

# AI & Equality Community –

## Comment On UNESCO Publication

UNESCO encourages stakeholders, including parliamentarians, legal experts, AI governance experts and the public, to review and provide feedback on their publication [Consultation paper on AI regulation: emerging approaches across the world](#) (2024).

The below members of our community came together to submit the comment that you can read in the following.

### Contributors

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## Our Comment

Below is the content of the submission form (orange) together with our answers (black and blue).

**Are each of the nine regulatory approaches described clearly, or is clarification required for one or more cases?**

**General comments on the dimension from “less interventionist, light touch regulatory measures to more coercive, demanding approaches” (p. 4):**

To distinguish weaker from stronger regulatory measures seems valuable. However, we perceive the **wording as suggestive**, i.e. in favor of less interventionist regulation - which, we believe, is the opposite of the position UNESCO should take. Instead, it might be better to call the dimension “weak to strong regulatory measures” (*measures* instead of *approaches*). This formulation would be less value laden and further allow the listing of less enforceable measures to regulation (such as the principle-based approach, see comment below) - without claiming that they are effective, stand-alone regulatory approaches.

Additionally, we recommend to state clearly that it is not about picking a single approach along this dimension, but that instead **a mix of these approaches is required**, i.e. that hybrid or combined approaches are crucial. Thus, governments have to moderate different efforts to orchestrate an ecosystem of regulatory measures, especially in areas where risks to Human Rights are high.

We further recommend to state clearly that there is various evidence suggesting that **innovation is not stifled by regulation** - contrary to the public perception. See e.g. [From a ‘race to AI’ to a ‘race to AI regulation’: regulatory competition for artificial intelligence](#) and [The Dual Imperative: Innovation and Regulation in the AI Era](#).

Moreover, the **placement** of some of the regulatory approaches along the dimension is **unclear**: for example, adapting existing laws such as consumer protection would imply very strict rules, e.g. regarding anti-discrimination. Thus, it should be further towards the end of the dimension.

**Comments to specific approaches:**

It is unclear why the **principles-based approach** is categorized as regulation since it is not tied to accountability measures. Reason: principles are too abstract to prompt clear actions (see e.g. [Sadek & Kallina et al., 2024](#)) and are instead valuable to create an ideal vision / direction but not as a regulatory mechanism.

We are very much in favor of **capacity-building approaches**. However, it is unclear whether these approaches are part of regulation or rather part of an innovation strategy (and, regarding educating policy makers, a precondition for effective regulation). Capacity-building approaches could become part of regulation if legal requirements are incentivising to favor historically marginalized communities in educational programs and / or opportunities to innovate. This would help to create a more equal playing field so that the benefits and risks of AI systems are distributed more equally across communities going forward.

Regarding the **standards-based approach**: we recommend adding the drawback that most standards are behind a paywall, i.e. that they are associated with a barrier guarding the knowledge on how to build AI more responsibly. Further, standards *can* become incorporated in legislation (termed directive orchestration) which would make them non-voluntary which might be worth adding.

### Are there any overlaps between the proposed regulatory approaches?

Please specify where applicable and provide reasons.

Yes, many overlaps are possible

- *Principles-based* and *Fundamental Rights Approach*: same values, e.g. fairness
- *Risk-based* and *Liability-based Approach*: risks are related to harm which would trigger liability
- *Liability-based* and *Fundamental Rights Approach*: harmful AI systems are most likely to violate fundamental rights.
- *Agile and Experimental* and *Facilitating and Enabling Approach*: experimental approaches enable learning.
- *Adapting Existing Laws* and *Access to Information and Transparency Mandates*: e.g. via GDPR (it is mandatory to disclose what personal data is used for).

### Do the nine AI regulation approaches capture all ways AI is regulated? Which ones may be missing?

Although the nine AI regulatory approaches in the document covers a broad range of strategies currently being considered for AI regulation as they provide a comprehensive starting point, not every potential regulatory approach is captured. We recommend a few additional dimensions to achieve an encompassing picture of AI regulatory measures, enabling a more holistic regulatory framework for AI.

#### 1. Ethical Auditing and Certification Approach

The standards-based approach covers technical standards only. Thus, ethical audits and certifications specific to AI systems may not be fully addressed. The inclusion of ethical auditing as a measure for AI regulation would involve regular audits to ensure AI systems adhere to ethical guidelines such as fairness, non-discrimination, and human oversight mechanisms together. Here, we recommend independent third-party certification processes that ensure strict adherence to AI guidelines and regulations including post-deployment.

#### 2. Sector-Specific Regulation Approach

While the *Adapting Existing Laws Approach* touches on modifying sectoral regulations, the list would profit from a stronger emphasis on sector-specific AI regulation. Such regulation can directly target sector-specific risks and needs in fields like healthcare, transportation (e.g.,

autonomous vehicles), and finance. Tailored regulations for specific industries are essential and can help to address the varying risks and requirements in different fields of AI use and application.

### 3. Data Governance and Privacy-Specific Regulation Approach

Although some references to data protection laws (like the GDPR) exist, a distinct measure focused solely on data governance for AI seems valuable. We recommend that such a measure includes specific frameworks on data usage, training data accountability, anonymization standards, and cross-border data flows; especially in AI systems that rely on vast datasets.

### 4. International and Cross-Border Harmonization Approach

AI technology operates on a global scale. Thus, we are certain that there is the need for regulatory frameworks and measures that focus on international coordination and harmonization. Such measures would address cross-border AI applications, international legal corporations, and trade implications, both regarding the cross-border use of AI as well as Dispersed AI development. Such measures seem further promising in encouraging knowledge sharing and transfer.

### 5. Algorithmic Impact Assessments (AIA) Approach

The document already mentions *risk-based* and *transparency* approaches. However, measures such as algorithmic impact assessments (AIA) would help in reducing algorithmic bias and inefficiency through more formal and concrete tests (i.e. help to anchor requirements). Here, governments could mandate AIAs to assess potential biases, discrimination, and social impacts before deploying significant AI systems, similar as the Human Rights Impact Assessment required by the EU AI Act.

### 6. Dynamic and Adaptive Regulation Approach

The *Agile and Experimentalist Approach* touches on flexibility, however, we feel that it does not fully capture the concept of a continuous and adaptive regulatory framework. Such a dynamic framework would be subject to regular updates as AI technologies evolve which is vital to incorporate new technological developments and refine regulations

### 7. Public Participation and Democracy-Oriented Regulation Approach

So far, regulatory approaches that demand the involvement of affected communities / the public are only mentioned tangentially but we believe that an explicit participation- and democracy-oriented approach would be of immense value.

Such involvement can either occur during the development of the system itself, during the creation of regulation, or during its enforcement (e.g. in the form of public audits or red teaming). This would help create democratic processes for citizens to engage in the decision-making around AI systems, particularly those with broad societal impacts. We believe that this approach could take a more prominent position, potentially as a stand-alone approach reflecting beneficial and proactive practices that go beyond compliance.

Whilst such public participatory approaches are not currently a formal part of legal regulatory approaches, they are implicitly recommended. For example, first versions of the Fundamental Rights Impact Assessments (as required in the EU AI Act) have been published, many of which have the involvement of affected communities at their core (see e.g. [HUDEIRA by The Alan Turing Institute](#)).

Such involvement has been shown to detect and highlight risks before they occur and to ensure that system objectives reflect a public vision of the type of AI systems that we want to create - and which not. These benefits have been promoted in publications by the Alan Turing Institute, the WHO, early drafts of the EU AI Act, as well as in the AI Bill of Rights (contact authors for a more extensive list with sources).

Thereby, it is essential that such stakeholder involvement is documented, including the reactions resulting from specific feedback points and justifications for this selection. This incentivises reactions to gathered stakeholder feedback - an essential component to harness the benefits that stakeholder involvement can have for more responsible AI development. Further, such documentation can support accountability, e.g. by providing evidence that an organization invested great effort to detect and mitigate potential risks for fundamental rights (which might lower the penalties in case of created harm compared to an organization that did not take such measures).

Besides allowing public participation, private organizations could become involved in public-private partnerships. Here, governments take the lead role as a facilitator and enablers by defining standards and incentivizing players, i.e. private organizations. These can help to develop measures such as impact assessments, knowledge sharing practices, democratizing decision-authority, or the open sourcing of models, thereby ensuring that they are easily applicable in practice.

### Are there additional examples of AI bills and laws that could be included to illustrate one or more of the nine regulatory approaches?

Further relevant AI legislations and bills are outlined below:

#### Principles-Based Approach

**I. Australia's AI Policy (2024):** This policy aims to ensure that the government plays a leadership role in embracing AI for the benefit of Australians while ensuring its safe, ethical and responsible use in line with community expectations.

**II. India's National Strategy for AI (2018):** This strategy focuses on AI for social good and for all underlying the principle of inclusivity in AI applications, which can further illustrate the principles-based approach.

India is also seemingly taking an *agile and experimental* and *facilitating and enabling approach* to emerging technologies like digital twins that will have a huge impact on AI. Great example for public-private collaboration is the Sangam Initiative in India (led by Dept. of Telecom). They are also enabling research, hackathons etc. to advance on 6G, AI for Good Initiatives.

**III. African Continental Artificial Intelligence Strategy (2024):** This aligns with the AU's inclusive development aspirations guided by the principles of ethics in AI to be adopted in diverse areas to enable responsible and unbiased use of AI.

**IV. Brazil AI Plan (2024):** The plan titled "AI for the good of All" prioritizes the social well-being of Brazilians as well as ensuring the responsible and ethical use of AI.

### Standards-Based Approach

**I. United States – National Institute of Standards and Technology (NIST) AI Risk Management Framework (2023):** The NIST AI Management framework provides a set of universal guidelines that assist organizations in managing and evaluating the risks related to deploying and using AI systems in this dynamic digital world.

**II. Japanese AI Business Guidelines (2024):** These guidelines published by METI and MIC establish transparency and accountability as common benchmark principles for businesses involved in the AI field.

### Risk-Based Approach

**I. United Arab Emirates (UAE) AI Ethics Policy (2020):** The UAE has developed a risk-based regulatory framework for the responsible use of AI. The policy categorizes AI systems into different risk levels and imposes stricter controls on high-risk systems, such as those in healthcare or law enforcement.

### Rights-Based Approach

**I. United Arab Emirates AI Charter (2024):** The core principles of this AI charter include preventing algorithm bias, protecting data privacy, ensuring transparency and ensuring human safety.

**II. Anti-Discrimination Charters,** e.g. the DAC Recommendation on Gender Equality and the Empowerment of All Women and Girls in Development Co-operation and Humanitarian Assistance, (OECD/LEGAL/5022, 2024) or the [United Nations](#) Convention on the Rights of the Child (1990).

### Liability Approach

**I. United States – Algorithmic Accountability Act (2023):** This act requires companies to assess the impact of their AI systems on privacy, bias, and discrimination, holding them liable for any harm. This shows how liability can be structured through mandatory impact assessments.

**II. Taiwan's AI Proposal (2024):** The government is required to establish a framework outlining reliability for AI application (labeling, disclosure and accountability) to strengthen trustworthiness.

## Key Considerations for Parliamentarians - 4.1 Why regulate?

What are the most prominent examples of justifications for regulating within the three main reasons provided in the policy brief (addressing public problems, human rights or achieve desirable futures)?

### Are there additional justifications for regulating that should be included?

We are unsure why this is formulated as an open question. There are numerous examples of harms and negative Human Rights outcomes that were caused by AI systems (see e.g. The AI Incident Database), e.g. AI systems have been shown to amplify bias and to lead to frequent discriminatory outcomes. **Without question, governments who are duty-bearers with regards to Human Rights have to protect their citizens from such harms**, i.e. making the selection of a justifying reason for regulation obsolete. Instead, this step can be omitted and be reformulated as an introduction that clarifies why regulation is necessary. We outlined examples of how AI can harm all three of the named reasons (addressing public problems, protecting human rights, and achieving desirable futures) below:

#### A. AI is Causing Public Problems

AI systems can worsen information availability where end users have less information about how AI decisions are made, potentially leading to harmful consequences. The absence of explainability on AI decisions is risky to AI adoption. For example, AI systems used in the employment process, credit scoring may unfairly deny employment opportunity and access to loans due to biased data. Regulation is required to ensure transparency, explainability, and thus accountability.

The use of AI in law enforcement, such as predictive policing or facial recognition, can pose unacceptable risks to privacy and civil liberties of citizens. This requires regulation to control how such systems are used and to prevent the risks of misuse, bias, or overreach by authorities.

Governments need to regulate AI to prevent regulatory capture, where private entities manipulate public policies in their favor. For example, unchecked AI development in healthcare could lead to companies prioritizing profits over public health, requiring regulation to ensure safety and public accountability.

#### B. AI Systems can Harm Human Rights Principles

AI systems ideally pose direct threats to fundamental rights, including privacy, non-discrimination, and freedom of expression and this no doubt justifies human rights-based regulation. One reason is that AI systems and platforms are trained on data; the process of collecting, storing and use of personal data, especially in contexts like surveillance capitalism or social media algorithms, can violate privacy rights. Laws like the EU's General Data Protection Regulation (GDPR) are required to protect individuals' control over their personal information. AI-driven systems used in hiring, housing, and criminal justice have been shown to disclose discriminatory practices. For instance, AI hiring tools may be biased to certain groups and this can worsen inequality. Regulation is required to ensure that AI systems uphold non-discrimination laws and equal opportunity.

AI systems controlling information flows, such as content moderation algorithms on social media platforms like Facebook, Twitter, Instagram, may stifle free speech or amplify harmful content.

Regulations ensuring transparency and fairness in content moderation, like the Digital Services Act (DSA) in the EU, are designed to protect freedom of expression.

### C. AI is Shaping the Future - We Have to Ensure That it is a Desirable Future

AI should be leveraged to improve quality of life, create opportunities, and ensure equitable development. For example, AI can deeply improve healthcare, education, and social services, but to do so, regulations are necessary to guide the ethical development and deployment of AI. For instance, AI-driven healthcare solutions can reduce possible usual errors experienced in diagnosis, but regulatory oversight is necessary to ensure safety and accountability, as seen in FDA regulations for medical devices.

Regulation is required to ensure that AI benefits are distributed equitably across different social groups and regions. For instance, the Canadian Pan-Canadian AI Strategy seeks to support research and development in AI while ensuring that marginalized communities can benefit from AI innovations in fields like healthcare and education.

AI can contribute to environmental sustainability by prudent energy usage, transportation, and resource management. However, regulation is needed to prevent unintended consequences, such as the environmental costs of large AI training datasets. The European Green Deal includes initiatives where AI regulation ensures that technology contributes to sustainability rather than harming it.

### Key Considerations for Parliamentarians - 4.2 When to regulate?

#### Are there additional steps or activities to consider when deciding whether regulation is pertinent and feasible?

We believe that we should start assuming that regulation is required to then define exceptions from this rule. As a result, **the question should be: When NOT to regulate?**

This question should be answered through appropriate multi-stakeholder participatory approaches (see further suggested measures around public participation above and our answer to the next question), i.e. ensure that affected communities can decide on the cases in which regulation can be omitted. It is essential that the decision-tree / flow-chart reflects this step.

Further, the flowchart is unclear to us. What does it mean to go back to a former step? Do I have to adjust the answer? Why would it change? How would I do this? Please clarify or reconsider.

### Key Considerations for Parliamentarians

#### When to regulate?

#### How to adopt participative and multi-stakeholder strategies for deciding when to regulate?

People affected by AI systems should be able to significantly shape and influence these systems, and alert suspected inaccuracies with effect. There are various academic publications that guide such public involvement in AI regulation or development. Prominent examples are:



- Abeba Birhane, William Isaac, Vinodkumar Prabhakaran, Mark Diaz, Madeleine Clare Elish, Iason Gabriel, and Shakir Mohamed. 2022. [Power to the People? Opportunities and Challenges for Participatory AI.](#)
- Christine Galvagna (2023) [Inclusive AI governance: Civil society participation in standards development](#)
- Fernando Delgado, Stephen Yang, Michael Madaio, and Qian Yang (2023) [The Participatory Turn in AI Design: Theoretical Foundations and the Current State of Practice.](#)

## How to regulate?

### Are there additional recommendations that parliamentarians should consider?

The following is a list of further areas to consider:

We believe that **coordination** is key. So far, this crucial area which needs reinforcing is not highlighted here or elsewhere in the document. We recommend to especially emphasize enhanced coordination around country-level capacity-building and governance within States and across State members.

Further, this can include public-private partnerships. By forming partnerships with private companies, governments can ensure that regulations are practical and informed by real-world developments. Such partnerships also promote responsible AI development by the private sector. India, for example, takes a facilitator and enabler approach working with agile and experimental initiatives to foster public-private partnerships and incentivize technology usage for social good.

Further, coordination stresses the critical **need for stakeholder participatory processes**, including the involvement of civil society organizations that represent impacted and under-represented communities. Consideration should encompass the restructuring of key consultative regulatory mechanisms so that such organizations and their communities are directly engaged, rather than just undertaking formal representation.

Further, the **interoperability** of regulations is only mentioned superficially. This could be a major issue given the borderless nature of the AI value chain. Thus, we recommend that regulatory mechanisms are designed to seek interoperability across relevant jurisdictions as well as the implementation of global standards. We recommend that parliamentarians engage with international regulatory bodies and align national AI regulations with global standards. This is particularly critical considering that interoperable safeguards needed to be applied (and enforced) across borders. Thus, the interoperability of regulatory measures is required to assign ownership and accountability across the AI value chain, i.e. to establish the impact and liability of different players along with IP and technology transfer laws and governing bodies. Further, interoperability can facilitate cross-border cooperation on AI issues such as data privacy, cybersecurity, and ethical AI use. Without alignment, AI and Tech companies could exploit regulatory gaps between countries.

Additionally, we see remaining challenges around **complex value chains post-deployment** which are not wholly captured in the document. For example, standards must include post-deployment reviews and reassessment to ensure that learning systems remain compliant after they are deployed. We recommend that these - similar to the pre-deployment and deployment regulations discussed in the document - require much clearer and consistent consideration of accountability measures and clearer legal responsibility of relevant actors. This would help impacted communities of AI systems to hold the responsible system creators or implementors accountable for occurring harms.

In addition, we recommend that parliamentarians strive to be **proactive instead of reactive**. AI technologies are advancing rapidly, and regulatory frameworks often struggle to keep pace. Instead of waiting for problems to emerge (such as privacy violations or algorithmic bias), parliamentarians should anticipate challenges and create regulations that proactively address potential risks. Regulators and policy makers should work with experts to identify potential future risks associated with AI technologies and create forward-looking regulations that can prevent harm before it arises.

Partly related to this, we recommend that **parliamentarians undergo AI literacy training** and workshops to better understand the technology they are regulating. This could be provided through collaborations with universities, tech companies, and think tanks (similar to measures discussed under the *Facilitating and Enabling Approach*). To craft effective regulations, parliamentarians need a deep understanding of AI technologies and their implications. This includes knowledge of AI's technical, ethical, legal, and societal aspects. Enhancing AI literacy among legislators will help them make informed decisions and avoid over-regulation or gaps in regulation.

Parliamentarians need to **continuously review** regulatory measures (see Dynamic and Adaptive Regulation Approach above). AI technologies evolve rapidly, and regulations can quickly become outdated if not updated. To remain effective, AI regulations should include mechanisms for continuous review and updates based on new developments and feedback from stakeholders. This requires flexibility by design as well as that regulatory bodies are empowered to adapt regulations quickly in response to technological changes.

Parliamentarians should ensure that AI regulations include **special protections for vulnerable and marginalized groups**. These could require AI developers to assess and mitigate potential harms that deeply affect these communities. Marginalized and vulnerable groups, such as minorities, low-income communities, and people with disabilities, are often disproportionately affected by the unintended harms of AI, such as algorithmic bias or unfair automated decisions.

### Do you have any other comments or recommendations?

The recommendations are great and very valuable. Thus, we believe that they deserve a more prominent and integrated position within the document. While they currently read more like an add-on or outlook, they are all crucial aspects that should be incentivised and made concrete, e.g. by pointing towards existing resources.

Please share any relevant AI regulation initiatives from Africa and Asia.

- African Union Convention on Cyber Security and Personal Data Protection 2020?
- Kenya Robotics and Artificial Intelligence Society Bill 2023
- Republic of Korea - Artificial Intelligence Liability Act (Bill No. 2120353)
- Singapore - Model AI Governance Framework for Generative AI (2024)
- China –Interim Measures for Administration of Generative AI Services (Generative AI Measures) 2023
- India - Summary of Key Initiatives ([roadmap of India's AI regulation - CNBC TV18](#))