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Task Force 05

INCLUSIVE DIGITAL TRANSFORMATION

Enhancing Legal and Jurisdictional Interoperability for Artificial Intelligence: A Global South Perspective

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Abstract

This policy brief addresses the opportunities and concerns of legal and jurisdictional interoperability for artificial intelligence (AI), with a specific focus on the Global South. It first identifies the concept of "interoperability" while assessing its purpose and potential impact, emphasizing the significance of fostering innovation, equitable access, and redressing global inequalities within the AI landscape. Challenges such as regulatory misalignment, resource constraints, sovereignty questions and capacity gaps are identified, highlighting the necessity to accommodate diverse socio-economic contexts when attempting to harmonize international standards, while addressing human rights concerns. The brief proposes practical recommendations, including adaptive regulatory frameworks, capacity-building initiatives, technology transfer and localization, interdisciplinary collaboration, and international cooperation. These measures aim to foster an environment conducive to AI adoption that promotes inclusive development and advances the Sustainable Development Goals (SDGs) on a global scale.

Keywords: Artificial Intelligence, Interoperability, Global Majority, AI Governance, Regulatory Harmonization

Diagnosis of the Issue

The rapid evolution of artificial intelligence (AI) is transforming various sectors, promising significant advancements in innovation, governance, and societal progression globally. However, realizing AI's potential requires effective cross-border mechanisms to prevent and address its shortcomings and potential harms to human rights, while also supporting innovation. A collaborative and holistic approach to AI governance is thus needed (Fjield et al 2020), with technical and legal interoperability as its core components.

Interoperability[1] of AI refers to the ability of different AI systems and technologies to work together seamlessly, sharing data and functionalities across various platforms and applications. This fosters efficiency by enhancing collaboration, leading to faster innovation and scalability across companies and industries. Interoperability promotes flexibility, allowing development of tailored solutions to specific needs and encouraging experimentation and prototyping.

[1] Definitions of interoperability from the IEEE include: the degree to which two or more systems, products, or components can exchange information and use the information that has been exchanged, the capability to communicate, execute programs, and transfer data among various functional units in a manner that requires the user to have little or no knowledge of the unique characteristics of those units, and the capability of objects to collaborate, that is, the capability mutually to communicate information in order to exchange events, proposals, requests, results, commitments and flows. ISO, "IEC/IEEE International Standard-Systems and Software Engineering–Vocabulary," ISO/IEC/IEEE 24765: 2017 (E), 2017.

To allow for technical interoperability and its benefits, countries need to establish incentives. However, the current landscape of AI governance is marked by regulatory misalignment[2] as one of the primary hurdles in attaining interoperability: legal frameworks governing AI exhibit wide variances across countries and regions, which can stifle cross-border collaboration and innovation. This fragmentation engenders conflicting requirements and compliance burdens, particularly for companies operating across multiple jurisdictions.

Legal interoperability encompasses the harmonization of legal frameworks and jurisdictional governance mechanisms to facilitate the seamless operation of AI systems across borders. This involves ensuring that AI regulations, policies, and standards are aligned across different jurisdictions, thereby enabling international collaboration, data sharing, and technology transfer while safeguarding privacy, security, and human rights.[3]

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[2] As some have pointed out, the current reality of AI pushes countries into a "race to regulate," which can affect development and innovation while failing to define and address risks. Ethan Wham, "A Look Into the Global AI Regulatory Landscape", Disruptive Competition Project, 16 February 2024.

[3] The IGF Policy Network on Artificial Intelligence (PNAI) defined interoperability in AI governance as a framework that brings together three elements to support a common understanding, interpretation, and implementation of transborder governance of AI: (1) substantive tools, measures and mechanisms involved in guiding and developing AI, (2) multi-stakeholder interactions and interconnections, and (3) agreed ways to communicate and cooperate. IGF PNAI, "Strengthening multi-stakeholder approach to global AI governance, protecting the environment and human rights in the era of generative AI. A report by the Policy Network on Artificial Intelligence", 2023

Scholars have reported a trend towards legal interoperability in the reform or implementation of national data protection policies in the BRICS context (Belli and Doneda 2023) which could be the basis for enhanced digital cooperation (Belli 2023), and which suggests an opportunity in the larger context of AI governance.

The drive for legal interoperability prompts important questions regarding its necessity, its relevance for society beyond those benefiting directly from the AI economy, and its potential drawbacks. Civil society's concerns from existing legal standards do not arise from a lack of harmony, but from the need for effective human rights protection mechanisms. Moreover, though harmonized standards may appear advantageous, they could stifle regulatory diversity tailored to specific contexts and needs. Separately, harmonization across borders could benefit multinational corporations, but creates concerns around the infringement of diverse regulatory approaches and sovereignty. Regulatory diversity is not inherently harmful, so a balancing act is needed to attend the different purposes of harmonizing legislation.[4]

This represents a great opportunity for G20 leadership, as the bloc plays a pivotal role in shaping global policies that dictate technological innovation and development, and its diverse array of advanced economies and emerging markets makes it well-equipped to confront the challenges of AI governance from a truly global perspective.

The G20 can look into ongoing discussions. For instance, in its interim report, the UN Secretary-General's AI Advisory Body (AIAB) declared that AI governance "should be interoperable across jurisdictions and grounded in international norms, such as the

[4] For further comments on interoperability as related to other AIAB recommendations see: David Kaye, "Evaluating the UN AI Advisory Body Interim Report", *Tech Policy Press*, 14 February 2024.

Universal Declaration of Human Rights" (United Nations AI Advisory Body , 2023). Those two elements, a human rights basis and interoperability across jurisdictions, arise as key components of desirable AI governance frameworks.

Recent years have seen a growth in international collaboration on AI, especially on AI governance and ethics (Oxford Insights 2023), with frequent global and regional gatherings, joint statements, and harmonization initiatives. Examples include the Council of Europe's Committee on AI, the OECD's Working Party on Artificial Intelligence Governance, UNESCO's Recommendation (UNESCO 2021), and others, and Global South outcomes such as the Santiago Declaration of 2023.[5] The OECD has mapped AI risk management frameworks and analyzed them compared to its own Interoperability Framework (OECD 2023), identifying broad commonalities at the general level, with some differences in specific terminology, risk management steps, target audience, and scope (OECD 2023). "Generative" AI has given new momentum to such discussions (World Economic Forum 2024).

Enhancing interoperability in AI governance involves establishing common principles, standards, and risk frameworks, alongside initiatives like working groups and task forces.[6] For them to succeed, the G20 can unite these efforts and aid developing nations

[5] "Declaración de Santiago para promover una inteligencia artificial ética en América Latina y el Caribe", https://minciencia.gob.cl/uploads/filer_public/40/2a/402a35a0-1222-4dab-b090-5c81bbf34237/declaracion_de_santiago.pdf

[6] There have been inroads towards bilateral compatibility between national AI governance frameworks. In October 2023, the US and Singapore intensified their cooperation on AI governance, aligning Singapore's AI Verify framework with the US NIST's AI Risk Management Framework through a joint mapping exercise ("crosswalk"). See: MCI

in education and infrastructure. A coordinated global approach involving government, academia, industry, and civil society is crucial to ensure equitable participation in the AI-driven economy and protect fundamental rights. The recommendations below aim to contribute to that goal.

IMDA & US NIST, "Joint mapping exercise between Singapore IMDA and the US NIST", 13 October 2023, https://www.mci.gov.sg/files/Press%20Releases%202023/annex%20a.pdf

Recommendations

1. Taking a leadership role in the establishment of a comprehensive global AI governance framework

The G20's leadership in establishing a comprehensive global AI governance framework is paramount and can quickly benefit from efforts exemplified above and mapping exercises. It should also incorporate not only discussions of algorithm governance but also of data governance. The framework should be rooted in human rights and embody principles of transparency, accountability, and inclusivity, ensuring that the voices and perspectives of all stakeholders are heard and valued. The G20 can convene a multi-stakeholder multi-year task force composed of representatives from governments, civil society, academia, technical community, and industry to develop a roadmap resulting in an interoperability framework.

2. Support adaptive regulatory frameworks

The G20 should advocate for regulatory approaches that are flexible and adaptable, and are holistic in regard to all the components of AI governance, allowing for rapid testing and adjustments in response to chilling effects, emerging risks and new challenges. By supporting adaptive regulatory frameworks, the G20 can create an enabling environment for innovation while ensuring that AI technologies are developed and deployed in human rights-respecting, responsible and ethical manner, thereby advancing the SDGs and meeting the needs of the Global Majority.

3. Fostering legal and policy interoperability standards among G20 members

The G20 should foster global standards for AI governance, encompassing key areas for data and algorithm governance, such as data protection, privacy, liability, transparency, and accountability, providing a common framework that is centered in the protection of rights. These standards should based on international human rights principles and ethical considerations, promoting fairness, equity, and social responsibility. Once developed, the G20 should encourage widespread adoption among member countries and provide support and assistance for implementation. G20 can support mutual recognition agreements (MRAs) between members to recognize and accept each other's AI regulations and policies as equivalent or compatible, streamlining cross-border AI activities and reducing regulatory barriers.

4. Acknowledge human rights standards and democratic AI governance at the national level

In the context of global AI governance, it's imperative to establish mechanisms that align technology with international human rights standards. Ensuring adherence to international human rights law, including frameworks such as the Guiding Principles on Business and Human Rights, while reinforcing accountability mechanisms for businesses is paramount. Likewise, international cooperation should facilitate knowledge exchange while respecting national democratic decision-making processes. This approach requires careful consideration to avoid undermining national regulations and promoting weak standards. Additionally, existing legislation, including access to information and data protection norms, should be recognized in the context of AI and legal interoperability.

5. Fostering cooperation, capacity-building and technical assistance

In supporting countries' implementation, the G20 should launch capacity-building and technical assistance programs tailored to the needs of developing countries, offering peer-learning platforms, workshops, conferences, and online courses for stakeholders worldwide. The G20 can also support testing platforms like sandboxes, policy prototyping spaces, and innovation hubs. These programs should focus on strengthening legal and regulatory institutions, enhancing the technical expertise of government officials, and promoting awareness and understanding of AI-related issues among policymakers and stakeholders.

The G20 can promote South-South cooperation in AI governance by facilitating exchange and cooperation among regions with varying AI development levels. Establishing knowledge-sharing platforms and providing technical assistance can help regions adopt best practices and facilitate technology transfer. This approach aims to bridge gaps and develop interoperable AI governance frameworks to meet global needs, fostering economic development and social inclusion.

A holistic approach is necessary to address regional disparities, considering unique challenges and opportunities. These frameworks must be responsive to diverse community needs, ensuring equitable access to AI benefits. Investing in infrastructure and capacity building in underserved regions can contribute to Sustainable Development Goals (SDGs) and promote a more equitable future. Partnerships with development agencies, international organizations, and philanthropic foundations can provide resources and support to scale up these initiatives.

6. Inclusive policy-making processes and regional multi-stakeholder initiatives

The G20 should champion inclusive policy-making processes that engage stakeholders from diverse backgrounds at national and international levels. This involves creating platforms for meaningful participation and ensuring that voices from various communities—indigenous peoples, women and girls, youth, LGBTQI+ population, the elderly, and others—are heard in AI policy discussions. The G20 should support initiatives that build civil society's capacity to advocate for inclusive AI governance policies and promote incorporating human rights principles and impact assessments into AI governance frameworks.

The G20 should support regional multi-stakeholder initiatives to strengthen cooperation on AI governance by providing resources and expertise. These initiatives can identify common challenges and develop shared solutions focused on human rights and local needs, serving as incubators for innovative AI governance approaches. Engaging a wide range of stakeholders, including marginalized communities, ensures that AI governance frameworks are responsive to society's diverse needs and priorities.

Scenario of Outcomes

Adopting these recommendations by the G20 could mark a pivotal moment in global AI governance, presenting both opportunities and challenges. Under G20 stewardship, establishing a common basis for a comprehensive global AI governance framework could take center stage, offering a harmonized approach to addressing the multifaceted challenges posed by AI technologies. By prioritizing legal and policy interoperability, transparency, and inclusivity, such a framework could foster international collaboration and innovation. However, achieving consensus among diverse stakeholders may prove challenging, particularly in reconciling competing interests and values across different jurisdictions.

Efforts to foster legal and policy interoperability standards among G20 members promise to streamline cross-border AI activities and reduce regulatory barriers, creating a more conducive environment for innovation and investment in AI technologies. This could drive economic growth and prosperity. Nevertheless, navigating the complexities of national regulatory frameworks, policy priorities, and political contingencies, and achieving alignment on common standards may require sustained engagement and diplomacy.

Capacity-building and technical assistance programs tailored to the needs of developing countries are vital for ensuring that AI technologies benefit everyone. By empowering governments, civil society organizations, and other stakeholders with the necessary knowledge and expertise to engage effectively in AI governance processes, these initiatives can help amplify the voices of the global majority and promote greater equity and inclusivity in decision-making. Sustaining these programs over the long term

will necessitate continued commitment and investment from both the G20 and its member states.

Promoting South-South cooperation in AI governance can assist growth and enhance solidarity. The G20 can support efforts to address common challenges and harness the collective expertise of the Global Majority by facilitating knowledge exchange, technology transfer, and collaboration. Providing financial and technical support to initiatives that promote South-South cooperation can help bridge the digital divide and promote more equitable access to AI technologies.

Emphasizing inclusive policy-making processes is crucial for ensuring that AI governance frameworks reflect the diverse perspectives and interests of all stakeholders. By creating platforms for meaningful participation and consultation, the G20 can ensure that the voices of underrepresented communities, including indigenous peoples, women and girls, youth, LGBTQI+ individuals, and persons with disabilities, are heard and valued. Integrating human rights principles and social impact assessments into AI governance frameworks can help safeguard against potential harms and ensure that AI technologies are developed and deployed in a manner that upholds fundamental rights and values.

Supporting adaptive regulatory frameworks and fostering regional multi-stakeholder initiatives can drive innovation and address regional disparities in AI governance maturity levels. By promoting regulatory convergence and facilitating technology transfer, the G20 can create an enabling environment for the responsible and sustainable deployment of AI technologies. Investing in infrastructure and capacity-building efforts in Global Majority regions can promote economic development and social inclusion, advancing the broader goals of sustainable development and shared prosperity.

Failing to achieve consensus on these measures could stymie progress toward a comprehensive global AI governance framework, resulting in a fragmented regulatory landscape with inconsistent standards and limited international cooperation. This could hamper the development and deployment of AI technologies on a global scale, exacerbate existing inequalities, and hinder efforts to address pressing societal challenges. Therefore, concerted and collaborative action by the G20 and its members is crucial in advancing the responsible and sustainable governance of AI.

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