Council of Europe Ad Hoc Committee on Artificial Intelligence (CAHAI): Multi-stakeholder consultation

Global Partners Digital submission

April 2021

Pre-screening question of the survey

1. **Do you answer**

As representative of an institution
In your personal capacity

2. **Your family name and first name (e.g. SMITH John)**

WINGFIELD Richard

3. **State (where your institution is based)**

United Kingdom

4. **Institution: Name of the institution/body/company**

Global Partners Digital

5. **Personal capacity: Your socio-professional category**

Three class version of the categories from National Statistics Socio-economic Classification (NS-SEC), United Kingdom

Higher occupations
Intermediate occupations
Lower occupations

6. **Your stakeholder group**

Government & public administration
Private business sector
Civil society
Academic and scientific community
Internet technical community

Section 1: Definition of AI Systems

7. In view of the elaboration of a legal framework on the design, development and application of AI, based on the standards of the Council of Europe on human rights, democracy and the rule of law, what kind of definition of artificial intelligence (AI) should be considered by the CAHAI (select one):

- No definition, with a legal instrument focused on the effect of AI systems on human rights, democracy and the rule of law.
- A technologically-neutral and simplified definition, such as "a set of sciences, theories and techniques whose purpose is to reproduce by a machine the cognitive abilities of a human being".
- A definition focusing on machine learning systems.
- A definition focusing on automated decision-making.
- Other (Please explain below)
- No opinion

8. What are the reasons for your preference?

There is currently no universally agreed definition of AI, but it is important to have some definition when developing a legal framework, even if non-exhaustive, in order to ensure as great a degree of legal clarity and certainty as possible. The first option would therefore be inappropriate, since it focuses solely on the effect of AI systems, leaving an unacceptable absence of clarity and certainty over which technologies fell within the scope of the instrument. The absence of a definition could also lead to very different applications of the instrument at the national level, resulting in a fragmented application of a legal framework.

The second option is helpful in that it proposes a technologically neutral definition, but it is constructed in a vague and perhaps overly broad manner, again, failing to meet the need for legal clarity and certainty. Similarly to the first option, such a definition could lead to very different applications of the instrument at the national level, resulting in a fragmented application of a legal framework.

The third option, in contrast to the second one, is too narrow in scope. It focuses solely on machine learning systems, a subset of AI, which might limit the effect and impact of a legal framework.

The fourth option, "a definition focusing on automated decision-making", strikes the best balance, capturing a broad range of AI systems and ensuring some degree of legal clarity and certainty. This option is preferable as it would most effectively cover practices or applications of AI systems, their impacts on human rights, and account for the broader socio-technical context.

Section 2.1: Opportunities and Risks arising from AI Systems

9. **Please select the areas in which AI systems offer the most promising opportunities for the protection of human rights, democracy, and the rule of law (select 3 maximum):**

- Banking, finance and insurance
- Justice
- Law enforcement
- Customs and border control
- Welfare
- Education
- Healthcare
- Environment and climate
- Election monitoring
- National security and counter-terrorism
- Public administration
- Employment
- Social networks/media, internet intermediaries
- Other (which areas and why)
- No opinion

10. **If other, which areas and why?**

There are a number of areas in which AI systems offer promising opportunities for the protection of human rights, democracy, and the rule of law. However, it is difficult to specify which three areas offer the "most promising" opportunities in such a binary manner. AI systems have the potential to lead to positive impacts upon human rights in far more than three of the options presented, and the prioritisation of certain areas above others risks minimising the potential impact that a legal instrument could have. At the same time, the use of AI may both provide opportunities to human rights, but also create risks, depending on the development and deployment of different AI technologies in that area. Even where the specific AI technology deployed is beneficial, if those benefits are only felt by certain groups, the technology can still result in increased inequalities within societies, thus creating risks to the rights to equality and non-discrimination. As such, each application of an AI technology requires a careful consideration of the specific context, safeguards and objectives of its development and deployment. To try and prioritise broad areas, with no ability for respondents to provide more nuanced analysis, minimises the usefulness of this question and the results obtained.

With that caveat, we provide an explanation on three areas - education, healthcare, and environment and climate - which we have selected.

Education: AI systems have the potential to greatly enhance enjoyment of the right to education, providing educational services or access on a broader scale, and enabling more

personalised approaches which cater to the unique needs of individuals. AI systems offer promising opportunities for educational efficiency - for example, streamlining administrative tasks and reallocating resources towards higher quality education. These opportunities would directly support the right to education under international law, which is reflected in Article 26 of the Universal Declaration of Human Rights (UDHR), Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Article 2 of the First Protocol to the European Convention on Human Rights (ECHR).

Healthcare: There are a number of promising health-focused applications of AI, including medical applications for faster and more accurate diagnoses, discussed in more detail below. Moreover, there are additional opportunities for the sector at large, with AI applications directly supporting efficiency for triage and treatment. These opportunities would directly support the right to health under international human rights law, which is reflected in Article 25 of the UDHR and Article 12 of the ICESCR.

Environment and climate: Advancements may enable detection of pending environmental crises, and potential mitigation of climate change. These opportunities will support a broad range of human rights and will align with case-law from the European Court of Human Rights which has recognised how environmental risks may undermine human rights provided for under ECHR.

11. **Please indicate which of the following AI system applications in your view have the greatest potential to enhance/protect human rights, democracy and the rule of law? (select 5 maximum):**

- Facial recognition supporting law enforcement
- Emotional analysis in the workplace to measure employees' level of engagement
- Smart personal assistants (connected devices)
- Scoring of individuals by public and private entities
- Medical applications for faster and more accurate diagnoses
- Automated fraud detection (banking, insurance)
- AI applications to predict the possible evolution of climate change and/or natural disasters;
- AI applications for personalised media content (recommender systems)
- Deep fakes and cheap fakes
- Recruiting software/ AI applications used for assessing work performance
- AI applications aimed at predicting recidivism
- AI applications to prevent the commission of a criminal offence (e.g. anti-money laundry AI applications)
- AI applications providing support to the healthcare system (triage, treatment delivery)
- AI applications determining the allocation of educational services
- AI applications determining the allocation of social services
- AI applications in the field of banking and insurance
- AI applications to promote gender equality (e.g. analytical tools)

- AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities

12. Please briefly explain how such applications would benefit human rights, democracy and the rule of law.

As noted above in our response to question 10, there is great potential for AI medical applications to support the right to health, particularly through faster and more accurate diagnoses. Whether states pursue public or private healthcare, these applications can provide an opportunity for states to pursue a higher degree of healthcare for their citizens, including those marginalised or otherwise unable to receive such care. AI applications providing support to the healthcare system (triage, treatment delivery), may further support public health through increased efficiency, providing more streamlined means of treating those most in need of care.

AI applications to predict the possible evolution of climate change and/or natural disasters may also have a direct impact on a number of rights. These AI applications may be particularly helpful in assisting states mitigate harms to at risk communities through better decision-making and resource allocation.

AI applications to promote gender equality (e.g. analytical tools) may support the right to non-discrimination and associated rights, negating biased outcomes or risks to marginalised groups including women, LGBTQI persons, etc. If AI systems are developed and deployed to consider the specific needs and data of these groups, they may safeguard against existing human biases and provide for more equitable outcomes.

At the same time, we repeat our point made in response to question 10 that even where the development and deployment of certain AI technologies and applications are beneficial to human rights, if those benefits are only felt by certain groups, the technologies and applications can still result in increased inequalities within societies, thus creating risks to the rights to equality and non-discrimination.

13. What other applications might contribute significantly to strengthening human rights, democracy and the rule of law?

In addition to those referenced in question 12, there are a range of AI applications which might contribute significantly to strengthening human rights, democracy and the rule or law. For example, AI applications may be used to address barriers faced by disabled persons. AI applications, including AI-based translation and interpretation may further enable persons speaking different or minority languages to more actively participate in public spaces or decisionmaking.

Section 2.2: Impact on human rights, democracy and the rule of law

14. Please select the areas in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law (select 3 maximum)

- Banking, finance and insurance
- Justice
- Law enforcement
- Customs and border control
- Welfare
- Education
- Healthcare
- Environment and climate
- Election monitoring
- National security and counter-terrorism
- Public administration
- Employment
- Social networks/media, internet intermediaries
- Other
- No opinion

15. Please briefly explain how such applications might violate human rights, democracy and the rule of law.

Our concerns about the framing of question 10 applies equally to question 14. There are a number of areas or sectors in which the deployment of AI systems poses the highest risk of violating human rights, democracy and the rule of law. However, it is difficult to specify which three areas pose the "highest risks" in such a binary manner. AI systems have the potential to result in harmful impacts upon human rights in far more than three of the options presented, and the prioritisation of certain areas or sectors above others risks minimising the potential impact that a legal instrument could have on addressing risks to human rights. At the same time, the use of AI may both provide opportunities and risks to human rights in the same area or sector, depending on the development and deployment of the specific AI technologies. As such, each application of an AI technology requires a careful consideration of the specific context, safeguards and objectives of its development and deployment. To try and prioritise broad issues or sectors, with no ability for respondents to provide more nuanced analysis, minimises the usefulness of this question and the results obtained.

With that caveat, we believe that there are clear risks to human rights as a result of the deployment of AI systems in the three sectors selected in the previous question.

Justice, particularly to those who already face discrimination at the hands of justice systems. AI systems are already used in the justice systems of certain countries for pretrial risk assessments, and this may extend to other aspects such as sentencing determinations. While the use of AI in these contexts is defended by asserting the impartial nature of AI systems in

comparison to human bias, AI systems could potentially undermine the right to a fair trial and the autonomous decision-making of judges. This is because AI systems make determinations based on existing data sets, which are themselves flawed and allow for historical patterns of discrimination to continue. Safeguards are necessary to ensure that AI systems do not undermine the presumption of innocence or present other risks to due process.

Law enforcement, particularly for marginalised groups that may already face discrimination or disproportionate harms at the hands of law enforcement. The use of AI systems in law enforcement, including facial recognition technology, or predictive police tools, have proven to be flawed and biased against people of colour, and such errors reflect existing discriminatory practices and ensure their continuation. Moreover, AI systems may be used to conduct mass surveillance using biometrics, which poses direct risks to individuals' right to privacy, freedom of expression, assembly and other associated rights.

National security - AI systems are increasingly used in the name of national security and may pose heightened risks for individuals' human rights both on and offline. The ability for AI systems to process large amounts of data or track individuals may negatively affect human rights in the name of national security, and must be accompanied by due diligence assessments, oversight, safeguards and broader considerations on the use of such high-risk technologies. As with justice and law enforcement, AI has the potential to deepen existing inequalities or discriminatory practices for national security purposes.

16. Please indicate the types of AI systems that represent the greatest risk to human rights, democracy and the rule of law (select 5 maximum):

- Facial recognition supporting law enforcement
- Emotional analysis in the workplace to measure employees' level of engagement
- Smart personal assistants (connected devices)
- Scoring / scoring of individuals by public entities
- Medical applications for faster and more accurate diagnoses
- Automated fraud detection (banking, insurance)
- AI applications to predict the possible evolution of climate change and/or natural disasters;
- AI applications for personalised media content (recommender systems)
- Deep fakes and cheap fakes
- Recruiting software/ AI applications used for assessing work performance
- AI applications to prevent the commission of a criminal offence
- AI applications aimed at predicting recidivism
- AI applications providing support to the healthcare system (triage, treatment delivery)
- AI applications determining the allocation of educational services
- AI applications determining the allocation of social services
- AI applications in the field of banking and insurance
- AI applications to promote gender equality (e.g. analytical tools)
- AI applications used for analysing the performance of pupils/students in educational institutions such as schools and universities

17. **Please briefly explain how such applications might violate human rights, democracy and the rule of law.**

Facial recognition supporting law enforcement may pose heightened risks for human rights, democracy and the rule or flaw without adequate safeguards and oversight. Facial recognition uses people's personal data - images of their faces - which are relatively easy to capture in public places. Existing concerns over mass surveillance, coupled with high error rates for these technologies (particularly for minority groups) may lead to biased results or broader violations of privacy, freedom of assembly or other associated rights.

The scoring of individuals by public entities may exacerbate existing inequalities and have a detrimental impact on individuals' social and economic rights. AI applications are increasingly being tested and relied on for making determinations around the allocation of social services, welfare, education, and other areas of public administration. Social scoring poses risks to human dignity and should not be used to promote or discredit a particular way of life or opinion.

AI applications to prevent the commission of a criminal offence or to predict recidivism pose clear risks to individuals' liberty, security, right to fair trial, due process and right to effective remedy. These AI applications use personal, and often sensitive forms of data, on suspects or potential repeat offenders to make determinations, which may reinforce existing biases and result in discriminatory outcomes. The accuracy, fairness and outcomes of these AI applications is unsettled and could have negative impacts on human rights and the rule of law.

18. **What other applications might represent a significant risk to human rights, democracy and the rule of law?**

There are a vast number of AI applications which might represent significant risks to human rights, democracy and the rule of law. AI is not, in and of itself, a risk to human rights and may have both positive and negative impacts on all areas of public and private life. All AI systems referenced in the question above may pose a significant risk to human rights in a particular context, in addition to those not included, such as autonomous weapons systems or emotional analysis systems used outside of the workplace.

19. **In your opinion, should the development, deployment and use of AI systems that have been proven to violate human rights or undermine democracy or the rule of law be:**

- Banned
- Not banned
- No opinion
- Other

20. In your opinion, should the development, deployment and use of AI systems that pose high risks with high probability to human rights, democracy and the rule of law be:

- Banned
- Subject to moratorium
- <mark>Regulated (binding law)</mark>
- Self-regulated (ethics guidelines, voluntary certification)
- None of the above
- No opinion

21. In your opinion, should the development, deployment and use of AI systems that pose low risks with high probability to human rights, democracy and the rule of law be:

- Banned
- Subject to moratorium
- <mark>Regulated (binding law)</mark>
- Self-regulated (ethics guidelines, voluntary certification)
- None of the above
- No opinion

22. In your opinion, should the development, deployment and use of AI systems that pose high risks with low probability to human rights, democracy and the rule of law be:

- Banned
- Subject to moratorium
- <mark>Regulated (binding law)</mark>
- Self-regulated (ethics guidelines, voluntary certification).
- None of the above
- No opinion

23. What are the most important legal principles, rights and interests that need to be addressed and therefore justify regulating the development, deployment and use of AI systems? (select 5 maximum):

- Respect for human dignity
- Political pluralism
- Equality
- Social security
- <mark>Freedom of expression, assembly and association</mark>
- <mark>Non-discrimination</mark>
- <mark>Privacy and data protection</mark>
- Personal integrity
- Legal certainty

- Transparency
- Explainability
- Possibility to challenge a decision made by an AI system and access to an effective remedy (note that this requires equality, legal certainty, transparency and explainability)

24. In your opinion, in what sectors/areas is a binding legal instrument needed to protect human rights, democracy and the rule of law? (select 3 maximum):

- Banking, finance and insurance
- Justice
- Law enforcement – this includes customs and border controls
- Customs and border control
- Welfare
- Education
- Healthcare
- Social networks/media, internet intermediaries
- Environment and climate
- Election monitoring
- Public administration – this includes welfare, education, healthcare, among others
- Employment
- No opinion
- Other

Section 3: Potential Gaps in Existing Binding Legal Instruments Applicable to AI

25. Self-regulation by companies is more efficient than government regulation to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.

1 (completely disagree)	2 (rather disagree)	3 (indifferent / no opinion)	4 (rather agree)	5 (completely agree)
	x			

26. Self-regulation by companies is sufficient to prevent and mitigate the risk of violations of human rights, democracy and the rule of law.

1 (completely disagree)	2 (rather disagree)	3 (indifferent / no opinion)	4 (rather agree)	5 (completely agree)
	x			

27. Which of the following instruments of self-regulation do you consider to be the most efficient?

- Ethics guidelines
- Voluntary certification
- No opinion
- <mark>Other</mark>

> We believe that many of the best instruments of self-regulation are those set out under the "Respect" pillar of the United Nations Guiding Principles on Business and Human Rights which outlines how companies should implement the framework and take action to mitigate adverse impacts on human rights as a result of their products or services. These include:
>
> - A policy commitment to meet their responsibility to respect human rights (Principle 16);
> - A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights, including human rights impact assessments (Principles 17 to 21); and
> - Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute (Principle 22).
>
> While not all companies have taken such measures, particularly in relation to AI applications, the UNGPs are a critical framework for companies to guide self regulation and should be considered when developing any binding or non-binding legal framework at the Council of Europe level.

28. Existing international, regional and/or national binding and/or non-binding legal instruments are sufficient to regulate AI systems in order to ensure the protection of human rights, democracy and the rule of law.

1 (completely disagree)	2 (rather disagree)	3 (indifferent / no opinion)	4 (rather agree)	5 (completely agree)
	x			

29. If you responded disagree/completely disagree to previous question, please indicate why existing international, regional and/or national (binding and/or non-binding) legal instruments are not sufficient to regulate AI systems

- There are too many and they are difficult to interpret and apply in the context of AI
- <mark>They provide a basis but fail to provide an effective substantive protection of human rights, democracy and the rule of law against the risks posed by AI systems</mark>
- <mark>They lack specific principles for the design, development and application of AI systems</mark>

- They do not provide enough guidance to the designers, developers and deployers of AI systems
- They do not provide for specific rights (e.g. transparency requirements, redress mechanisms) for persons affected by AI
- They create barriers to the design, development and application of AI systems

30. Please provide examples of existing international, regional and/or national (binding and/or non-binding) instruments that in your view are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law.

The existing international and regional human rights frameworks, including the European Convention on Human Rights, are already applicable and extend to the development and use of AI systems. While they do not always account for the intricate features and challenges posed by AI, they should serve as the starting point to guide the regulation of AI at the Council of Europe level.

As noted above, the UNGPs is a useful instrument to guide the design, development and use of AI systems to ensure compatibility with the standards for human rights, especially in relation to corporate responsibility.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has commented on AI in various reports, including in 2018 (UN Doc. A/73/348) where the implications of AI technologies for human rights in the information environment were addressed, focusing in particular on the rights to freedom of opinion and expression, privacy and non-discrimination. In 2020, the Office of the United Nations High Commissioner for Human Rights organised an expert seminar to discuss how AI, including profiling, automated decision-making and machine- learning technologies may, without proper safeguards, affect the enjoyment of the right to privacy. The report of this seminar may also be useful in guiding and regulating the design, development and use of AI in a rights-respecting manner.

While still in development, there are also a number of other instruments and initiatives being considered at the international, regional and national levels, including UNESCO's Recommendation on the Ethics of AI and the European Union's proposed Regulation on Artificial Intelligence. These may, once finalised, contain elements which are effective in guiding and regulating the design, development and use of AI systems to ensure compatibility with the standards for human rights, democracy and the rule of law, and so may be worth considering as CAHAI's work progresses.

31. Please indicate other specific legal gaps that in your view need to be addressed at the level of the Council of Europe

This question needs consideration in two parts. The first is to identify the legal gaps that need to be addressed. And, indeed, there are a number of legal gaps within the existing

international, regional and national frameworks which may warrant the development of new instruments on AI. These include how to ensure meaningful consent is provided by individuals whose data is used in AI technologies, including the ability to withhold consent; how to ensure useful and meaningful transparency in the development and deployment of AI technologies, suitable for audiences including users and regulatory bodies; how to ensure effective remedies from both the public and private sector when human rights are adversely impacted by AI technologies; and effective mechanisms which restrict certain AI applications in circumstances where risks to human rights cannot be sufficiently mitigated.

The second part of the question is who is best placed to develop such instruments. The Council of Europe is certainly an appropriate forum when it comes to addressing many of them within Europe. It has a clear, broad human rights mandate and expertise, a strong existing regional human rights framework, enforcement mechanisms and a significant influence on its member states. The European Convention Human Rights is one of the most effective international human rights treaties in the world, and the European Court of Human Rights has already produced case law on the impacts of emerging technologies, including the consequences of algorithmic mechanisms, on human rights protected under the regional framework. The Council of Europe also has a history of success in creating new legal frameworks, such as the Budapest Convention, to tackle emerging technology issues.

At the same time, it is important to remember that the standards developed by the Council of Europe will not be global instruments, even if open to endorsement or application by non-members. The limited ability of non-members to influence the development of any legal instrument means that the risk of alternative frameworks and instruments being developed in other forums which are open to all states. From a human rights perspective, fragmented and inconsistent approaches to the protection of human rights in different regions, and the standards that should be adopted, would be unhelpful.

We therefore strongly believe that the undoubted expertise that exists within the Council of Europe on this issue needs to be reinforced by a greater ability for states outside of the Council of Europe - as well as other non-governmental stakeholders - to be able to participate in the development of that legal instrument, to ensure a sufficient degree of global legitimacy and applicability.

Section 4: Elements of a Legal Framework on AI Systems

32. In relation to some AI systems, we can reasonably foresee a significant risk to human rights, democracy and the rule of law. Bearing this in mind, in the following section, please indicate to what extent you agree or disagree with the following statements or if you have no opinion on a given issue.

	1	2	3	4	5
Individuals should always be informed when they interact with an AI system in any circumstances.					x

Individuals should always be informed when a decision which affects them personally is made by an AI system.					x
Individuals should always be informed when an AI system is used in a decision-making process which affects them personally.					x
Individuals should have a right to a meaningful explanation of algorithmic based decisions, in particular how the algorithm reached its output.					x
Individuals should always have the right that any decision taken by an AI system in the framework of judicial proceedings are reviewed by a "human" judge.					x
Individuals should have a right to demand the review of an algorithmic based decision by a human being.				x	
There should always be a person responsible for reviewing algorithmic based decisions in the public sector and private companies.				x	
Public institutions should not use AI systems to promote or discredit a particular way of life or opinion (e.g. "social scoring").					x
States should be obliged to design, develop and apply sustainable AI systems that respect applicable environmental protection standards.					x
The code behind AI systems used in the public and private sectors should always be accessible to the competent public authorities for the purposes of external audit.		x			
There should be higher transparency standards for public entities using AI than for private entities.				x	
There should be higher standards for access to an effective remedy for individuals in relation to decisions informed and made by an AI system in the field of justice than in the field of consumer protection.		x			
Member States should establish public oversight mechanisms for AI systems that may breach legally binding norms in the sphere of human rights, democracy and the rule of law.					x
Errors and flaws discovered in AI systems which have led or could lead to the violation of human rights, democracy and the rule of law must be reported to the competent authorities.		x			

The use of facial recognition in public spaces should be prohibited.		x			
The information obtained through the use of facial recognition systems should always be reviewed by a human being before being used for purposes that have an impact on individual freedom, such as in relation to a person boarding an airplane, upon police arrest or in the framework of judicial proceedings.		x			
The use of AI systems in democratic processes (e.g. elections) should be strictly regulated.					x

33. Should a future legal framework at Council of Europe level include a specific liability regime in relation to AI applications?

- Yes
- No
- No opinion

34. If yes, what aspects should be covered?

While it may be appropriate for a future legal framework at the Council of Europe level to include a specific liability regime in relation to AI applications, the development of any liability regime must consider existing frameworks and liability regimes. For example, data protection and non-discrimination frameworks at the international, regional and national levels. Any specific liability regime at the Council of Europe level must address the gaps left by these frameworks as they relate to AI applications, particularly where additional clarification on the interpretation of existing frameworks is insufficient to provide accountability for harms, or unable to safeguard substantive or procedural rights of individuals.

One specific aspect that should be covered by a specific liability regime is that of access to effective remedy. Any potential regime must ensure that remedies are provided for and redress is available. While the specific forms of redress, such as criminal sanctions, merits further consideration, this liability regime must still ensure that trans-border harms are addressed and deter future violations.

Moreover, a specific liability regime must be proportionate and provide legal clarity for users, designers, developers and deployers of AI applications. The threat of liability should in no way stifle the development of AI or pose risks to human rights.

Section 5: Policies and Measures for Development

35. In your opinion, how useful would the following compliance mechanisms be in preventing and mitigating the risks to human rights, democracy and the rule of law arising from the design, development and application of AI?

	1	2	3	4	5
Human rights, democracy and rule of law impact assessments					x
Certification and quality labelling				x	
Audits and intersectional audits					x
Regulatory sandboxes				x	
Continuous automated monitoring					x

36. Please indicate what combination of mechanisms should be preferred to efficiently protect human rights, democracy and the rule of law (select 3 maximum).

- Human rights, democracy and rule of law impact assessments
- Certification and quality labelling
- Audits and intersectional audits
- Regulatory sandboxes
- Continuous automated monitoring
- Other

37. Please select which mechanism(s) should be part of either a binding instrument or a non-binding instrument to best protect human rights, democracy and the rule of law.

	Binding instrument	Non-binding instrument	No opinion
Human rights, democracy and rule of law impact assessments	x		
Certification and quality labelling			x
Audits and intersectional audits	x		
Regulatory sandboxes			x
Continuous automated monitoring	x		

38. If any other mechanism(s) should be considered, please list them and mention if they should be part of either a binding or non binding instrument

In addition to the above mechanisms, any binding or non-binding instrument would benefit from some form of oversight mechanism. This could include, for example, a convention committee that would evaluate implementation.

39. In your opinion, how useful would the following follow-up activities be if implemented by the Council of Europe?

	Not useful	Rather not useful	Indifferent / no opinion	Rather useful	Highly useful
Monitoring of AI legislation and policies in member States					x
Capacity building on Council of Europe instruments, including assistance to facilitate ratification and implementation of relevant Council of Europe instruments					x
AI Observatory for sharing good practices and exchanging information on legal, policy and technological developments related to AI systems				x	
Establishing a centre of expertise on AI and human rights					x

40. What other mechanisms, if any, should be considered?

While the above mechanisms would be useful, to varying degrees, these mechanisms should not focus solely on states, policies and stakeholders in member states. It would be beneficial to include stakeholders from the Global South or under-represented groups due to the potential global reach and impact of a new legal framework.

41. Are there any other issues with respect to the design, development and application of AI systems in the context of human rights, democracy and the rule of law that you wish to bring to the attention of the CAHAI?

We would like to stress that AI systems will present both opportunities and risks for human

rights, and that any regulation of AI should acknowledge the nuanced and non-binary nature of AI systems and applications in varying contexts. It is imperative that any legal framework does not exacerbate or produce further risks for human rights in the name of closing legal gaps or protecting other rights which may be negatively affected by AI.

42. Please could you provide your e-mail address in case we need to contact you regarding the questionnaire you have just completed. Thank you.

richard@gp-digital.org