

# POLICY BRIEF 04

In response to the United Nations Global Digital Compact (Zero Draft, 1 April 2024)

## Human Rights in the World of AI: Gaps between Visions Offered by Private Sector Actors, Professionals, and Governments with the UN Global Digital Compact, and How to Build a Bridge across these Gaps

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Between March and June 2024, around 30 students and ten instructors worked to build and put to work transversal skills in a transnational research-based learning and policy-engaged learning setting. As part of the program, students worked together for a week at the University of Bremen and participated in the European Dialogue on Internet Governance (EuroDIG) 2024 policy conference.

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## Executive Summary

The Global Digital Compact (GDC) does not stand in isolation in policy history, as it is more akin to an outcome of an ongoing multi-party dialogue on technological policies. We analyze **32 bills of rights dealing with artificial intelligence that preceded the GDC, divide them into four starkly contrasting groups, and identify the differences between them and the GDC**. For example, we note the surprising lack of environmental concerns, scarce in most of these discussions but very crucial given the impact of data centres and artificial intelligence on the environment, in these bills of rights. While the GDC does address it while discussing the SDGs, the additional impact of AI on the environment is even overlooked there. Based on these observations, we propose **five policy principles to bridge the gaps among these AI bills of rights**, while staying mindful of the realities of the professionals and the governments, since any universally agreed standard must be feasible for the different assenting countries and the people working in the digital field. This was one of the principal reasons for basing our analysis on previous bills of rights, as they embody the reality from the perspective of different stakeholders.

## Introduction to the Context

The GDC is a global framework expected to “overcome digital, data and innovation divides” aiming to “outline principles, objectives and actions for advancing an open, free, secure and human-centered digital future”, coming from the common agenda developed after the Declaration on the Commemoration of the Seventy-Fifth Anniversary of the United Nations in 2020 (United Nations, 2020) and proposed to be agreed at the Summit of the Future in September 2024 involving multilateral organizations, actors and stakeholders (United Nations, 2024). While the Global Digital Compact’s most recently published version (published 1 April 2024, the Zero Draft) repeatedly calls on digital technology companies to comply with and commit to human rights laws and principles (cf. Articles 23 and 29), a simple call to compliance may not suffice if details as to how this should be achieved are not articulated. Interestingly, the Global Digital Compact also calls (“urgently”) for professionals involved in technology, dubbed “developers” in Article 29 and “community” in Article 32, to be mindful of diversity, create accountability frameworks, and mitigate risks associated with the deceptive uses of AI. **Our policy brief addresses a curious gap in the Global Digital Compact and previous policy**

**documents when it comes to artificial intelligence**, and to address this gap, we must first expound upon the legal-political realities that brought the GDC into being.

The responsible use of technology has been a contentious topic for policymakers throughout the last decade, as evidenced by the high number of legislations in UN member states, and their conflict with each other and the burgeoning tech business. The contention derives not from the wish to regulate the business, which almost all states unanimously agree upon, but rather from the question of “how” – how would the regulation be achieved, and how do we make sure that our common values of human life and dignity are safeguarded, while also ensuring that the businesses are not asphyxiated? As can be expected in such a scenario, the onus of responsibility is hard to locate here, for different stakeholders have different purposes and rationales for their actions in the ever-convoluted landscape of digital technology.

Prior to the Global Digital Compact, more than 300 bills of digital rights were drafted and published by the very same stakeholders who were addressed in the GDC. For the purpose of this document, a *digital bill of rights* could be understood as:

“““““[N]either legally binding; nor enforceable; neither the product of democratic deliberation nor the output of institutionalized groups. Yet, there is evidence suggesting us to pair them with national and transnational constitutions. Firstly, the titles of these documents clearly evoke the constitutional dimension. Secondly, these texts employ the characteristic jargon of constitutions. Thirdly, beyond their 'constitutional tone', one can observe that these documents also resemble constitutions with regard to their content. They articulate the rights of individuals and establish obligations, as constitutions do. (Celeste, 2022)

These bills were drafted by governments of UN member states, their subordinate ministries and departments, inter-governmental organizations such as the European Union or the United Nations, civil society, technical community, academia, think tanks, private sector players, and many more minute stakeholders. In one way, the GDC can be seen as a resolution to balance between these myriad

propositions, each written from a particularly partisan point of view. But does it succeed in such a resolution?

For this policy brief, we looked at 32 previous bills of rights published prior to the GDC that all dealt with artificial intelligence, and identified some of the gaps they had among each other and also with the Global Digital Compact, utilizing textual analysis and comparative legal analysis as our primary methodology of research. Policies from the bills of rights are extracted, analyzed, compared with the relevant sections in the GDC, and then, of course, put into the relevant socio-technological context. Our policy suggestions at the end of this paper are aimed at bridging, if not outright closing, these gaps. We do acknowledge that given the varying nature of the interests these groups represent, it may not always be possible or expected to eliminate these gaps, but mutual dialog and reconciliation are nevertheless necessary for a world built on trust and cooperation, and our policy paper is one such attempt at reconciliation.

We should also note the reasons for choosing artificial intelligence as the pivotal point of our discussion. The first step is to define what artificial intelligence (AI) refers to. According to Joiner (2018), artificial intelligence is “the theory and development of computer systems that are able to perform tasks that normally require human intelligence, such as visual perception, speech recognition, decision-making, and translation between languages”. The constant and overarching reference to human intelligence, big data, decision-making, and tasks that are commonly considered domains of human experts lead to a number of existential and administrative questions, including that of mass unemployment and mass surveillance. The reasons for choosing AI, then, are manifold, as artificial intelligence remains one of the most controversial and least understood phenomena within the recent technological advances, and the gaps between the previous bills of rights pertaining to AI are glaring when compared across different groups of components. The GDC, meanwhile, sets one of its objectives as “Governing emerging technologies, including Artificial Intelligence, for humanity” (Objective 5), and dedicates articles 43 to 51 exclusively to this. But even the GDC itself fails to address the environmental concerns associated with AI, which has been repeatedly brought up by at least one set of proponents of previous policy papers.

## Grouping the Stakeholders

For our purpose, we have divided the stakeholders into four distinct groups: (i) professional organizations such as IEEE and ACM, (ii) large technological companies such as Microsoft or OpenAI, (iii) digital rights advocacy groups such as Electronic Frontier Foundation, and (iv) governmental and inter-governmental organizations, such as OECD, the Governments of the United States or China, or the Council of Europe. The policy documents released by each group bear enough in-group similarity and out-group difference to warrant such division. These four groups can be organized into two axes as below:

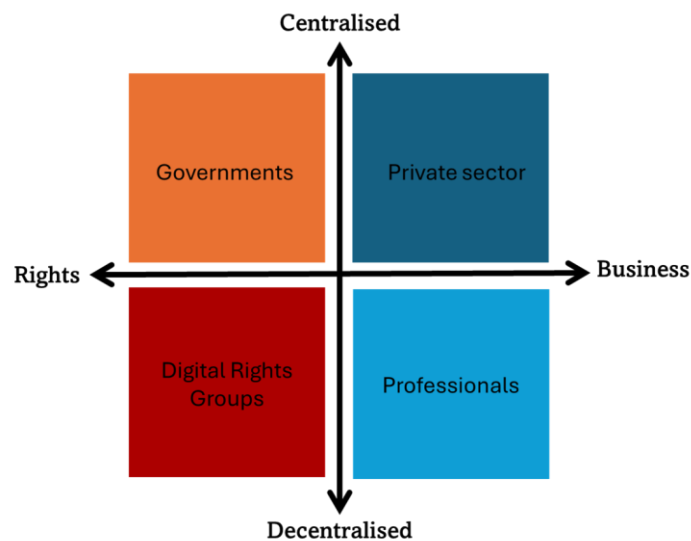


Figure 1: Division of the Four Groups of Stakeholders

We are dividing them based on two principles: in terms of **fealty to the mass people** (governments and rights advocacy groups on one end, and businesses and professional organizations on the other), and in terms of **organizational centralization**, (governments and business at one end, and rights groups and professional organizations on the other). As we will see, both mass fealty (as opposed to accountability) and organizational structure played important roles in how they frame their bills of rights.

The 32 bills of rights we analyzed were as follows.

Sl. No.	Groups	Bills of Rights	Proponent	Year
1	Governments, political parties, and inter-governmental organizations	OECD Recommendation on Artificial Intelligence	OECD	2019
2		European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment	Council of Europe	2018
3		Governance Principles for a New Generation of Artificial Intelligence	Government of China	2019
4		Ethical Principles for AI in Defence	Government of the UK (Ministry of Defence)	2022
5		Guidelines On Artificial Intelligence And Data Protection	Council of Europe	2019
6		AI Utilization Guidelines	Government of Japan, G7, OECD	2018
7		Statement on Artificial Intelligence, Robotics and ‘Autonomous’ Systems	European Commission	2018
8		Blueprint for an AI Bill of Rights	Government of the United States (The White House)	2022

9	Digital rights advocacy groups	Universal Guidelines for Artificial Intelligence	The Public Voice	2018
10		Human Rights In The Age Of Artificial Intelligence	Access Now	2018
11		Privacy and Freedom of Expression In the Age of Artificial Intelligence	Privacy International & Article 19	2018
12		Seeking Ground Rules for A.I.	The New York Times	—
13		The Toronto Declaration: Protecting the right to equality and non-discrimination in machine learning systems	Amnesty International, Access Now, Paradigm Initiative Nigeria, Privacy International	2018
14		Artificial Intelligence and Machine Learning: Policy Paper	Internet Society	2017
15	Professional organizations, trade unions, and lobby groups	Guidelines for the Handling of Artificial Intelligence	eco – Association of the Internet industry	2018
16		Declaration on Ethics and Data Protection in Artificial Intelligence	ICDPPC – International Conference of Data Protection and Privacy Commissioners	2018
17		Montréal Declaration For A Responsible Development Of Artificial Intelligence	University of Montreal	2018
18		Understanding artificial intelligence ethics and safety A guide for the responsible design and implementation of AI systems in the public sector	The Alan Turing Institute	2019

19		Top 10 Principles For Ethical Artificial Intelligence	UNI Global Union	2017
20		Science, Law and Society (SLS) Initiative, Principles for the Governance of AI	The Future Society	2017
21	Business Organizations and Private Sector Players	Artificial Intelligence Framework	Vodafone	2019
22		Intel's AI Privacy Policy White Paper	Intel Corporation	2018
23		OpenAI Charter	OpenAI	2018
24		The Responsible AI Framework	PricewaterhouseCoopers UK	2017
25		Tieto's AI ethics guidelines	Tieto Corporation	2018
26		The Ethics of Code: Developing AI for Business with Five Core Principles	Sage	2017
27		AI at Google: our principles	Google	2018
28		"ARCC": An Ethical Framework for Artificial Intelligence	Tencent Research Institute	2020
29		Microsoft Responsible AI Standard, v2	Microsoft	2022
30		Sony Group AI Ethics Guidelines	Sony	2018
31		Five guiding principles for responsible use of AI in healthcare and healthy living	Philips	2020
32	Everyday Ethics for AI	IBM	2014	



Before proceeding further, we should acknowledge yet again that no matter how much we try to reduce the gaps among the policy visions of these different stakeholders, it may not always be possible or even advisable to do so, since they represent different conflicting interests. For example, a business company operating across more than fifty countries will not necessarily see eye-to-eye with a country that is protective of its national security. At the same time, this is what motivated us to work on this policy problem in the first place, as this conflict needs at least a partial resolution for the GDC's successful implementation.

## Critique of the Current Situation and Alternative Options

Our analysis was largely qualitative in nature, as we analyzed the textual evidence present in the bills of rights and also the context in which they arose. This approach is partially rooted in the comparative approach in legal research (Paris, 2016), even though here we are comparing bills of rights from different stakeholders, not pieces of legislation.

1. The bills precursory to the GDC from governments worldwide stress heavily on the safety and security of AI and private-public partnerships, and the questions of socioeconomic diversity, environment, and gender justice are missing from most of them. A notable exception is the Blueprint for AI Bill of Rights from the Government of the United States, which prioritizes the inclusion of women and gender-diverse communities in artificial intelligence-impacted populations, and also some environmental concerns are voiced there as well. Overall, the GDC echoes many statements the governments have made, and not just from the West. For example, Governance Principles for a New Generation of Artificial Intelligence from the Government of China and AI Utilization Guidelines from the Government of Japan, are reflected to a remarkable degree in Articles 44 and 46 of the GDC, which focus keenly on AI governance. Overall, these are the documents that the GDC is the most aligned with (Hine & Floridi, 2023). Another important distinction that can be made is that the less dependent an organization is on electoral politics, the more actively engaged it is with human rights when it is doctoring its bills of rights, as long as it upholds democratic values. Thus, the EU is more preoccupied with human rights than any of its member states, and the UN is even more so. This trend among governmental and

inter-governmental organizations is sweeping across the documents analyzed, and non-democratic governments, as they are neither democratic nor dependent upon electoral choices, are exempt from the trend.

2. The themes that the digital companies' documents abound with are: accountability, transparency, reliability, fairness, and privacy. Some of the documents, such as Intel's AI Privacy Policy White Paper, bring up the important issues of free flow of and access to data, which the GDC commits to resolve by 2023 (cf. Article 42), diverging from the urgency expressed by the business organizations. In the context of free flow and many other contents, these documents closely follow in step the legislation from the United States. There are divergences, such as the business companies from the United Kingdom, e.g. PricewaterhouseCoopers, Sage, or Vodafone, who tend to have published more technically nuanced bills, touching upon issues of explainability in AI, ethical data processing, business footprint, etc. Vodafone and Sage also bring up human diversity, business footprint, access for the disabled, and democratization through AI. Some of these details are not, we believe, properly tackled in the GDC. These companies are very keen on legal compliance and bias reduction, possibly as means of not losing their market share.
3. OpenAI takes a completely different turn from the other companies, so much so that they demand a separate discussion. With a more ardent focus on democratization than even the UK-based companies, its Charter talks of broadly distributed benefits, technical leadership, and industrial cooperation. With almost nothing technical and plenty of euphemism, we have reasons to dub their Charter a "one size fits all" document (Cihon & Baum, 2021). Interestingly, they pledge to use AGI (artificial general intelligence) not for harm and instead for the greater good of humanity, even though we have no concrete evidence that artificial general intelligence is around the corner as some people claim, and the GDC does not, even once, refer to AGI. The OpenAI Charter is a document that is at once ambitious and ambiguous, and it would be difficult, if not impossible, to reflect their approach in a regulatory context.
4. The rights advocacy groups, such as "Universal Guidelines for Artificial Intelligence" by the Public Voice or "Privacy and Freedom of Expression In the Age of Artificial Intelligence" from Article 19, touch upon issues that are not discussed by either governments or business companies, such as secrecy of profiling, information asymmetry, re-identification of anonymized users, and social scoring. Access Now, in their bill "Human Rights In The Age Of Artificial Intelligence", points to the effective and plausible use of artificial intelligence to fight against climate change, and these issues are hardly cited in the documents of other groups. We believe GDC could benefit from greater alignment with the documents of the rights advocacy groups' demands, fears, and proposals.

5. The professional groups, due to their different fealties to diverse strata of people working professionally in the technological sector, are the most divergent group we analyzed, and yet there are some commonalities. Perhaps as they are the ones most intimately familiar with how artificial intelligence works, they are also the most critical, most engaged, and most specific about certain aspects of AI. The University of Montreal, for instance, points to the energy inefficiency of artificial intelligence and their associated data centres in their “Montréal Declaration For A Responsible Development Of Artificial Intelligence”, one of the rare occasions we have seen this explicitly stated in a policy document. Eco, the Association of the Internet industry from Germany, manages a greater focus on legal compliance, the concept of data as an asset, and other such European values. The entities in this group, all in one vain or another, are likewise all localized in either geography, profession, or both, reflecting professional needs and often geopolitical constraints. The Alan Turing Institute, for example, is extremely preoccupied with the various modes of transparency in the lifecycle of artificial intelligence, while the International Conference of Data Protection and Privacy Commissioners, composed of data protection experts working for various companies, extends privacy by design to a new concept: ethics by design, where the artificial intelligence systems would be designed *ethically*, instead of putting the ethics as a filter at the end.
6. It is curious to note that almost none of these documents talk about the political rights of the people, instead confining themselves mostly to civil rights. Bias reduction seems to be the central commonality among the different groups, but other aspects are far less so. The UNI Global Union, a global union federation with headquarters in Switzerland, for example, is the only stakeholder that calls for resisting the use of AI in cyber warfare by establishing a locus of accountability and has the rare political focus, which even the governments and political parties we analyzed edge away from doing. They also propose an ethical “black box”, like the black boxes in airplanes, which would be useful in documenting every step (and misstep) that an AI system may make, including all its calculations and reasoning.

## Recommendations

We are making the following five recommendations that would better equip the GDC for the existing ground reality. These recommendations, we believe, would be excellent amendments to the planned draft of the GDC.

1. **Greater focus on the environment:** As pointed out by at least one proponent, the environmental cost of artificial intelligence is in no meager amount, and it is imperative that a greater focus be placed on this environmental cost accrued by AI systems and data centres. For instance, in 2023 Large Language Models (LLMs) ChatGPT and Gopher consumed well over a thousand megawatt hours of energy simply for training (Statista, 2022a) and CO2 emissions are also considerable as GPT-3 produced nearly 500 tonnes of CO2 (Statista, 2022a). Therefore, a call to minimize this cost is the least that we can expect from a monumental step such as the GDC.
2. **Free flow of data:** While the GDC pledges itself to realize Data Free Flow with Trust (DFFT) to promote trustworthy data free-flow and create business opportunities by 2030, there is a greater need for this for businesses in a fragmented yet globalized market of digital technologies. A stronger commitment to the free flow of data, particularly for the development of AI, would be of benefit to everyone.
3. **Greater alignment with rights advocacy groups:** There are many issues pointed out by the rights advocacy groups, such as profiling, information asymmetry, re-identification of anonymized users, and social scoring, that are not reflected in the GDC. With the rise of AI, these are only some of the negative impacts that we have to potentially deal with, and the GDC could be better adapted to address them. The rights advocacy groups are vested in human rights interests without resorting to populism, electoral interests, professional interests, or financial incentives like the other stakeholders, which already orients them in principle with inter-governmental organizations like the UN, and major realignment within the GDC would be more befitting for both groups (McPherson, 2018).
4. **Resisting cyber warfare and empowering the public:** A repeated stress is done by both rights-based groups and professional organizations to empower individuals, while at least one proponent calls for a ban on using AI for warfare, much like the Treaty on the Prohibition of Nuclear Weapons from 2017. These can be simultaneously achieved, by actively pushing for

specific measures against the development and deployment of autonomous lethal weapons by public and private actors and redirecting the utilization of AI to healthcare, education, etc., i.e. the public sector.

5. Ethics by design and introduction of an ethical black box: By implementing ethics by design on a global scale, which can be heavily promoted by a compact such as the GDC, many obstacles in the path of global governance can be removed. Introducing a black box system mounted on top of AI systems, for example, would make it easier for professionals and regulators both to be aware of and circumvent any misuse of AI.

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