

After the US Election: The Future of US AI Policy

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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 INDEX

2023



CENTER FOR AI AND DIGITAL POLICY
WASHINGTON, DC
CAIDP.ORG

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?

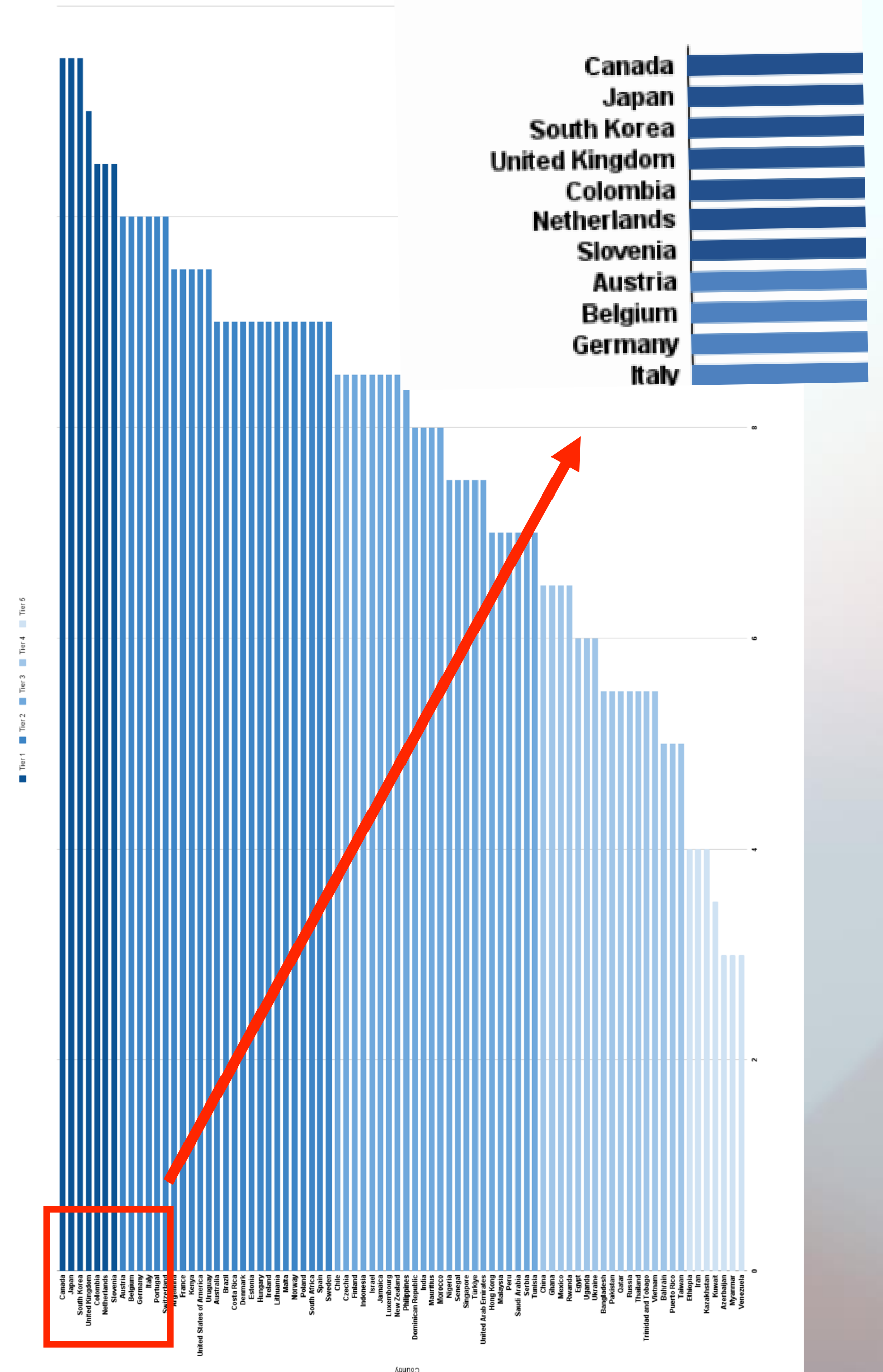
Q11. Has the country endorsed the UNESCO Recommendation on AI Ethics?

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?

Country	Tier	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9	Q10	Q11	Q12	Score	2022	2021	2020	Var 2023 - 2022
Canada	Tier 1													11.5	11.5	11	9.5	0
Japan	Tier 1													11.5	11.5	10	8.5	0
South Korea	Tier 1													11.5	11.5	11	8.5	0
United Kingdom	Tier 1													11	10	9.5	8.5	1
Colombia	Tier 1													10.5	10.5	8.5		0
Netherlands	Tier 1													10.5	9.5	8.5	7.5	1
Slovenia	Tier 1													10.5	9.5	7		1
Austria	Tier 2													10	9.5	10		0.5
Belgium	Tier 2													10	10	9	7.5	0
Germany	Tier 2													10	10	11	10.5	0
Italy	Tier 2													10	10	11	9	0
Portugal	Tier 2													10	10			0
Switzerland	Tier 2													10	10	9.5	8.5	0
Argentina	Tier 2													9.5	9.5	9		0
France	Tier 2													9.5	9	10	9	0.5
Kenya	Tier 2													9.5	8.5	5		1
United States of America	Tier 2													9.5	7	7.5	7.5	2.5
Uruguay	Tier 2													9.5	9	7		0.5
Australia	Tier 2													9	9	9	8.5	0
Brazil	Tier 2													9	9	7.5	6.5	0
Costa Rica	Tier 2													9	8.5			0.5
Denmark	Tier 2													9	9	9.5		0
Estonia	Tier 2													9	9	8.5	7.5	0
Hungary	Tier 2													9	8.5			0.5
Ireland	Tier 2													9	9	9		0
Lithuania	Tier 2													9	9			0
Malta	Tier 2													9	8			1
Norway	Tier 2													9	9	10		0
Poland	Tier 2													9	9	8	7	0
South Africa	Tier 2													9	8	7.5		1
Spain	Tier 2													9	9.5	10	9	-0.5
Sweden	Tier 2													9	8.5	8.5	7.5	0.5
Chile	Tier 3													8.5	8.5			0
Czechia	Tier 3													8.5	8			0.5
Finland	Tier 3													8.5	8.5	7.5		0
Indonesia	Tier 3													8.5	8	6.5	5.5	0.5
Israel	Tier 3													8.5	8	6	6	0.5
Jamaica	Tier 3													8.5	7			1.5
Luxembourg	Tier 3													8.5	8.5			0
New Zealand	Tier 3													8.5	8.5			0
Philippines	Tier 3													8.5	7.5	7.5		1
Dominican Republic	Tier 3													8	5	5.5		3
India	Tier 3													8	7	6.5	6.5	1
Mauritius	Tier 3													8	7			1
Morocco	Tier 3													8				
Nigeria	Tier 3													7.5	5.5	4		2
Senegal	Tier 3													7.5				
Singapore	Tier 3													7.5	6.5	7	6	1
Türkiye	Tier 3													7.5	7.5	8	5	0
United Arab Emirates	Tier 3													7.5	6.5	7		1
Hong Kong	Tier 3													7	7	8.5		0
Malaysia	Tier 3													7	6	4.5		1
Peru	Tier 3													7	7			0
Saudi Arabia	Tier 3													7	7.5	5.5	6	-0.5
Serbia	Tier 3													7				
Tunisia	Tier 3													7	5			2
China	Tier 4													6.5	6.5	6	5	0
Ghana	Tier 4													6.5	5			1.5
Mexico	Tier 4													6.5	8	6	5	-1.5
Rwanda	Tier 4													6.5	6	3.5	3.5	0.5
Egypt	Tier 4													6	5.5	5		0.5
Uganda	Tier 4													6	5			1
Ukraine	Tier 4													6				
Bangladesh	Tier 4													5.5	4.5	4.5		1
Pakistan	Tier 4													5.5	4.5			1
Qatar	Tier 4													5.5	4.5			1
Russia	Tier 4													5.5	5.5	6.5	5	0
Thailand	Tier 4													5.5	4	4	3.5	1.5
Trinidad and Tobago	Tier 4													5.5	4.5			1
Vietnam	Tier 4													5.5	3.5			2
Bahrain	Tier 4													5	3			2
Puerto Rico	Tier 4													5	3.5			1.5
Taiwan	Tier 4													5	5.5	5	5.5	-0.5
Ethiopia	Tier 5													4				
Iran	Tier 5													4	3	3		1
Kazakhstan	Tier 5													4	3	3	2.5	1
Kuwait	Tier 5													3.5	2.5			1
Azerbaijan	Tier 5													3	2			1
Myanmar	Tier 5													3	2			1
Venezuela	Tier 5													3	2			1

Fully complies Partially complies Does not comply

AIDV Index by country and tier



COUNCIL *on*
FOREIGN
RELATIONS

from Net Politics, Digital and Cyberspace Policy Program, *and* Renewing America

Artificial Intelligence and Democratic Values: Next Steps for the United States

China and the European Union have both moved to create comprehensive artificial intelligence policy. U.S. policymakers should move forward the AI Bill of Rights to keep pace.



U.S. Secretary of State Antony Blinken speaks in the White House on March 3, 2021. Andrew Caballero-Reynolds/Reuters

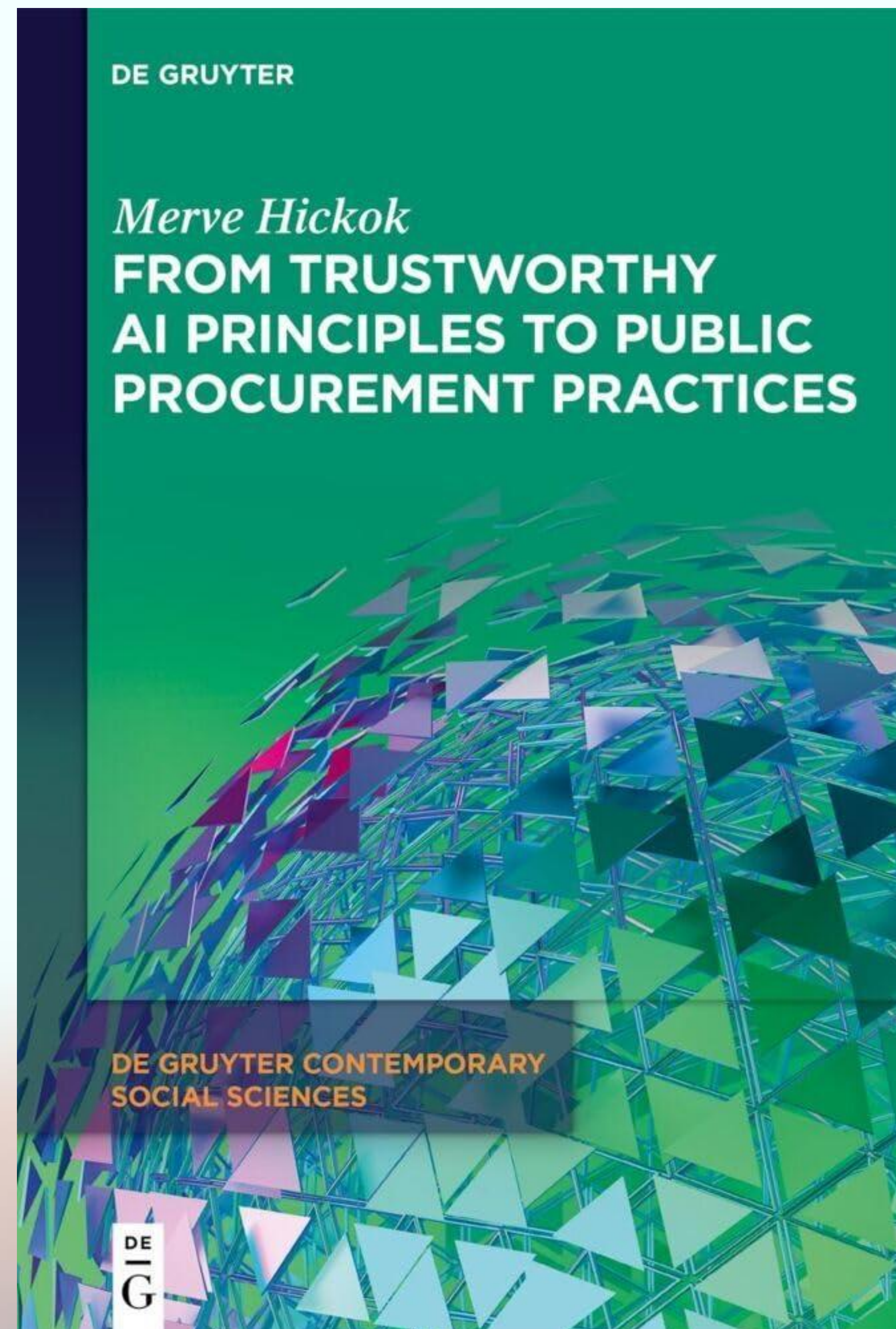
Blog Post by Marc Rotenberg and Merve Hickok, Guest Contributors

August 22, 2022 4:01 pm (EST)

CAIDP Statements



CAIDP's Merve Hickok [statement](#) on AI Policy before the US Congress, March 8, 2023 - *"The U.S. does not have the guardrails in place, the laws that we need, the public education, or the expertise in the government to manage the consequences of these rapid technological changes."* [CAIDP - House Hearing on Advances in AI]



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THE LAW OF
ARTIFICIAL INTELLIGENCE



Marc Rotenberg,
Natasha N. Babazadeh, Karine Caunes,
Eleni Kyriakides & Lee Tiedrich

THE LAW OF
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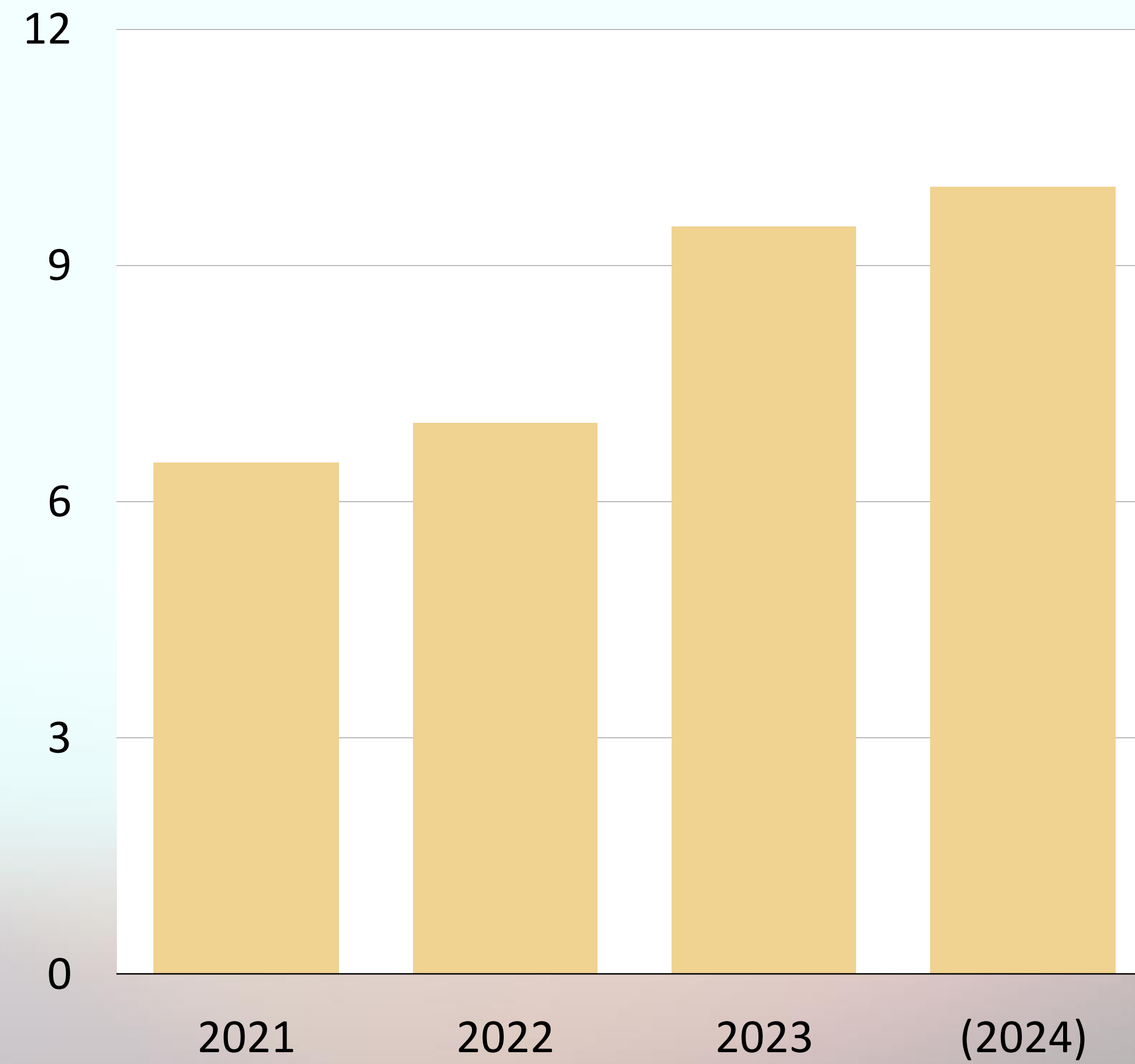

WEST
ACADEMIC
PUBLISHING

US AI Governance

US - AI and Democratic Values

Significant progress

AI and Democratic Values Index - Score of US by Year



White House AI Policy Accomplishments

OCTOBER 30, 2023

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



BRIEFING ROOM



PRESIDENTIAL ACTIONS

US Legal Initiatives - 2019-2024

- **The OECD AI Principles (2019)**
- **The AI Executive Order 13960 (2019)**
- **The AI Executive Order 14110 (2023)**
- **The OMB AI Memo - M-24-10 (2024)**
- **US Dept. of Justice, Compliance Plan for OMB Memo M-24-10 (2024)**
- **The OMB AI Procurement Guidance (2024)**
- **The AI National Security Memo (2024)**
- **The AI National Security Governance Framework (2024)**
- **The Council of Europe AI Treaty (2024)**

- **Promoted public participation in AI Policy making**
- **Engaged technical community, business, civil society, labor leaders, and academics**
- **Issued comprehensive Executive Order on use of AI in federal government**
- **Support adoption of first legally binding treaty for AI at Council of Europe**
- **Established regulatory obligations at OMB**
- **Focused on “Rights-impacting” and “safety-impacting” AI systems**

Established commitments and expectations for US AI policy going forward

What to Expect - US AI Policy and the Trump Administration

- **AI policy is essentially nonpartisan - EO orders on AI - Obama, Trump, Biden**
- **OECD AI Principles (2019) adopted under President Trump**
- **Widespread concern in the US about unregulated AI (Pew Internet Research)**
- **Bipartisan legislative proposals in US Senate and Senate Issues Forum**
- **State Attorney Generals (Rs and Ds) favor greater enforcement**
- **Pending Texas AI Law (similar to EU AI Act)**
- **Musk is a leader in the AI Safety realm**
- **US S Ct - more skeptical of First Amendment argument against AI regulation**



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



Stop aiding the CCP's authoritarian approach to artificial intelligence. The CCP has set itself a goal of becoming the global leader in artificial intelligence (AI) by 2030. Beijing is bent on using this technology to exert authoritarian control domestically and export its authoritarian governance model overseas. U.S. businesses are aiding Beijing in this effort—often unwittingly—by feeding, training, and improving the AI datasets of companies that are beholden to the CCP. One way that U.S. companies are doing this is by giving Beijing access to their high-powered cloud computing services. Therefore, it is time for an Administration to put in place a comprehensive plan that aims to stop U.S. entities from directly or indirectly contributing to China's malign AI goals.

Project 2025

PRESIDENTIAL TRANSITION PROJECT

EXECUTIVE ORDERS

Executive Order on Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government

— INFRASTRUCTURE & TECHNOLOGY | Issued on: December 3, 2020



DONALD J. TRUMP

THE WHITE HOUSE,
December 3, 2020.

Section 1. Purpose. Artificial intelligence (AI) promises to drive the growth of the United States economy and improve the quality of life of all Americans. In alignment with Executive Order 13859 of February 11, 2019 (Maintaining American Leadership in Artificial Intelligence), executive departments and agencies (agencies) have recognized the power of AI to improve their operations, processes, and procedures; meet strategic goals; reduce costs; enhance oversight of the use of taxpayer funds; increase efficiency and mission effectiveness; improve quality of services; improve safety; train workforces; and support decision making by the Federal workforce, among other positive developments. Given the broad applicability of AI, nearly every agency and those served by those agencies can benefit from the appropriate use of AI.

Agencies are encouraged to continue to use AI, when appropriate, to benefit the American people. The ongoing adoption and acceptance of AI will depend significantly on public trust. Agencies must therefore design, develop, acquire, and use AI in a manner that fosters public trust and confidence while protecting privacy, civil rights, civil liberties, and American values, consistent with applicable law and the goals of Executive Order 13859.

Section 3 of this order establishes additional principles (Principles) for the use of AI in the Federal Government for purposes other than national security and defense, to similarly ensure that such uses are consistent with our Nation's values and are beneficial to the public. This order further establishes a process for implementing these Principles through common policy guidance across agencies.

Sec. 3. Principles for Use of AI in Government. When designing, developing, acquiring, and using AI in the Federal Government, agencies shall adhere to the following Principles:

(a) Lawful and respectful of our Nation's values

(b) Purposeful and performance-driven.

(c) Accurate, reliable, and effective.

(d) Safe, secure, and resilient

(e) Understandable

(f) Responsible and traceable.

(g) Regularly monitored.

(h) Transparent.

(i) Accountable.

DONALD J. TRUMP

THE WHITE HOUSE,
December 3, 2020.

(a) Lawful and respectful of our Nation's values. Agencies shall design, develop, acquire, and use AI in a manner that exhibits due respect for our Nation's values and is consistent with the Constitution and all other applicable laws and policies, including those addressing privacy, civil rights, and civil liberties.

(f) Responsible and traceable. Agencies shall ensure that human roles and responsibilities are clearly defined, understood, and appropriately assigned for the design, development, acquisition, and use of AI. Agencies shall ensure that AI is used in a manner consistent with these Principles and the purposes for which each use of AI is intended. The design, development, acquisition, and use of AI, as well as relevant inputs and outputs of particular AI applications, should be well documented and traceable, as appropriate and to the extent practicable.

(d) Safe, secure, and resilient. Agencies shall ensure the safety, security, and resiliency of their AI applications, including resilience when confronted with systematic vulnerabilities, adversarial manipulation, and other malicious exploitation.

(e) Understandable. Agencies shall ensure that the operations and outcomes of their AI applications are sufficiently understandable by subject matter experts, users, and others, as appropriate.



**COUNCIL OF EUROPE
FRAMEWORK CONVENTION
ON ARTIFICIAL INTELLIGENCE
AND HUMAN RIGHTS,
DEMOCRACY AND
THE RULE OF LAW**

Final Thought -
Need to Enforce Prohibitions on AI Systems that
Violate Fundamental Human Rights



EDPL

EUROPEAN DATA
PROTECTION
LAW REVIEW

ARTICLES

- Closing the Gaps in Patients' Data Protection Rights: A Glance Into the Future with a Dutch Case Study
Renée Dekker and Irith Kist
- Balancing Competing Interests in the Reidentification of AI-Generated Data
Emmanuel Salami
- Islamic and European Perspectives on Data Privacy in Online Contracts
Parviz Bagheri
- How Technological Advances in the Big Data Era Make it Impossible to Define the 'Personal' in GDPR's 'Personal Data'
Jeffrey Bholasing

REPORTS

Denmark • Council of Europe • European Union • Portugal • Practitioners' Corner

CASE NOTES

- OLAF's Press Release no. 13/2020 Does Not Contain Personal Data: On 'Identifiability' and Action for Damages
Mara Paun
- CJEU PNR Decision Unplugs the 'Black Box'
Marc Rotenberg

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)

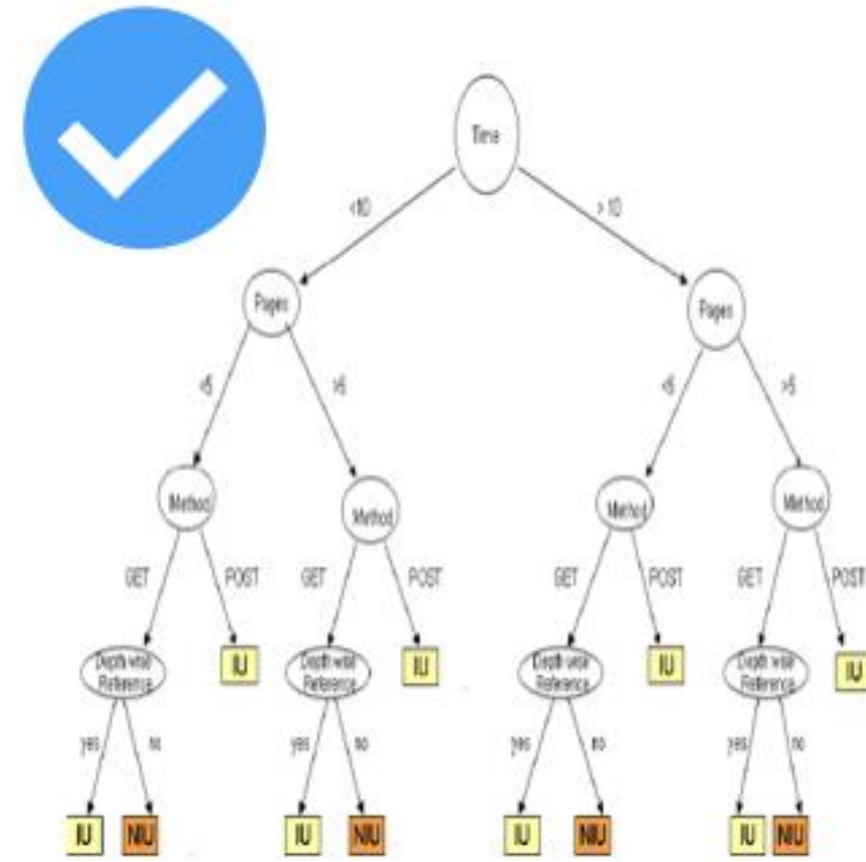
Ligue des droits humains (The PNR case), C-817/19 (June 2022)

‘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’

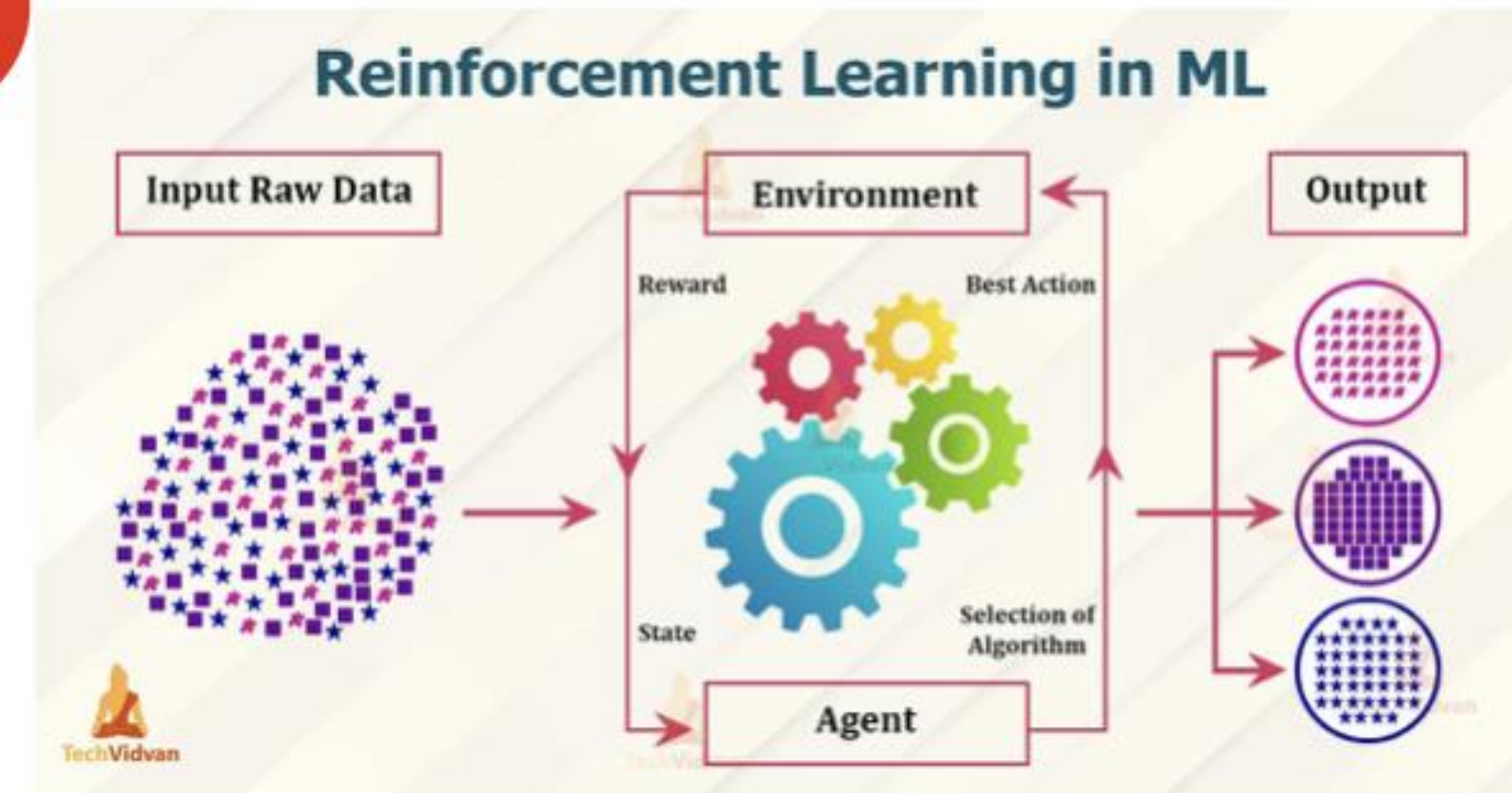
Good AI



Rule-based Expert Systems

Explicit criteria
Fixed outcomes

Bad AI



Machine Learning Systems

Reinforcement Learning
Statistical outcomes
Generative AI

FRAMEWORK TO ADVANCE AI GOVERNANCE AND RISK MANAGEMENT IN NATIONAL SECURITY



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Pillar I: AI Use Restrictions

Prohibited AI Use Cases

Covered agencies shall refrain from using AI in any manner that violates domestic or international law obligations and shall not use AI in a manner or for purposes that pose unacceptable levels of risk. Consistent with these goals, covered agencies are prohibited from using AI with the intent or purpose to:

- Profile, target, or track activities of individuals based solely on their exercise of rights protected under the Constitution and applicable U.S. domestic law, including freedom of expression, association, and assembly rights.
- Unlawfully suppress or burden the right to free speech or right to legal counsel.
- Unlawfully disadvantage an individual based on their ethnicity, national origin, race, sex, gender, gender identity, sexual orientation, disability status, or religion.

- Detect, measure, or infer an individual's emotional state from data acquired about that person, except for a lawful and justified reason such as for the purposes of supporting the health of consenting U.S. Government personnel.
- Infer or determine, relying solely on biometrics data, a person's religious, ethnic, racial, sexual orientation, disability status, gender identity, or political identity.
- Determine collateral damage and casualty estimations, including identifying the presence of noncombatants, prior to kinetic action without (1) rigorous testing and assurance within the AI systems' well-defined uses and across their entire lifecycles, and (2) oversight by trained personnel who are responsible for such estimations exercising appropriate levels of judgment and care.
- Adjudicate or otherwise render a final determination of an individual's immigration classification, including related to refuge or asylum, or other entry or admission into the United States.
- Produce and disseminate reports or intelligence analysis based solely on AI outputs without sufficient warnings that enable the reader of the reports or analysis to recognize that the report or analysis is based solely on AI outputs.
- Remove a human "in the loop" for actions critical to informing and executing decisions by the President to initiate or terminate nuclear weapons employment.

The AI Red Line Challenge

CHRISTABEL RANDOLPH, MARC ROTENBERG / SEP 3, 2024



Photo by [Marek Studzinski](#) on [Unsplash](#)

Christabel Randolph is Associate Director of the Center for AI and Digital Policy, a global network of AI policy experts and human rights advocates. Marc Rotenberg is the Founder of the Center for AI and Digital Policy.

The Imperative for a UN Special Rapporteur on AI and Human Rights

*Marc Rotenberg**

In the era of rapid technological advancement, artificial intelligence (AI) offers unprecedented opportunities for development and innovation while simultaneously posing significant risks to human rights and democratic institutions. As global reliance on AI continues to grow, the United Nations (UN) has been at the forefront of addressing the complex interplay between AI and human rights. Through various policy initiatives, including the UNESCO Recommendation on the Ethics of Artificial Intelligence, the UN has laid a foundational framework for the ethical governance of AI. Furthermore, the UN Secretary-General has underscored the importance of integrating human rights considerations into AI development and deployment. The recent establishment of the UN high-level expert group on AI governance marks a significant step forward in the global AI policy. However, to effectively navigate the intricate landscape of AI and human rights, there is a pressing need for the creation of a UN Special Rapporteur on AI and Human Rights. This role would not only complement existing efforts but also provide the agility, authority, and competence required to address emerging challenges and safeguard human rights in the digital age.

CENTER FOR AI AND DIGITAL POLICY

**FILTER COFFEE
NOT PEOPLE**

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