**An overview of Europe’s AI convention**

The global governance of Artificial Intelligence (AI) is becoming more complex even as countries try to govern AI within their borders in various ways, ranging from acts of law to executive orders. Many experts have articulated a global treaty to this effect, but the obstacles in its path are daunting.

What is Europe’s AI convention?

Although there are many ethical guidelines, ‘soft law’ tools, and governance principles enshrined in many documents, none of them are binding or are likely to result in a global treaty. There is also no ongoing negotiation for an AI treaty at the global level anywhere. Against this background, the Council of Europe (COE) took a big step by adopting the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, also known as the ‘AI convention’, on May 17. The COE is an intergovernmental organisation formed in 1949, with currently 46 members. The agreement is a comprehensive convention covering AI governance and links to human rights, democracy, and the responsible use of AI. The framework convention will be opened for signature on September 5.

What is a framework convention?

A ‘framework convention’ is a legally binding treaty that specifies the broader commitments and objectives under the convention, and sets mechanisms to achieve them. The task of setting specific targets is left to subsequent agreements. Those agreements that are negotiated under the framework convention will be called protocols. For example, the Convention on Biological Diversity is a framework convention while the Cartagena Protocol on Biosafety is a protocol under it that deals with living modified organisms.

The framework convention approach is useful because it allows flexibility even as it encodes the core principles and processes by which the objectives are to be realised. Parties to the convention have the discretion to decide the ways in which to achieve the objectives, depending on their capacities and priorities. The AI convention can catalyse the negotiation of similar conventions at the regional level in other places. Then again, as the U.S. is also a member of the COE, the convention can indirectly affect AI governance in the U.S. as well, which matters because the country is currently a hotbed of AI innovation.

What is the scope of the convention?

Article 1 of the convention states: “The provisions of this Convention aim to ensure that activities within the lifecycle of artificial intelligence systems are fully consistent with human rights, democracy and the rule of law”.

Article 3 states: “The scope of this Convention covers the activities within the lifecycle of artificial intelligence systems that have the potential to interfere with human rights, democracy, and the rule of law as follows: a. Each Party shall apply this Convention to the activities within the lifecycle of artificial intelligence systems undertaken by public authorities or private actors acting on their behalf. b. Each Party shall address risks and impacts arising from activities within the lifecycle of artificial intelligence systems by private actors... in a manner conforming with the object and purpose of this Convention.”

Does it address national security?

The exemptions in Articles 3.2, 3.3, and 3.4 are broad and pertain to the protection of national security interests, research, development and testing, and national defence, respectively. As a result, military applications of AI are not covered by the AI convention. While this is a matter of concern, it’s a pragmatic move given the lack of consensus on regulating such applications. In fact, the exemptions in Articles 3.2 and 3.3 — while broad — don’t completely rule out the convention’s applicability vis-a-vis national security and testing, respectively.

Finally, the ‘General Obligations’ in the convention pertain to the protection of human rights (Article 4), the integrity of democratic processes, and respect for the rule of law (Article 5). While disinformation and deep fakes haven’t been addressed specifically, parties to the convention are expected to take steps against them under Article 5. In fact, the convention indicates (in Article 22) that parties can go beyond the commitments and obligations specified.

Why do we need the AI convention?

The AI convention doesn’t create new and/or substantive human rights specific to AI. Instead, it asserts that existing human and fundamental rights that are protected by international and national laws will need to stay protected during the application of AI systems as well. The obligations are primarily directed towards governments, which are expected to install effective remedies (Article 14) and procedural safeguards (Article 15). In all, the convention takes a comprehensive approach to mitigating risks from the use of AI systems for human rights and democracy. There are bound to be challenges to implementing it, particularly at a time when AI regulation regimes are yet to be fully established and technology continues to outpace policy.