

Comments on the first version of a draft text of a Recommendation on the Ethics of Artificial Intelligence

**Submitted by Open Net
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Thank you for the opportunity to provide our comments on the first version of a draft text of the Recommendation on the Ethics of Artificial Intelligence.

Open Net is a Korean civil society organization established in 2012 to advocate for digital rights and Internet freedom with the goal of making the Internet a platform for openness, freedom and sharing. Korea, with the highest broadband penetration rate in the world, has always threatened to regulate the Internet in the most comprehensive manner as well. Open Net is aspiring to become not only a legal and legislative advocacy organization that fights the regulations but also a think tank that inquires into the reasons for these regulations and “thinks aloud” with the Korean public and the world on what has caused and what will prevent the Internet from becoming a “closed” circuit for some group of people, instead of “open network.” Open Net was granted the “Special Consultative Status” of the UN Economic and Social Council (ECOSOC) on 6 June 2019.

I. Preamble

International Human Rights Framework on Privacy should be noted in the Preamble. For example:

- UN General Assembly Resolution on the Rights to Privacy in the Digital Age, A/RES/68/167, December 2013
- U.N. Human Rights Council Resolution on the Right to Privacy in the Digital Age, A/HRC/34/L.7, 23 March 2017
 - the United Nations Human Rights Council noted with concern that ‘automatic processing of personal data for individual profiling may lead to discrimination or decisions that otherwise have the potential to affect the enjoyment of human rights, including economic, social and cultural rights.’

Also, consider noting international and regional data protection frameworks.

- As they apply to research, development, and application of AI to the extent that personal data (as defined in the frameworks) is involved. Thus, even without explicit reference to AI, data protection frameworks already regulate how AI systems can process personal data. Regulatory frameworks around the world are diverse but are all designed to protect individuals’ personal data and reflect the sense that such protections are an important aspect of the right to privacy.
- For example, the EU General Data Protection Regulation (GDPR) requires a legal basis for processing data - and in addition to the principles of fairness, accountability and transparency includes the core principles of purpose limitation and data minimization which have implications for the development, use and application of AI systems.

II. Articles

Article 98-101 under Policy Action 11: Ensuring Responsibility, Accountability and Privacy

- Privacy deserves a separate policy action. Please consider separating Article 98-101 from Policy Action 11 and adding a new Policy Action on privacy.

Article 99 “Right to be forgotten”

- The phrase “and ‘the right to be forgotten’” should be deleted.
- The right to be forgotten does not contribute to the protection of privacy because it concerns publicly available information. Privacy can be protected by applying the pre-existing principles of privacy.
- It’s a very controversial and outdated concept. It can be abused and has been abused to restrict the freedom of expression and the right to know.
- The right to be forgotten will restrict the reservoir of truth that people need to draw from in countering disinformation.
- A majority of countries are at a developmental stage of democracy, and the right to be forgotten can be abused to protect impunity for the injustices in the colonial and dictatorship periods.