether they are implementing the practice is a much harder task.



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

Metrics

- Q1. Has the country endorsed the OECD AI Principles?
- Q2. Is the country implementing the OECD AI Principles?
- Q3. Has the country endorsed the Universal Declaration of Human Rights?
- Q4. Is the country implementing the Universal Declaration for Human Rights?
- Q5. Has the country established a process for meaningful public participation in the development of a national AI Policy?
- Q6. Are materials about the country's AI policies and practices readily available to the public?

Q7. Does the country have an independent (agency/mechanism) for AI oversight?

Q8. Do the following goals appear in the national AI policy: "Fairness," "Accountability," "Transparency," ("Rule of Law," "Fundamental Rights")? [implementation? = legal force? = enforcement?]

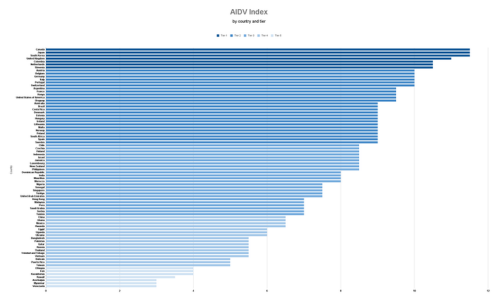
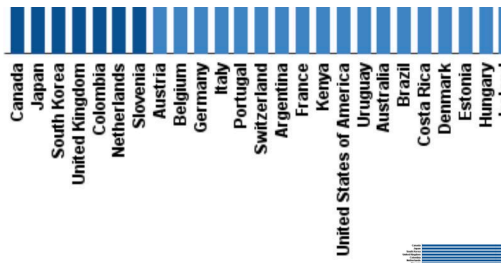
Q9. Has the country by law established a right to Algorithmic Transparency? [GDPR? / COE+?]

Q10. Has the country supported the Universal Guidelines for AI?

Q11. Has the country endorsed the UNESCO Recommendation on AI Ethics?

Q12: Has the country's Data Protection Agency sponsored the 2018 GPA Resolution on AI and Ethics and the 2020 GPA Resolution on AI and Accountability?





AI Governance Frameworks



New OECD Artificial Intelligence Principles: Governments Agree on International Standards for Trustworthy AI

OECD member countries approve and promote principles on AI that respect human rights and democratic values.

By Fabienne Lang
May 27, 2019





Universal Guidelines for Artificial Intelligence

23 October 2018
Brussels, Belgium

New developments in Artificial Intelligence are transforming the world, from science and industry to government administration and finance. The rise of AI decision-making also implicates fundamental rights of fairness, accountability, and transparency. Modern data analysis produces significant outcomes that have real life consequences for people in employment, housing, credit, commerce, and criminal sentencing. Many of these techniques are entirely opaque, leaving individuals unaware whether the decisions were accurate, fair, or even about them.

We propose these Universal Guidelines to inform and improve the design and use of AI. The Guidelines are intended to maximize the benefits of AI, to minimize the risk, and to ensure the protection of human rights. These Guidelines should be incorporated into ethical standards, adopted in national law and international agreements, and built into the design of systems. We state clearly that the primary responsibility for AI systems must reside with those institutions that fund, develop, and deploy these systems.

Universal Guidelines for Artificial Intelligence

1. Right to Transparency.
2. Right to Human Determination.
3. Identification Obligation.
4. Fairness Obligation.
5. Assessment and Accountability Obligation.
6. Accuracy, Reliability, and Validity Obligations.
7. Data Quality Obligation.
8. Public Safety Obligation.
9. Cybersecurity Obligation.
10. Prohibition on Secret Profiling.
11. Prohibition on Unitary Scoring.
12. Termination Obligation.



thepublicvoice.org/ai-universal-guidelines

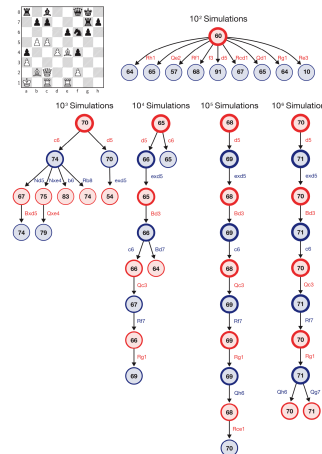
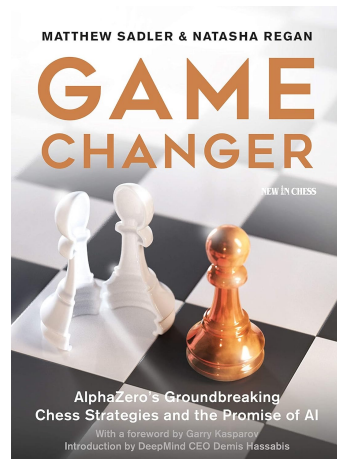


Emerging Policy Challenges with Machine Learning



1997

2017



CJEU PNR Decision Unplugs the 'Black Box'

Case C-817/19, *Ligue des droits humains v. Conseil des Ministres* [2022] ECLI:EU:C:2022:491.

Marc Rotenberg*

The criteria must 'target, specifically, individuals who might be reasonably suspected of involvement in terrorist offences or serious crime covered by that directive'

The PNR Directive 'precludes the use of artificial intelligence technology in self-learning systems ('machine learning'), capable of modifying without human intervention or review the assessment process.' (AG)

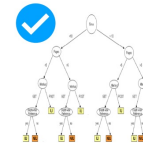
Ligue des droits humains (The PNR case), C-817/19 (June 2022)

'given the opacity which characterises the way in which artificial intelligence technology works, it might be impossible to understand the reason why a given program arrived at a positive match'.

•PNR Directive Art. 6(3)(b)
•CFR, Arts. 7, 8, 21, 47

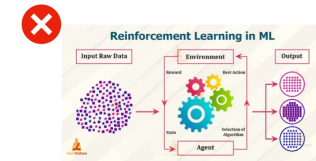
algorithms 'must function transparently and that the result of their application must be traceable'

Good AI



Rule-based Expert Systems
Explicit criteria
Fixed outcomes

Bad AI



Machine Learning Systems
Reinforcement Learning
Statistical outcomes
Generative AI

AI Policy and the United States

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A Turning Point for U.S. AI Policy: Senate Explores Solutions

By Mark Rotenberg
May 17, 2023

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Gary Marcus

In early March, my colleague Merve Hickok testified before the House Oversight Committee at the first hearing on AI policy in this Congress. The House Committee asked a simple question: "Are We Ready for the Tech Revolution?" Her answer was direct: "No, we do not have the guardrails in place, the laws that we need, the public education, or the expertise in government to manage the consequences of the rapid changes that are now taking place."

Washington got the message. This week, the Senate Judiciary Committee held one of the most productive hearings in Congress in many years, taking up the challenge Hickok had set out. With expert testimony from OpenAI founder Sam Altman, IBM's Christina Montgomery, and leading AI thinker Gary Marcus, a well-prepared Senate Committee focused on the next steps for "Oversight of A.I.: Rules for Artificial Intelligence." Several Senators expressed hope that the U.S. could become a global leader on AI policy.

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Everything, Everywhere, All at Once: AI Policy When Congress Returns

By Ben Rosenberg
August 18, 2023



When Congress returns in September, AI will remain high on the policy agenda. It may even be closer to the top, given a quick take on what to look for in Washington and on the broader AI Policy landscape.

U.S. Congress. Conventional wisdom in Washington is that the likelihood of passing substantial legislation is inversely proportional to the proximity of a presidential election, as 143 members of Congress devote much time to campaigning and 143 Presidential elections become public events and make compromise more difficult to achieve. Still, AI is generating several bipartisan initiatives such as the proposal from Senator Hironaka (D-CT) and Senator Blumenthal (D-RI) to fund research on generative AI and Senator Graham (R-SC) and Member (D-VA) proposed to establish a Digital Consumer Protection Commission. Senator Oklahoma announced support with Senator Blumenthal (D-CT) on the Honest Ads Act to improve the transparency and accountability of online political advertising. And there are the AI Labeling Act introduced by Senator Blumenthal and Kennedy to impose labeling requirements on AI-generated content. Among the Senators, Chief Privacy (D-MD) is also attracting attention for the great first effort: introducing the Open to the House, Representative Hironaka (D-CT) and Ken Buck (R-CO) have introduced a bill to create a National Commission on AI. And on the national security front, Senator Manly (D-CA) has joined with Senator Blumenthal (D-RI) to assess health safety risks of AI, and with several members of the Senate and House to reduce the risk of AI-based nuclear launch decisions.

Of particular interest to Congressmakers may be the newly titled CREATE AI Act of energy. Putting that acronym produces "Creating Resilience for Energy America To Experiment with Artificial Intelligence". And the CREATE AI Act establishes the National Artificial Intelligence Research Resource (NAIRRR) as a shared national research infrastructure that provides AI researchers and students from diverse backgrounds with greater access to the complete research, data, and tools needed to develop safe and trustworthy artificial intelligence. The bill also includes requirements for privacy, ethics, civil rights and civil liberties, safety, and trustworthiness. With broad bipartisan support in both the Senate and House, the bill appears headed for passage.

AI Knight Promise. Senate Majority Leader Chuck Schumer (D-NY) has proposed a crash course for the Senate this fall on AI. The Knight Promise includes developing, well-defined steps, national security, high risk AI enable, national risks, privacy, transparency and explainability, and inclusion and democracy. Congressional attention to AI should be welcome but for several reasons: some concerns about public participation in how the lack of attention to developments in China and the EU. Recommended reading for lawmakers that should include: *Are Breakthrough Digital Innovations. The Global Divide in Innovation Technology.*

More Headings: The Senate Judiciary Committee took the lead on AI policy this summer with several



THE WHITE HOUSE



OCTOBER 30, 2023

Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence

BRIEFING ROOM PRESIDENTIAL ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. Artificial intelligence (AI) holds extraordinary potential for both promise and peril. Responsible AI use has the potential to help solve urgent challenges while making our world more prosperous, productive, innovative, and secure. At the same time, irresponsible use could exacerbate societal harms such as fraud, discrimination, bias, and disinformation; displace and disempower workers; stifle competition; and pose risks to national security. Harnessing AI for good and realizing its myriad benefits requires mitigating its substantial risks. This endeavor demands a society-wide effort that includes government, the private sector, academia, and civil society.

Looking Ahead

#fairness #accountability
#transparency #AIGuardrails

FEDERAL TRADE COMMISSION
PROTECTING AMERICA'S CONSUMERS

#OpenTheInvestigation
CAIDP.org/cases/OpenAI

F.T.C. Opens Investigation Into ChatGPT Maker Over Technology's Potential Harms

The agency sent OpenAI, which makes ChatGPT, a letter this week over consumer harms and the company's security practices.

TECH

ChatGPT Comes Under Investigation by Federal Trade Commission

FTC is examining whether artificial-intelligence app harmed people by publishing false information

By [John D. McKinnon](#) [Follow](#) and [Ryan Tracy](#) [Follow](#)

Updated July 13, 2023 at 10:21 pm ET

A Global Treaty for AI

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

SECRETARIAT GENERAL



Please quote CAI/KB/JW

Strasbourg, 2 February 2024

CONVOCATION OF THE 10TH PLENARY MEETING OF THE COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAI)

The Secretariat of the Council of Europe has the honour to convene the tenth plenary meeting of the Committee on Artificial Intelligence (CAI) as follows:

Opening of the meeting	Monday 11 March 2024 - 10am (CET)
Closing of the meeting	Thursday 14 March 2024 - 5pm (CET)

COUNCIL OF EUROPE AI TREATY

=> NGOs, AI Experts Oppose Carve Outs for Private Sector and National Security in AI Treaty (January 2024)



OPEN LETTER TO COE AI CONVENTION NEGOTIATORS: DO NOT WATER DOWN OUR RIGHTS (25 Jan. 2024)



US NGOs Urge Secretary Blinken to Oppose Carve-outs for Private Sector, National Defense, and National Security in Global AI Treaty (January 24, 2024)



URGENT ACTION - Center for AI and Digital Policy Seeks Support for Citizens Declaration on the Council of Europe AI Treaty Negotiations (January 23, 2024)

Reference: "EU prepares to push back on private sector carve-out from international AI treaty" **Euractiv** 10 January 2024

Committee on AI (CAI)



Reference Documents

- Committee of Ministers, Committee on Artificial Intelligence (CAI) (2021) (Terms of Reference for CAI)
- Outline of the Elements of an Appropriate Legal Instrument Proposal from the Secretariat CAI(2022)01 - Restricted (11 March 2022)

Planning

- Four plenary meetings are scheduled for 2022-2023
- A final report is scheduled for September 2023
- The Committee of Ministers will take up the final proposal in November 2023

- Coordination and compliance,
- Implementation and enforcement,
- Divergence and convergence,
- Actual prohibitions on AI Systems
- Unfinished business (looking at you, **United States Senate** and **Federal Trade Commission** ;->)



Gabriela Ramos
Assistant Director-General,
UNESCO



CAIDP CONVERSATIONS

Ethics of AI: Advancing the implementation of UNESCO's global standard



Merve Hickok
President, CAIDP

April 18, 2024 | 9:00 am | Washington, DC

Register at: caidp.org/events/unesco/ | Seating limited



References

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- Rotenberg, "The Imperative for a UN Special Rapporteur on AI and Human Rights," 1 *Journal of AI Law and Regulation* 110-112 (Spring 2024), <https://aire.lexxion.eu/article/AIRE/2024/1/13>
- Rotenberg, "The Law of Artificial Intelligence and the Protection of Fundamental Rights," *ELI Newsletter* (July-August 2022)
- Rotenberg, "Human Rights Alignment: The Challenge Ahead for AI Lawmakers," In Werthner, et al, *Digital Humanism* (Springer 2023) (open access) https://link.springer.com/chapter/10.1007/978-3-031-45304-5_38