SLAUGHTER AND MAY / BSR

AI REGULATION, GOVERNANCE, AND THE ROLE OF HUMAN RIGHTS

Slaughter and May
BSR

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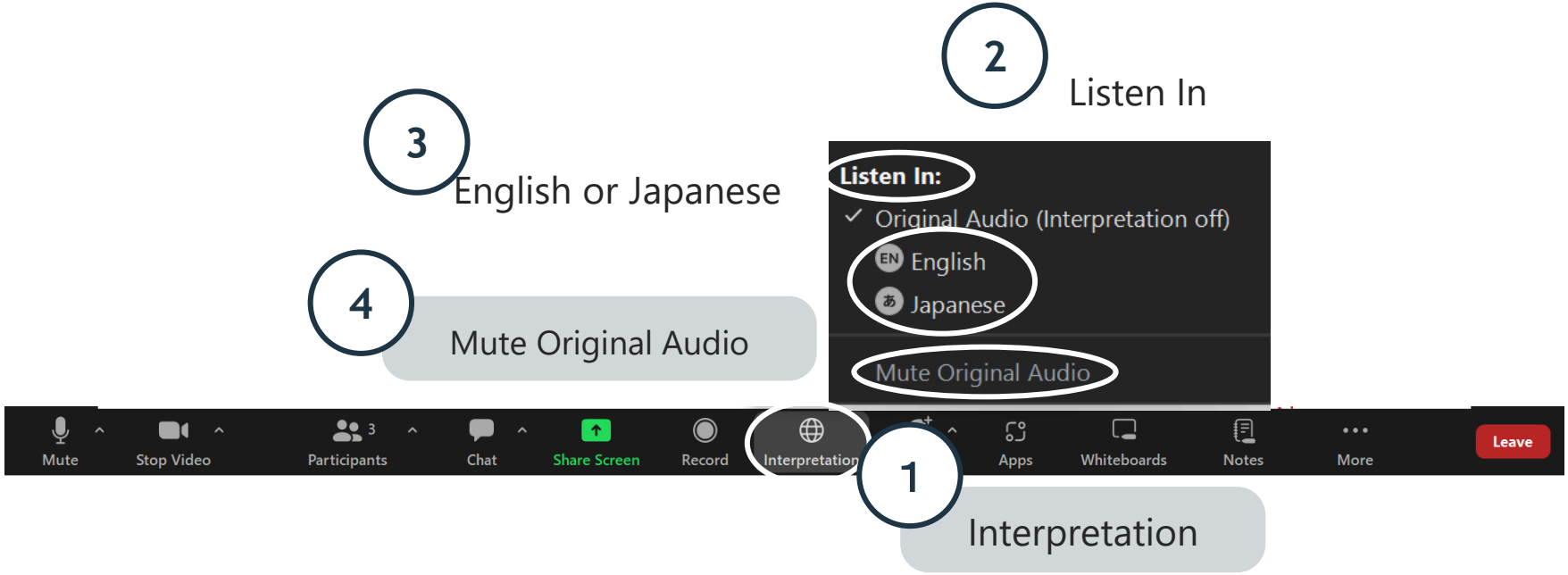

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Agenda

1. Audience poll
2. What makes AI different
3. Overview of existing / emerging AI regulations globally
4. Human rights-related components of the EU AI Act
5. Practical approaches to AI governance
6. What a human rights-based approach to AI governance looks like in practice
7. Audience Q&A

POLL

WHAT MAKES AI DIFFERENT?

What makes AI different?

The data (volume, velocity, variety)

It learns, changes and generates content

But it is not always clear how (black box)

It is evolving (tech + law)

OVERVIEW OF EXISTING AND EMERGING AI REGULATIONS GLOBALLY

AI Regulation: select jurisdictions

US: AI Action Plan focused on light touch federal regulation to support AI innovation. Failed attempts to ban state regulation as states continue to propose and enact legislation

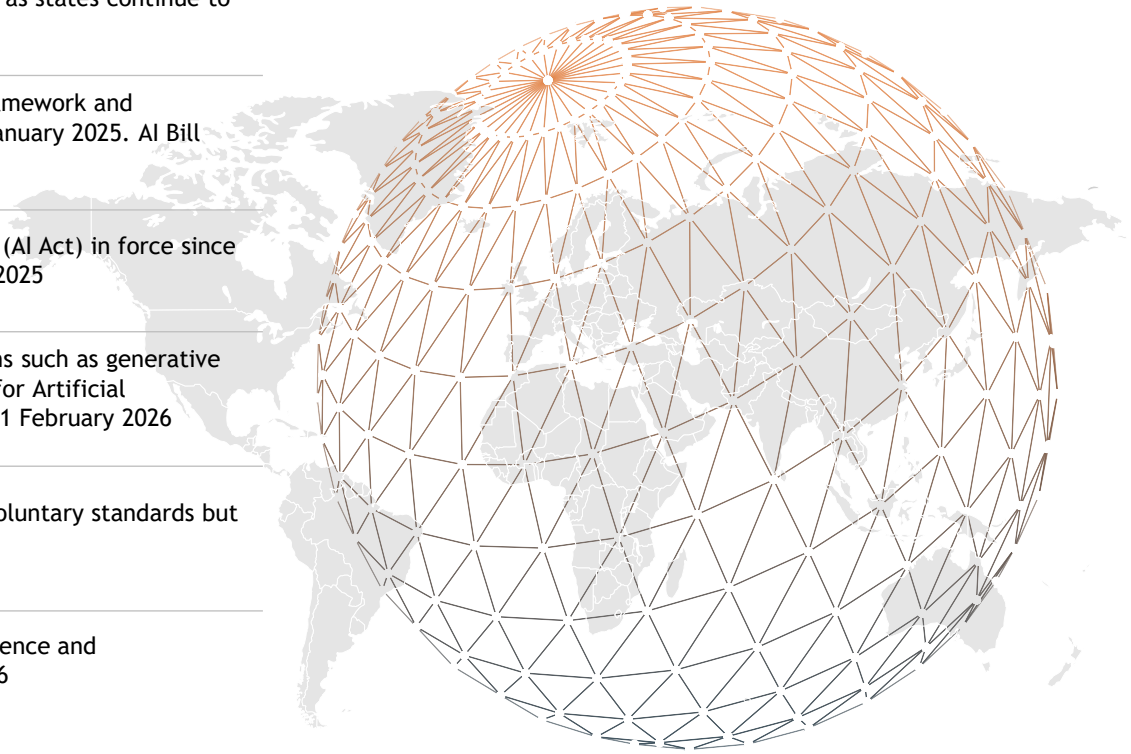
UK: Sector-specific approach underpinned by AI framework and principles. AI Opportunities Action Plan launched January 2025. AI Bill expected in 2026

EU: Risk based, AI specific cross-cutting regulation (AI Act) in force since August 2024. GPAI Code of Practice published July 2025

PRC: National regulations on specific AI applications such as generative AI and facial recognition technologies. Framework for Artificial Intelligence Computing Platforms comes into force 1 February 2026

Japan: Historically non-regulatory approach with voluntary standards but AI Promotion Act enacted May 2025

Korea: Act on the Development of Artificial Intelligence and Establishment of Trust will take effect January 2026

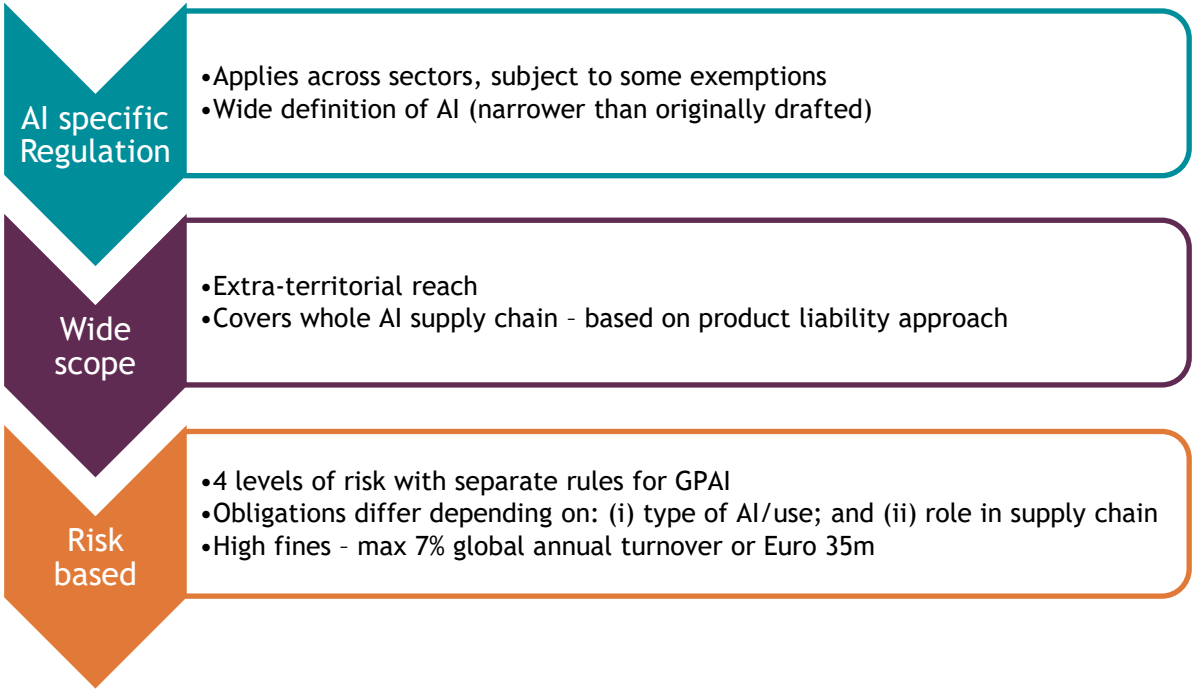


AI Regulation: OECD AI Principles

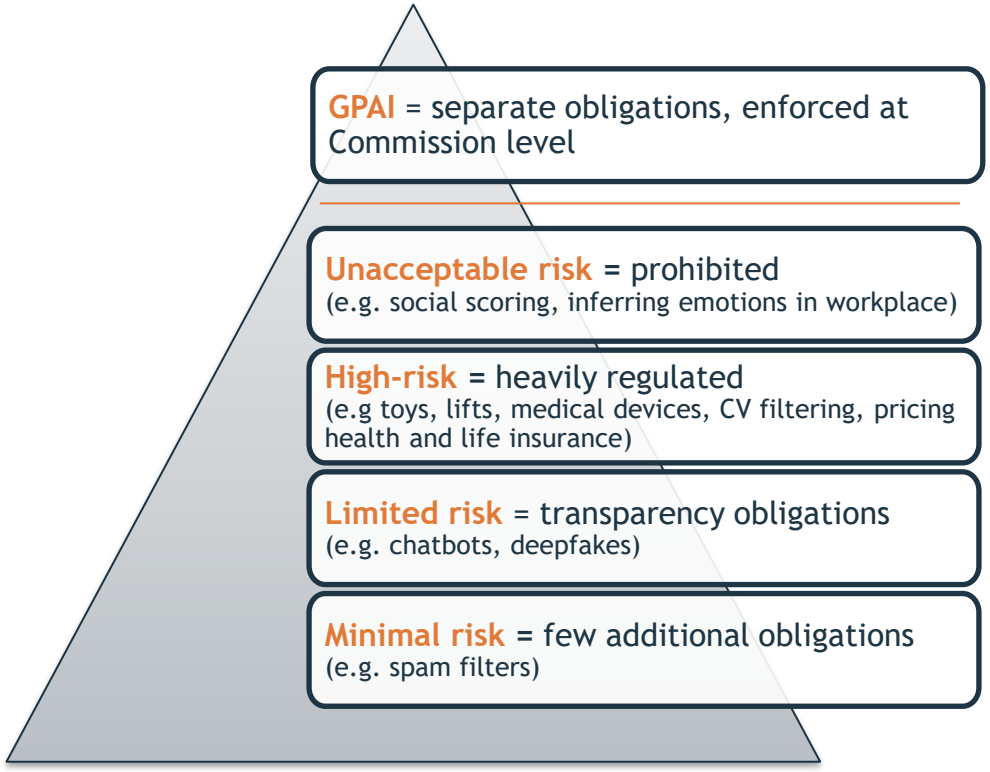
Regulating AI in the UK

EU AI Act (Regulation)

Wide extra-territorial reach – not just relevant to EU companies



EU AI Act: risk and role

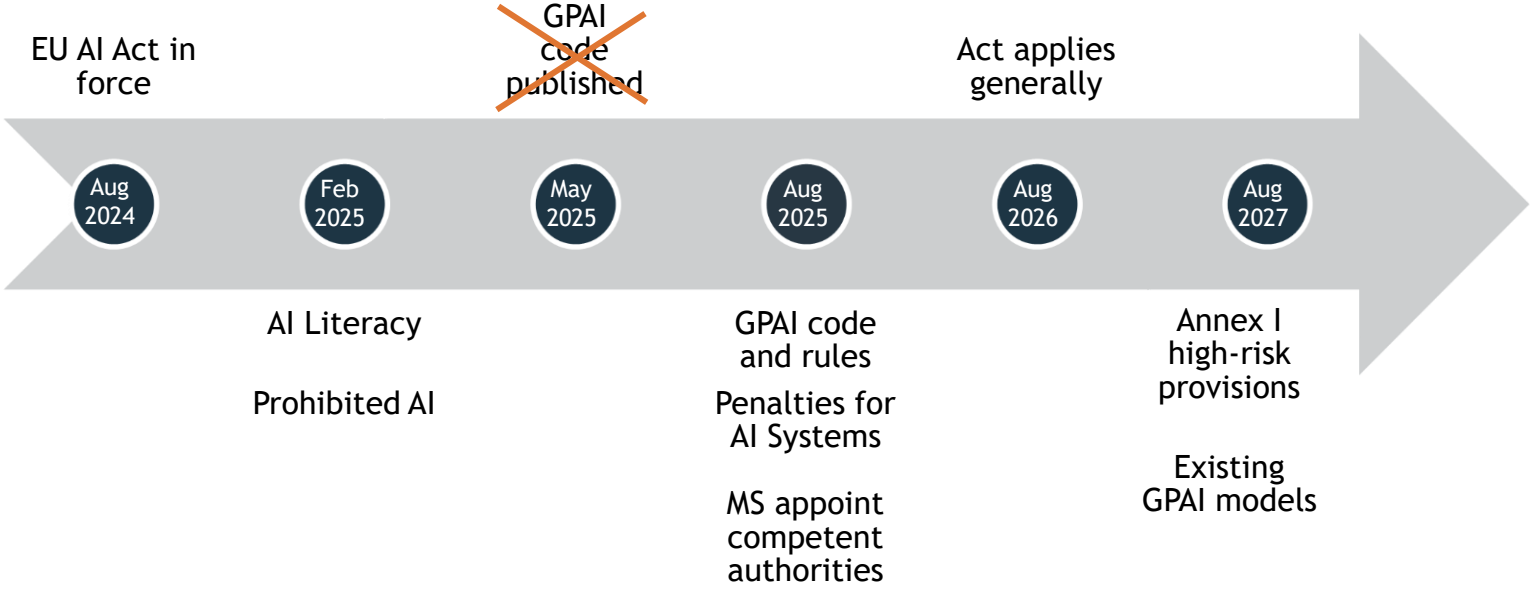


Are you in scope and what is your role?

- Provider (wherever based)
- EU Deployer
- Non-EU deployer or provider – outputs used in EU
- Distributor, importer etc.

Key Dates

Act in force – staged transition



HUMAN RIGHTS-RELATED COMPONENTS OF THE EU AI ACT

Human Rights-related Components

High-Risk AI Systems

- **All:** assessing, mitigating and monitoring potential risks to fundamental rights
- **Some:** mandatory fundamental rights impact assessments prior to deployment systems

General Purpose AI Models

- For **General Purpose AI models with systemic risks**, systemic risk assessments including consideration of human rights risks

High-Risk AI Systems

The AI Act classifies a certain set of AI systems as “high risk”.

Category	Example
1. Biometrics	AI systems used for biometric categorisation (using inferred sensitive characteristics) or for emotion recognition.
2. Critical infrastructure	AI systems used as safety components in the management and operation of critical digital infrastructure, road traffic and the supply of water, gas, heating and electricity.
3. Education	AI systems used to determine access or admission to educational and vocational training institutions.
4. Employment	AI systems used for recruitment or selection, including targeted job advertisement, to analyse and filter job applications, and to evaluate candidates.
5. Essential private and public services	AI systems used to evaluate the eligibility of people for essential public assistance benefits and services, to evaluate people’s creditworthiness, or to classify emergency calls.
6. Law enforcement	AI systems used to assess the risk of person offending or becoming a victim of crime, as polygraphs or similar, to evaluate the reliability of evidence, or to profile people.
7. Migration, asylum and border control	AI systems used to assess someone as a security, migration or health risk, to determine eligibility of a person for the purposes of asylum or visas.
8. Administration of justice and elections	AI systems used by courts to research and interpret facts and the law or to apply the law, and AI systems used to influence the outcome of an election or referendum.

Requirements for Developers of High-Risk AI Systems

Requirements for Deployers and Providers of High-Risk AI Systems

Monitoring

Reporting

Requirements for Deployers of Some High-Risk AI Systems

- A “fundamental rights impact assessments” (FRIA) is required whenever the deployer is:
  - A body governed by public law,
  - A private operator providing public services, or
  - A public or private operator deploying a system to be used to evaluate the creditworthiness of natural persons or establish their credit score, or to be used for risk assessment and pricing in relation to people in the case of life and health insurance.
- The FRIA must be undertaken prior to deployment and must include:
  - a description of the deployer’s processes in which the high-risk AI system will be used;
  - a description of the period of time and frequency in which each high-risk AI system is intended to be used
  - the categories of persons and groups likely to be affected by its use in the specific context;
  - the specific risks of harm likely to impact the categories of persons or group of persons identified
  - a description of the implementation of human oversight measures, according to the instructions of use;
  - the measures to be taken in case of the materialization of these risks, including internal governance and complaint mechanisms.

Requirements for Providers of General Purpose AI Models

- A GPAI model will be classified as having a "systemic risk" if it has "high impact capabilities" (i.e. when the cumulative amount of compute used for its training measured in floating point operations (FLOPs) is greater than 1025) or has been so designated based on a decision of the European Commission.
- A "systemic risk" means a risk that is specific to the high-impact capabilities of general-purpose AI models, having a significant impact on the EU market due to their reach, or due to actual or reasonably foreseeable negative effects on … fundamental rights …. that can be propagated at scale across the value chain".

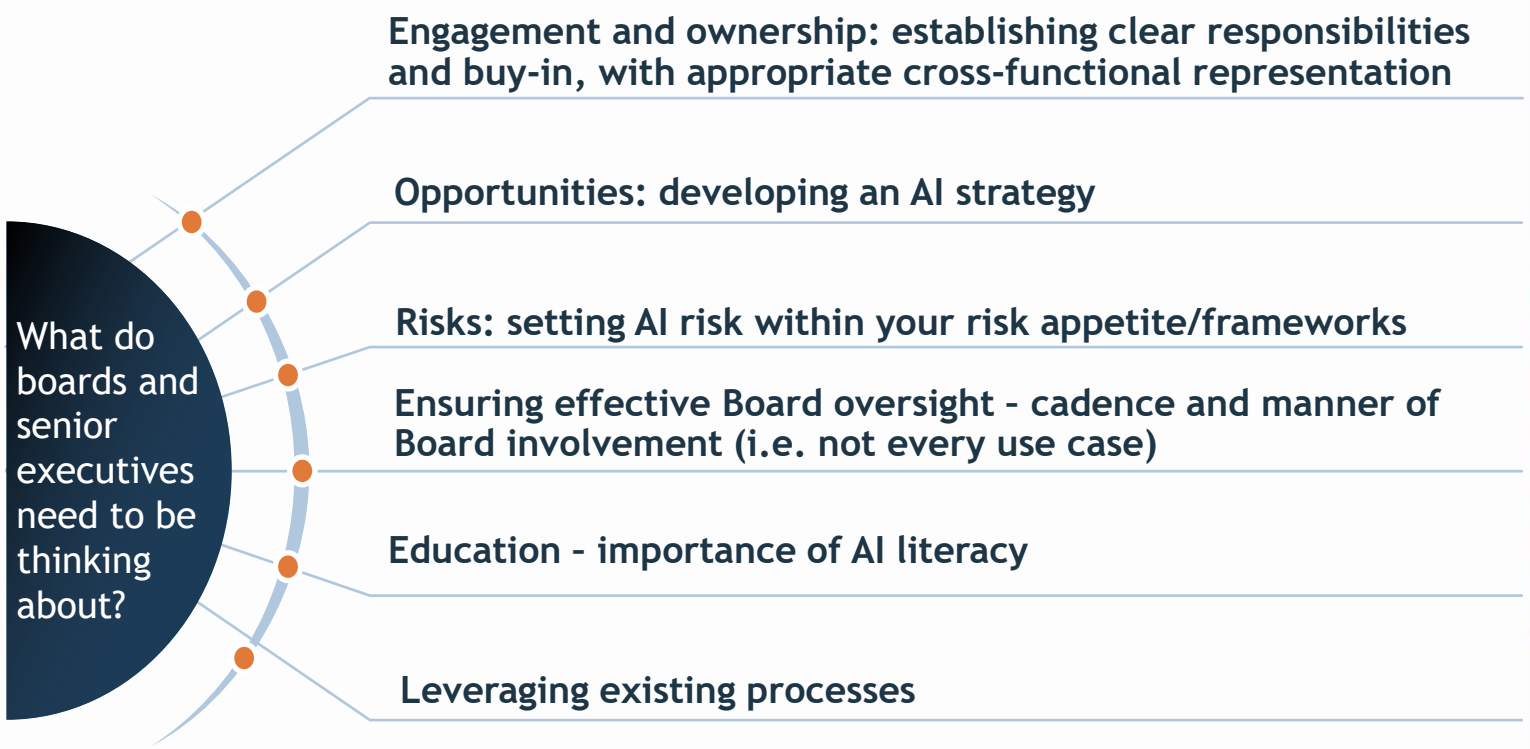
Model Evaluations / Adversarial Testing

Assessing and Mitigating Systemic Risks

Document and Report to Authorities

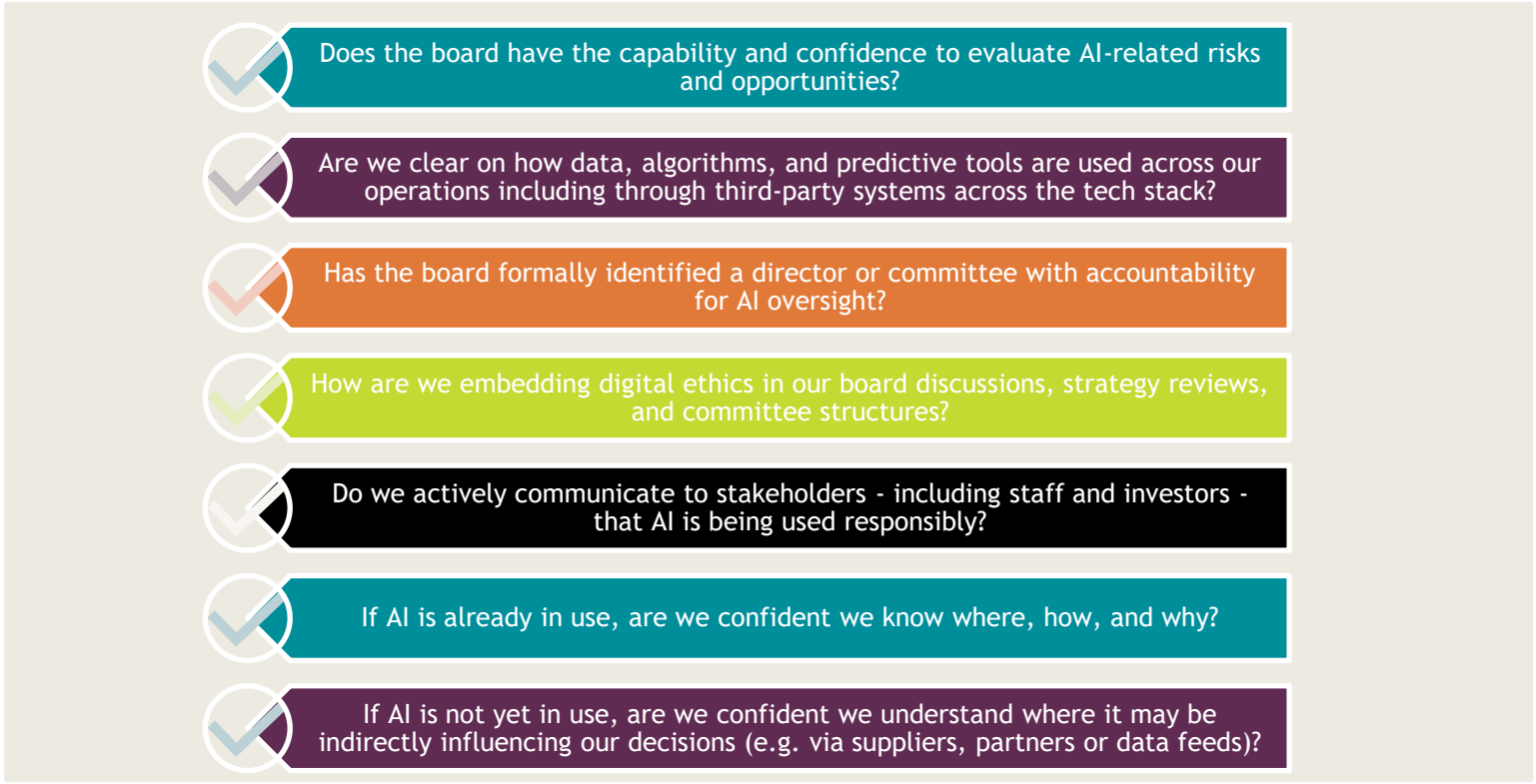
PRACTICAL APPROACHES TO AI GOVERNANCE

AI Governance: Issues to consider



AI Governance: Board level

Institute of directors' checklist for boards



AI Governance: Examples

Sage plc

"Our **AI and Data Ethics policy and principles** were introduced in the business via the **ethics governance framework.** The objective is to ensure that ethics are routinely considered as part of data and AI development. The **management level AI and Data Ethics Council** was integrated with our Sustainability and Society Committee, recognising the importance and interoperability between sustainability and AI. Our new **Sustainability, AI, and Data Ethics Committee** provides strategic direction and ensures that AI and data ethics targets, objectives, and supporting programmes remain relevant, ambitious, and on track for delivery."

SAP SE

"Complementing AI security and AI compliance, AI Ethics is one pillar of responsible AI at SAP. At the heart of SAP's AI Ethics efforts is a multi-stakeholder approach supported by a strong governance framework, coordinated by our **AI Ethics Office** and based on SAP's **Global AI Ethics Policy** as well as development standards for responsible AI innovation."

Schroders plc

"To manage potential risks, we have established **a set of principles and guidelines** that govern the use of AI within Schroders. They support our goal to use AI in a way that aligns with our corporate values and complies with relevant laws and regulations including data confidentiality obligations. A **Steering Committee** has been set up to provide strategic direction, supported by a **Responsible AI Working Group** for oversight and guidance, and **an AI Use Case Working Group** which provides a central review of our use of AI throughout the firm. A core principle of our approach to AI is that all outputs are reviewed for accuracy and reliability prior to being used."

United Health Group Inc

"We are accountable for the AI solutions we implement. We will establish and execute **processes, governance and monitoring** of our AI solutions that will enable swift remediation of emerging issues or unforeseen adverse outcomes. AI solutions will not replace clinical judgement… Our **AI review board**, the governance body for the **RAI [Responsible AI] Program**, is comprised of senior leaders with cross-functional representation — including clinicians and clinical ethicists, business and operations leaders with analytics, technical, legal, compliance, regulatory and privacy expertise."

AI Committees

The building blocks of best practice

WHAT A HUMAN RIGHTS-BASED APPROACH TO AI GOVERNANCE LOOKS LIKE IN PRACTICE

A human rights-based approach means embedding respect for human rights into the development and deployment of AI

Why a human rights-based approach?

1

International standards for governments and companies

- International human rights instruments
- The UN Guiding Principles on Business and Human Rights
- The OECD Guidelines for Multinational Enterprises on Responsible Business conduct

2

Established framework and methodology

- The UNGPs provide an approach to identifying, assessing, prioritizing, and addressing risks to people

3

Human rights integration into AI regulation

- EU Digital Service Act
- EU AI Act
- Corporate Sustainability Due Diligence Directive
- Corporate Sustainability Reporting Directive

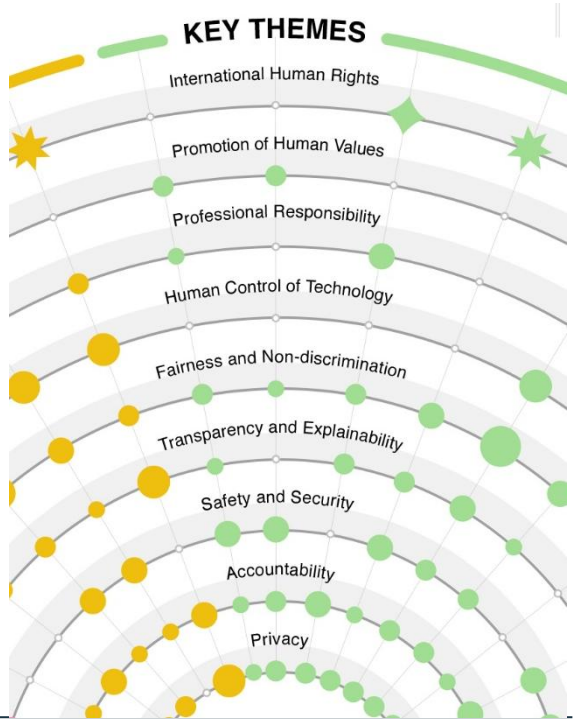
Components of Responsible AI Governance

Components of Responsible AI Governance

Human Rights-Based Approach to AI Principles

AI principles are a set of values that guide an organization's AI development / deployment

- AI principles provide a **foundation for embedding responsible AI across an organization** (e.g. provide remit to responsible AI teams)
- Including human rights in AI principles provides a **foundation for a human rights-based approach** to responsible AI
- Including human rights provides **clarity and consistency** to nebulous principles



Source: Principled Artificial Intelligence: A Map of Ethical and Rights-Based Approaches to Principles for AI, https://cyber.harvard.edu/publication/2020/principled-ai

Human Rights-Based Approach to AI Principles

Example AI principles that include human rights

Google AI Principles

2 Responsible development and deployment

Because we understand that AI, as a still-emerging transformative technology, poses evolving complexities and risks, we pursue AI responsibly throughout the AI development and deployment lifecycle, from design to testing to deployment to iteration, learning as AI advances and uses evolve. This means:

- Implementing appropriate human oversight, due diligence, and feedback mechanisms to align with user goals, social responsibility and widely accepted principles of international law and human rights.

Meet Salesforce's Trusted AI Principles

Responsible

We strive to safeguard human rights, to protect the data we are trusted with, observe scientific standards and enforce policies against abuse. We expect our customers to use our AI responsibly, and in compliance with their agreements with us, including our Acceptable Use Policy.

Components of Responsible AI Governance

Human Rights-Based Approach to Risk Assessments

What are human rights assessments (HRA)?

HRAs identify and assess actual and potential human rights impacts using a methodology based on guidance in the UNGPs

Core Elements of a Human Rights Assessment

- Identifying impacts human rights impacts using all internationally recognized human rights as a reference point

List of Internationally Recognized Human Rights

- Right to equality and non-discrimination
- Right to life, liberty, and personal security
- Freedom from slavery
- Freedom from torture and degrading treatment
- Due process and fair trial rights
- Freedom from arbitrary arrest and exile
- Right to privacy
- Freedom of movement
- Right to asylum
- Right to a nationality and the freedom to change nationality
- Right to marriage and family
- Right to own property
- Freedom of thought
- Freedom of religion and belief
- Right to remedy
- Freedom of opinion, expression, and access to information
- Right of peaceful assembly and association
- Right to political participation
- Right to social security
- Labor Rights (e.g. safe working conditions, adequate remuneration, right to join unions)
- Right to rest and leisure
- Right to adequate living standards
- Right to health
- Right to education
- Right to participate in the cultural life of the community
- Right to benefit from scientific advancement
- Right to internet access
- Right to a healthy environment
- Disability rights (e.g. right to accessibility)
- Child Rights

Core Elements of a Human Rights Assessment

- Identifying impacts human rights impacts using all internationally recognized human rights as a reference point
- Assessing and prioritizing impacts based on severity to people
- Emphasis on vulnerable and marginalized groups; stakeholder engagement
- Considering interconnectivity between rights
- Accounting for context

Why HRAs for AI?

Benefits of HRAs	Limitations of HRAs
• Focus on impacts to people • Comprehensiveness of risk / impact identification • An approach to prioritizing impacts • An established, internationally accepted methodology • Adaptability to a variety of contexts • Assistance with regulatory compliance	• May not cover all relevant impacts (e.g., long-term societal impacts) • Are more qualitative than quantitative • Are not technical assessments

Integrating human rights into other AI impact assessments

Assessment Type	Description	How to Integrate Human Rights
Algorithmic Impact Assessments / Audits	Systematic examination of the algorithms and data used in an AI system to assess their fairness, accountability, transparency, and ethical implications.	Utilize the list of internationally recognized human rights (see the appendix) as a foundation for brainstorming to help identify impacts or create a risk/harm taxonomy. Consider severity when assessing impacts.
Model / Application Evaluations	Empirical assessments of an AI system's performance or impact on people and society.	Utilize human rights as a foundation for identifying impacts/harms to evaluate.
Fairness Testing	Assessment of whether an AI system exhibits biases or discrimination against certain groups of individuals based on protected characteristics such as race, gender, ethnicity, or age. Often includes model/application evaluation.	Utilize the vulnerable groups framework to help identify groups for the basis of testing. Consider how additional human rights may be impacted as a result of identified fairness issues.
Data Quality Reviews	Examination of the data used to train AI models to look for issues such as incorrect labels, representativeness, accuracy, and bias, that may lead to inaccurate or problematic outputs.	Consider how different data quality issues could lead to human rights impacts, and consider the severity of those impacts to help prioritize corrective actions / mitigation of related impact.
Red Teaming	A range of assessment methods for AI systems that involves using adversarial techniques and approaches to test the security, robustness, and resilience of AI systems.	Identify pathways to human rights impacts as part of the red-teaming process. Include red teamers with a background suited to identifying risks to people, as well as people representative of, or familiar with, risks and needs of vulnerable groups.

How to integrate a human rights-based approach to AI?

BSR's Responsible AI Practitioner Guides

- ★ Overview of Responsible AI Practitioner Guides
- 1 Fundamentals of a Human Rights-Based Approach
- 2 Governance and Management
- 3 Impact Assessment
- 4 Risk Mitigation
- 5 Conducting Stakeholder Engagement
- 6 Policies and Enforcement
- 7 Transparency & Disclosure Practices
- 8 Remedy for Generative AI-Related Harms

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Q&A

PowerPoint Presentation 591200310

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