



Center for AI and  
Digital Policy



**MICHAEL DUKAKIS**  
INSTITUTE FOR LEADERSHIP AND INNOVATION

March 25, 2021

Chairman James R. Langevin  
Ranking Member Elise Stefanik  
House Armed Services Committee  
Subcommittee on Cyber, Innovative Technologies, and Information Systems

Chairman Stephen Lynch  
Representative Glenn Grothman  
House Committee on Oversight,  
Subcommittee on National Security

Dear Chairmen and Ranking Members of the House Armed Services Subcommittees,

We write to you, on behalf of the Center for AI and Digital Policy (CAIDP), regarding the March 12, 2021 hearing on the final report of National Security Commission on AI.<sup>1</sup> We appreciate your work on this critical issue and we agree with many of the points made by the Members and the witnesses at the hearing. At the same time, we believe there are additional steps that the United States must take to maintain AI leadership and to ensure the development of technologies that are trustworthy and human-centric.

The Center for AI and Digital Policy was established by the Michael Dukakis Institute to advise national governments on AI and Digital Policy. We have recently published *Artificial Intelligence and Democratic Values*,<sup>2</sup> a comprehensive report on the AI policies and practices in 30 countries, and the Social Contract for the AI Age.<sup>3</sup>

Regarding the United States, we noted favorably that the US has supported both the OECD AI Principles and the G20 AI Guidelines, two key global frameworks for AI.<sup>4</sup> We also reported on Executive Orders on AI from both the Trump and Obama administrations that support democratic values, as well as a proposed rulemaking by the OMB that will provide an opportunity for public comment on federal AI regulations.<sup>5</sup>

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<sup>1</sup> House Armed Services Committee, Subcommittee on Cyber, Innovative Technologies, and Information Systems and the House Committee on Oversight & Reform's Subcommittee on National Security Joint Hearing: "Final Recommendations of the National Security Commission on Artificial Intelligence" (Mar. 12, 2021), <https://armedservices.house.gov/hearings?ID=32A667CD-578C-4F65-9F4F-1E26EE8F389A>

<sup>2</sup> Center for AI and Digital Policy, *Artificial Intelligence and Democratic Values* (2020) (hereinafter "CAIDP Report"), <https://caidp.dukakis.org/aisci-2020/>

<sup>3</sup> Boston Global Forum, *Social Contract for the Age of AI* (2020), <https://bostonglobalforum.org/highlights/social-contract-for-the-ai-age/>

<sup>4</sup> CAIDP Report 289-297 (2020) (Country Reports – United States), <https://caidp.dukakis.org/app/download/8292103463/AISCI-2020a-UnitedStates.pdf>

<sup>5</sup> *Id.*

And we recently noted legislation in the Congress to establish a national AI strategy for AI that addresses concerns about bias and fairness.<sup>6</sup>

However, in the CAIDP Report, we also expressed concern about the opaque policy process in the United States.<sup>7</sup> We are aware that the National Security Commission on AI had opposed both public participation in meetings and access to agency records until a lawsuit forced the Commission to become more transparent and accountable. We also noted the failure of the Federal Trade Commission to act on several consumer complaints regarding the use of discriminatory AI techniques.<sup>8</sup> And we observed that the United States, alone among democratic nations, lacks a comprehensive federal privacy law and an agency with the specific competence for data protection and the related challenges of AI decision-making.<sup>9</sup> In our rankings, the CAIDP Report placed the United States in Tier III, approximately in the middle of the countries we evaluated across 12 metrics.<sup>10</sup>

Regarding the NSCAI Report, we first acknowledge the substantial work of the Commission over a two-year period on this complex and important issue. The Report reflects the extensive work of the Commission on several AI topics of great importance to the United States.<sup>11</sup> We also appreciate the frequent references in the draft Report to “democratic values” as the United States seeks to shape a national AI strategy.<sup>12</sup> We specifically endorse the call to promote “human rights and democracy through joint efforts to counter censorship, malign information operations, human trafficking, and illiberal [sic] uses of surveillance technologies.”<sup>13</sup>

We also support the proposal of the Commission to bring together democratic nations in support of the International Digital Democracy Initiative (IDDI).<sup>14</sup> We believe it is vitally important for democratic governments to collaborate on AI policies and practices. And we appreciate the recognition that data minimization techniques are fully compatible with AI innovation,<sup>15</sup> a point that has also been made by Professor Judea Pearl, one of the honorees of the Michael Dukakis Institute.<sup>16</sup>

Still, many of the problems we identified in the CAIDP Report regarding the earlier work of the NSCAI remained. Although we appreciate the brief opportunity to comment on the draft of the final report, there was too little input from the general public

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *CAIDP Report* 299-303 (2020) (Country Evaluations), <https://caidp.dukakis.org/app/download/8292102563/AISCI-2020a-CountryEvaluations.pdf>

<sup>11</sup> National Security Commission on Artificial Intelligence, Draft Final Report (January 2021) (hereinafter “NSCAI Report”), <https://www.nscai.gov/wp-content/uploads/2021/01/NSCAI-Draft-Final-Report-1.19.21.pdf>

<sup>12</sup> *NSCAI Report* at 11, 34, 67-73, 77, 78, 115, 116-17.

<sup>13</sup> We also oppose “liberal” uses of surveillance technology.

<sup>14</sup> *Id.* at 116-17.

<sup>15</sup> *Id.* at 69.

<sup>16</sup> Judea Pearl, *The Book of Why: The New Science of Cause and Effect* (2018)

in the work of the Commission and too few opportunities for formal comment.<sup>17</sup> The US Commission on AI did not even assess whether the US had taken steps to implement the OECD AI Principles or the G20 AI Guidelines, formal international commitments that the United States has already made. Key challenges, such as the need to update US laws and regulations, were put over for future work by others. As compared with the national AI strategies of other leading democratic nations, this was not sufficient.

We are also concerned by the decision of the Commission not to “support a global prohibition of AI-enabled and autonomous weapon systems.” Although the CAIDP has not yet considered Lethal Autonomous Weapons Systems (LAWS) as a formal criteria in evaluating national AI policies and practices, our recent review of country policies strongly indicates support among democratic nations for limits on these systems.<sup>18</sup> As we noted in our report, “one of the first AI applications to focus the attention of global policymakers was the use of AI for warfare.”<sup>19</sup>

On the use of AI for biometric mass surveillance, such as facial surveillance, we acknowledge that the NSCAI Report discussed applications that clearly violate human rights, such as the surveillance of Uyghers by the Chinese government,<sup>20</sup> but we were disappointed that the Commission did not propose any actual prohibitions on face surveillance in the United States. As you must certainly be aware, there are efforts underway across the United States to prohibit the use of face surveillance. The *Facial Recognition and Biometric Technology Moratorium Act*, legislation to stop government use of biometric technology, has gained widespread support in Congress.<sup>21</sup>

We specifically asked the NSCAI to make certain changes to the report, prior to issuing the final report. These recommendations follow directly from our review of other national AI policies and the metrics the CAIDP has established to evaluate a country’s AI policies and practices. We specifically advised National Security Commission on AI to put forward these recommendations:

- The United States should implement the OECD AI Principles
- The United States should establish a process for meaningful public participation in the development of national AI policy
- The United States should establish an independent agency for AI oversight
- The United States should establish a right to algorithmic transparency
- The United States should support the Universal Guidelines for AI

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<sup>17</sup> The Commission’s opposition to public comment continued even with the release of the report on

<sup>18</sup> *CAIDP Report* at 24-25.

<sup>19</sup> *Id.* at 24, fn. 75.

<sup>20</sup> *NSCAI Report* at 110. Also of concern was the use of AI techniques by the Chinese Communist Party in the summer of 2020 to suppress democratic protests in Hong Kong. *CAIDP Report* at 67-77 (Country Reports – China).

<sup>21</sup> H.R. 7356, 116<sup>th</sup> Congress / S. 4084, 116<sup>th</sup> Congress. . Senator Ed Markey, *Momentum Builds for Markey-Merkley-Jayapal-Pressley Legislation to Ban Government Use of Facial Recognition and Other Biometric Technologies* (July 22, 2020), <https://www.markey.senate.gov/news/press-releases/momentum-builds-for-markey-merkley-jayapal-pressley-legislation-to-ban-government-use-of-facial-recognition-other-biometric-technologies>

- The United States should support the Social Contract for AI Age
- The United States should establish a data protection agency so that it can participate in the work of the Global Privacy Assembly, and support such initiatives as the GPA Resolution on AI and Ethics (2018) and the GPA Resolution on AI and Accountability (2020)

All of these recommendations follow from the CAIDP’s earlier review of national AI policies and practices, contained in *Artificial Intelligence and Democratic Values*, and the relevant international AI frameworks and norms.<sup>22</sup> We also strongly recommend that the United States support an Artificial Intelligence International Accord (AIIA), a recommendation put forward by European Commission President von der Leyen in December 2020.<sup>23</sup>, **and the Boston Global Forum<sup>27</sup>**. And we would ask you to reconsider the opposition to a ban on lethal autonomous weapons. Several leading experts on AI have expressed grave concerns about the risks associated with autonomous weapons systems.

Finally, we are encouraged by the recent comments of President Biden for the Munich Security Conference.<sup>24</sup> The President called for “rules that will govern the advance of technology and the norms of behavior” for artificial intelligence.<sup>25</sup> President Biden said that technologies such as AI should “lift people up and not pin them down.”

Please understand that we share the Committee’s concerns about the AI threat from China. As we wrote recently in the *New York Times*, “There is real urgency in a comprehensive approach to data protection for the United States. The recently settled privacy case against TikTok made clear that the Chinese government has the twin goals of world domination in A.I. and population surveillance and control.”<sup>26</sup>

It is precisely for this reason that we believe the United States must pursue a national AI strategy aligned with democratic values. This will require specifically creating more opportunities for public participation in AI policy making and the establishment of new legal rights to ensure fairness, accountability, and transparency in the deployment of all AI systems. This will also require drawing “red lines” for certain AI applications, such as the use of AI techniques for mass surveillance.

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<sup>22</sup> See also Marc Rotenberg, *Time to Assess National AI Policies*, Communications of the ACM (Nov. 24, 2020), <https://cacm.acm.org/blogs/blog-cacm/248921-time-to-assess-national-ai-policies/fulltext>

<sup>23</sup> European Commission, *Speech by President von der Leyen at the World Leader for Peace and Security Award* (Dec. 12, 2020), [https://ec.europa.eu/commission/presscorner/detail/en/speech\\_20\\_2402](https://ec.europa.eu/commission/presscorner/detail/en/speech_20_2402)

<sup>24</sup> *Speaking to G7 Leaders, President Biden Calls for AI Rules that "Lift People Up,"* CAIDP Update, 2.07 (Feb. 22, 2021), *reprinted in* Boston Global Forum, *AI World Society Newsletter*,

<https://dukakis.org/center-for-ai-and-digital-policy/speaking-to-g7-leaders-president-biden-calls-for-ai-rules-that-lift-people-up/>

<sup>25</sup> *Id.*

<sup>26</sup> Marc Rotenberg, *Opinion, The Need for a Strong Privacy Law*, *The New York Times*, at A22 (Mar. 15, 2021)

<sup>27</sup> Artificial Intelligence International Accord (AIIA) <https://bostonglobalforum.org/news-and-events/events/artificial-intelligence-international-accord-aiia/>

You must also review very carefully the risks to all nations of AI-enabled warfare.

Finally, we recommend that the US lead a Democratic Alliance on Digital Governance, much like the International Digital Democracy Initiative (IDDI) proposed in the NSCAI report. We specifically recommend that the Democratic Alliance support the Social Contract for the Age of AI, and consider its norms and standards as “TCP/IP in international political relations,” reflecting the values of democratic societies.

Thank you for your consideration of our views. We ask that this statement be included in the hearing record.

Sincerely,



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Founder and Director,  
Center for AI and Digital Policy



Tuan Nguyen  
Director, Michael Dukakis Institute  
CEO, Boston Global Forum  
Co-founder, AI World Society

Cc: Chair Adam Smith and Ranking Member Mike Rogers,  
House Committee on Armed Services

Chair Carolyn Maloney and Ranking Member James Comer  
House Committee on Oversight and Reform

Dr. Alondra Nelson, Deputy Director, Office of Science and Technology Policy  
Dr. Lynn Parker, Director, National Artificial Intelligence Initiative Office