Written by **David Kelly** on October 17, 2023

Democrats Seek to Make "AI Bill of Rights" Binding

Artificial intelligence (AI) systems offer technological advancements that are now and will continue to change our daily lives by simplifying routine tasks, improving healthcare, enhancing accuracy, and so much more. Along with these promising new innovations, however, is the potential for unacceptable risks and even threats by AI, and these are of concern for lawmakers and the federal government.

Seeking to "safeguard Americans' rights and safety," the Biden administration's Office of Science and Technology Policy (OSTP) published last October a 76-page [Blueprint for an AI Bill of Rights](#) that "identified five principles that should guide the design, use, and deployment of automated systems to protect the American public in the age of artificial intelligence."

The World Economic Forum [reported](#) then that "the principles are non-regulatory and non-binding: a 'Blueprint,' as advertised, and not yet an enforceable 'Bill of Rights' with the legislative protections."
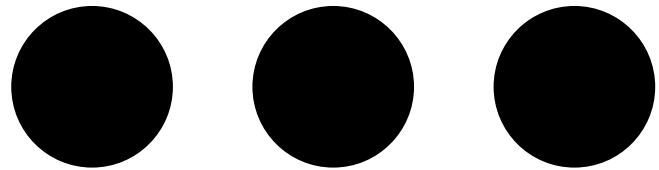

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Now, a year later, a number of Democratic lawmakers have asked the White House in a [letter](#) to take the "important opportunity to establish an ethical framework" to make the AI Bill of Rights binding with the administration's forthcoming executive order on AI.

The lawmakers, led by Senator Edward Markey (D-Mass.) and Representative Pramila Jayapal (D-Wash.), wrote, "The moment calls for the adoption of strong safeguards on algorithmic discrimination, data privacy, and other fundamental rights. In particular, the Blueprint for an AI Bill of Rights … would serve as a strong foundation for the executive order, a [position echoed](#) by more than 60 civil society, technology, labor, and human rights organizations."

The letter continued:

> Although AI systems can bring great benefits to society, they also can create new risks and exacerbate existing biases. In fact, AI-powered algorithms are already causing [serious harms](#) to disadvantaged communities. Facial recognition tools, for example, continue to show biases — with serious consequences.

The lawmakers shared their concerns with examples of AI's "systemic, ongoing, and discriminatory harms" that cry out for regulation, and then praised President Biden for his AI Bill of Rights' "forward-

looking framework to protect fundamental rights."

The AI Bill of Rights Blueprint, according to the letter, "outlines five principles that should guide the design, use, and deployment of 'automated systems that have the potential to meaningfully impact the public's rights, opportunities, or access to critical resources or services.'"

The World Economic Forum listed those five principles:

- **Safe and Effective Systems:** You should be protected from unsafe or ineffective systems.
- **Algorithmic Discrimination Protections:** You should not face discrimination by algorithms and systems should be used and designed in an equitable way.
- **Data Privacy:** You should be protected from abusive data practices via built-in protections and you should have agency over how data about you is used.
- **Notice and Explanation:** You should know that an automated system is being used and understand how and why it contributes to outcomes that impact you.
- **Alternative Options:** You should be able to opt out, where appropriate, and have access to a person who can quickly consider and remedy problems you encounter.

Regarding the lawmakers' request to make the AI Bill of Rights binding, *Government Executive* reported:

> President Biden said last month the executive action on AI was on the horizon for this fall, as lawmakers continue to grapple with how to regulate the technology from Capitol Hill. Arati Prabhakar, director of the White House's Office of Science and Technology Policy, said that the forthcoming executive order will be "broad," reflecting "everything that… the president really sees as possible under existing law to get better at managing risks and using the technology."

The concern about the known risks of AI systems that deploy subliminal or purposefully manipulative techniques or exploit people's vulnerabilities *is* real. However, what is missing from the lawmakers' request is any mention of protecting the free market that has brought about beneficial innovation and competition through the many uses of AI.

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