



BY EMAIL – digitalcompact@un.org

8 February 2023

Ambassador Anna Karin Eneström
Representative
of Sweden to the United Nations

Ambassador Claver Gatete, Permanent
Permanent Representative
of Rwanda to the United Nations

Re: Recommendations on AI Governance to the United National Global Digital Compact

Dear Excellencies Eneström and Gatete,

We congratulate you on your appointment as Co-Facilitators to lead the Intergovernmental Process of the Global Digital Compact (“GDC”) and we acknowledge your prompt initiation of a feedback process soon after your appointments in October 2022¹. The Center for AI and Digital Policy (CAIDP) submits this statement to you to recommend (1) that the United Nations encourage member-states to adopt democratic, transparent processes on developing Artificial Intelligence (AI) governance frameworks and (2) to assess and report on the impact of AI on the fundamental rights set out in the International Covenant on Civil and Political Rights. Our recommendations are summarized below and reiterate the substance of our December 9, 2023 letter to the High Commissioner for Human Rights (enclosed).²

About CAIDP

CAIDP is a non-profit, educational organization, incorporated in Washington, DC. The mission of the Center is “to promote 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.”³ CAIDP strongly supports AI policies that advance democratic values and promote broad social inclusion based on fundamental rights, democratic institutions, and the rule of law. We have also recently published the report *Artificial Intelligence and Democratic Values* which surveys the AI policies and practices of 50 countries around the world.⁴

Our Position and Public Voice

CAIDP currently serves as an advisor on AI policy to the OECD, the Global Partnership on AI, European Union, the Council of Europe, UNESCO and other national and international organizations.

¹ Appointment of Co-Facilitators to Lead the Intergovernmental Process on the Global Digital Compact, https://www.un.org/techenvoy/sites/www.un.org.techenvoy/files/PGA-CoFacilitators-letters_GDC-roadmap.pdf

² CAIDP Statement to the UN on AI and the Protection of Fundamental Rights (Dec. 9, 2022), <https://www.caidp.org/app/download/8429077463/CAIDP-AI-UNOHCHR-09122022.pdf>

³ CAIDP, <https://www.caidp.org>

⁴ CAIDP, *Artificial Intelligence and Democratic Values* (2022), <https://www.caidp.org/reports/aidv-2021/>

We wholly endorse the implementation of the Universal Declaration of Human Rights (UDHR) and consider the core international human rights framework comprising the UDHR, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) as the bedrock of AI and digital governance. Indeed, our metrics to evaluate national AI policies and practices explicitly consider whether a country has endorsed the UDHR and whether a country has implemented the UDHR

The GDC and AI

There is a clear need, based on international human rights standards, to align the governance of AI with the protection of fundamental rights. We recall the statement of the former High Commissioner Michelle Bachelet, “Artificial intelligence can be a force for good, helping societies overcome some of the great challenges of our 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.”⁵ The Right to Privacy in the Digital Age report⁶ highlighted how data used to guide AI systems is often 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.

Indeed, the Secretary General’s Common Agenda Report⁷, identifies protecting data, applying human rights online and promoting the regulation of artificial intelligence among the key issues to be addressed by the GDC.

In recent times, we have seen the deployment of facial recognition and generative AI technology in mass surveillance, misinformation campaigns, workforce displacements and other human rights abuses⁸. We are also seeing considerable judicial movement in critical jurisdictions like the EU⁹ and US (*Gonzalez vs. Google*) on data privacy and AI-driven algorithmic harms. The United States President Joe Biden called attention to this challenge in the 2023 State of the Union when he called for much stronger transparency requirements for Big Tech companies.¹⁰ We submit that the stakes are higher now than ever for human rights-based AI governance.

⁵ OHCHR Press Release, AI Risks to Privacy Demand Urgent Action – Bachelet, 15 September 2022, <https://www.ohchr.org/en/2021/09/artificial-intelligence-risks-privacy-demand-urgent-action-bachelet>

⁶ OHCHR, *Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General*, Human Rights Council, Forty-eighth session, 13 September–1 October 2021

⁷ United Nations, *Our Common Agenda Report of the Secretary General*, 2021, https://www.un.org/en/content/common-agenda-report/assets/pdf/Common_Agenda_Report_English.pdf

⁸ CAIDP, Statement on Ban of Facial Surveillance Technology and Other Forms of Mass Biometric Identification, <https://www.caidp.org/statements/ban-facial-surveillance-technology/>; CAIDP, Statement in support of European Citizen Initiative to Ban Biometric Mass Surveillance (Mar. 3, 2021), <https://www.caidp.org/app/download/8299428763/CAIDP-ECI-03032021.pdf>

⁹ CJEU - C-817/19 - Ligue des droits humains v. Conseil des Ministres, Judgement, 21 June 2022, <https://curia.europa.eu/juris/document/document.jsf?text=&docid=261282&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=335316>

¹⁰ The White House, FACT SHEET: In State of the Union, President Biden to Outline Vision to Advance Progress on Unity Agenda in Year Ahead, (Feb. 7, 2023), <https://www.whitehouse.gov/briefing-room/statements->

Our Recommendations

Our recommendations are anchored on strengthening democratic governance, rule of law and human rights in the development and implementation of AI policies and practices. We recommend, in the context of the Global Digital Compact:

1. Reporting on the democratic processes adopted by State Parties to the ICCPR for AI governance, including:
 - a. the publication of all drafts of AI and digital governance documents online and in any other accessible format¹¹
 - b. the opportunity for civil society organizations (CSOs) to meaningfully participate in the development of national AI policies¹²

2. Reporting on the impact of AI on:
 - Article 1 (Self-Determination),
 - Article 9 (Liberty and Security),
 - Article 10 (Inherent Dignity)
 - Article 12 (Freedom of Movement)
 - Article 14 (Fair Trial)
 - Article 17 (Privacy)
 - Article 18 (Freedom of Thought)
 - Article 20 (Disinformation and Incitement to Violence)
 - Article 21(Peaceful Assembly)
 - Article 22 (Freedom of Association), and
 - Article 26 (Equal Protection).

Our prior recommendations on these specific points are enclosed.

Considering the rapid development of emerging technologies and persistent insistence of State Parties to exempt dual-use technologies and/or surveillance technologies from meaningful governance, we urge you to take steps for updating the reporting requirements under the GDC mechanisms. We also look forward to an opportunity to provide our comments on the impact of AI on the rights protected under the ICESCR in the future.

releases/2023/02/07/fact-sheet-in-state-of-the-union-president-biden-to-outline-vision-to-advance-progress-on-unity-agenda-in-year-ahead/

¹¹ *AI and Democratic Values* 502 (2022) (Methodology – “Q6. Are materials about the country’s AI policies and practices readily available to the public?”)

¹² *AI and Democratic Values* 502 (2022) (Methodology – “Q5. Has the country established a process for meaningful public participation in the development of a national AI Policy?”)



Thank you for your consideration of our views. The CAIDP offers assistance to governments for AI and digital policies to promote a better, fairer, and more just and accountable society in which technology promotes broad social inclusion based on fundamental rights, democratic institutions, and the rule of law. In this regard, we would be pleased to offer you our advice and expertise.

We welcome the opportunity to discuss further and answer any inquiries you may have.

Sincerely,

A handwritten signature in blue ink that reads "Marc Rotenberg".

Marc Rotenberg
CAIDP President

A handwritten signature in black ink that reads "Merve Hickok".

Merve Hickok
Research Director

A handwritten signature in black ink that reads "Karine Caunes".

Karine Caunes, Ph.D
Global Program Director

A handwritten signature in black ink that reads "Wonki Min".

Wonki Min
Board Member

A handwritten signature in black ink that reads "Christabel Randolph".

Christabel Randolph
Research Assistant

Enclosures

Cc: UN High Commissioner for Human Rights
UN Tech Envoy