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Human Rights and Artificial Intelligence

The article discusses one of the most pressing issues of the last decade: artificial intelligence. Numerous issues associated with this topic have sparked scientific discussions and debates. Nevertheless, this article intends to explore the problem through the lens of human rights. The primary question addressed in this study is whether artificial intelligence poses a threat to human rights, particularly in the context of Georgia. The findings indicate that artificial intelligence, as a significant outcome of the fourth industrial revolution, not only raises concerns about the potential disclosure of individuals' personal data and the processing of excessive amounts of information for illegitimate purposes, but also negatively impacts the enjoyment of various other rights and freedoms. The use of digital technologies and artificial intelligence makes it easy to impose illegitimate decisions and disproportionate restrictions on rights such as freedom of expression and assembly, the right to association, the right to work, access to information, the right to vote, ensuring equality, etc. In addition to examining the negative impact on rights, the article reviews the minimum European standards that take into account the protection of human rights in the process of using artificial intelligence. The study also discusses examples of several countries and the positive steps they have taken to reduce the negative impact of artificial intelligence on human rights. The article examines the issues using the comparative research method. The study highlights the challenges of regulating artificial intelligence in Georgia, reaffirming the need for analysis-driven solutions and restrictive regulations to keep pace with rapid technological advancements. It emphasizes the importance of balancing the positive impacts and benefits of AI while also safeguarding against its potential to unlawfully, severely, and disproportionately infringe upon areas protected by human rights.

Keywords: artificial intelligence, human rights, Convention on Artificial Intelligence

1. Introduction

The 1950s are considered the birth of artificial intelligence as a term, when in 1955, John McCarthy, together with several colleagues, first used the term and discussed it at a scientific conference.¹ Thirty years later, in the 1980s, companies working on artificial intelligence achieved

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¹ Gabisonia Z., Internet Law and Artificial Intelligence, Publishing House "Lawyers' World", Tbilisi, 2022, 443, 453 (In Georgian).

their first commercial success.² Despite such a pace of development, it was probably difficult to imagine how quickly and widely artificial intelligence would invade people's everyday lives and routines. It has become a part of everyday life not just as a technical tool or an object or a software but to such an extent that in the scientific literature, legal researchers, including Georgian scholars, discuss and debate the issues of recognizing artificial intelligence as a subject of law and the emergence of the concept of the so-called “electronic person.”³

Modern technologies have become essential components of human life. This encompasses a wide array of innovations, including chatbots, virtual assistants, translation systems, financial investment algorithms, self-driving automobiles, and flying vehicles.⁴ Notably, we are witnessing the emergence of a new reality where the chatbot Mirai, developed in Japan, has been officially authorized to resident permit in Tokyo. Furthermore, the humanoid robot Sophia, created by Hanson Robotics, has recently been granted citizenship by Saudi Arabia.⁵ Despite the above, it sounds peculiar, however, to this day, there is no agreement among experts and scholars from various fields on the concept of artificial intelligence itself, which would be decisive in establishing a legislative definition.⁶ The issue of the concept is widely debated, with scholars analyzing it from strategic, ethical, and legal perspectives. This topic is actively discussed in various academic publications and forums.⁷

Despite of the extensive integration of artificial intelligence into public life and the ongoing, fervent debates – both scientific and non-scientific – surrounding this technology, particularly regarding its recognition⁸ as a subject of law, the objective of this article is neither to engage in such

² Gabisonia Z., The Essence of Artificial Intelligence and the Problem of Its Recognition as a Subject of Law, Journal “Justice” №1, 2022, 129, <https://iustitia.gov.ge/uploads/1672146396.1full_en.pdf> [10.08.2024] (In Georgian).

³ Two positions are being discussed among scholars, some believe that artificial intelligence can be interpreted only as a technical means with the right of legal status of a thing. In the second case, artificial intelligence can be granted the status of a subject of legal relations, in the form of the so-called “electronic person”, based on the fiction of law, like a legal entity. Researchers also continue to argue about whether artificial intelligence can become an independent subject of legal relations and be a person independently responsible for its actions or not. Compare, Gabisonia Z., The essence of artificial intelligence and the problem of its recognition as a subject of law, Journal “Justice” N1, 2022, 131, <https://iustitia.gov.ge/uploads/1672146396.1full_en.pdf> [10.08.2024]. Gabisonia Z., Internet Law and Artificial Intelligence, Tbilisi, 2022, 509-511 (In Georgian).

⁴ Gabisonia Z., Internet Law and Artificial Intelligence, Publishing House “Lawyers' World”, Tbilisi, 2022, 463 (In Georgian).

⁵ Burkadze K., Towards the Status of Considering Artificial Intelligence as a Subject of Law, Journal “Justice” N2 (5), 2023, 36 <[https://iustitia.gov.ge/2023-N2\(5\)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf](https://iustitia.gov.ge/2023-N2(5)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf)> [10.08.2024] (In Georgian).

⁶ Gabisonia Z., The Essence of Artificial Intelligence and the Problem of Its Recognition as a Subject of Law, Journal “Justice” №1, 2022, 129, <https://iustitia.gov.ge/uploads/1672146396.1full_en.pdf> [10.08.2024] (In Georgian).

⁷ Burkadze K., Towards the Status of Considering Artificial Intelligence as a Subject of Law, Journal “Justice” N2 (5), 2023, 32, <[https://iustitia.gov.ge/2023-N2\(5\)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf](https://iustitia.gov.ge/2023-N2(5)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf)> [10.08.2024] (In Georgian).

⁸ Gabisonia Z., The essence of artificial intelligence and the problem of its recognition as a subject of law, Journal “Justice”, № 1, 2022, 136-138, <https://iustitia.gov.ge/uploads/1672146396.1full_en.pdf> [10.08.2024] (In Georgian).

discussions nor to explore the history of artificial intelligence development. This article explores the question of whether artificial intelligence poses a threat to human rights, specifically examining the situation in Georgia. It investigates whether this threat is limited to a single right, such as the protection of personal data, or if it extends to a broader range of human rights and freedoms. To address these questions, the article reviews the current landscape of artificial intelligence regulation and considers experiences from other legal systems. By reading this article, readers will gain insight into how artificial intelligence impacts the protection of human rights and freedoms. It will also discuss whether there are minimum standards at the international or national level that should be considered when using artificial intelligence to meet the state's obligations—both positive and negative – to safeguard human rights.

Although scientific literature, including sources in Georgian and authored by local scholars, features some studies on various aspects of artificial intelligence, there is limited discussion surrounding the specific topic addressed in this article. Consequently, this research represents one of the first attempts in Georgia aimed at examining this subject. Alongside analyzing the issue, the article also seeks to spark interest within academic circles for further, more in-depth exploration of the topic.

As already noted, the article will not discuss the ongoing scientific debates surrounding the concept of artificial intelligence and the definitions proposed by various studies, scholars, or international organizations. Considering the importance of the prism of human rights, democracy, and the rule of law, the article applies the concept of artificial intelligence defined by the Council of Europe Convention⁹, which is the latest, as the Convention was adopted in May 2024 and this definition represents an internationally recognized definition that will be binding for European and non-European states that are signatories to the Convention in the future.

According to Article 2 of the said Convention, “artificial intelligence system” means a machine-based system that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations or decisions that may influence physical or virtual environments. Different artificial intelligence systems vary in their levels of autonomy and adaptiveness after deployment.¹⁰

The methodological basis of the research is based on general scientific as well as special research methods – normative, systemic, and comparative-legal.

2. The Impact of Artificial Intelligence on Everyday Life and the Challenges of Its Regulation in Georgia

Artificial intelligence dating back to the 1950s has often been only represented in fantasy literature and films. However, in today's world artificial intelligence and modern technologies have become essential components of public life, as well as the operations of private enterprises and governmental institutions. Various sectors, including healthcare, agriculture, public safety, security,

⁹ Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, <<https://rm.coe.int/1680afae3c>> [15.08.2024].

¹⁰ Ibid.

culture, education, environmental protection, climate change, and defense, now rely heavily on technological advancements, with artificial intelligence playing a crucial role in their development and implementation.¹¹

The application of artificial intelligence across various facets of public life is not only a matter of substantial interest and importance but also a significant area of scientific inquiry. Research in this field highlights that individual countries set their own priorities for application of artificial intelligence in key areas of governance and public affairs, determining the scope, phases, and methodologies of such application. To investigate these approaches, scholars concentrate on the strategies, policies, and vision documents put forth by different nations.¹² In various scholarly sources, researchers review both the content of such strategic documents and discuss and justify the necessity of having strategies.¹³ In this regard, the study of the experience of other countries over the past ten years is also of interest to Georgian scholars.¹⁴ Research on this issue is crucial because the fourth industrial revolution is transforming traditional policy formation processes. As a result, governing bodies often find themselves reacting to technological changes rather than leading the process.¹⁵ This shift has led to the approval of various strategies by different countries being viewed positively in the scientific literature.¹⁶

Since 2020, scholars in Georgia have been emphasizing the necessity of developing and adopting a national strategic framework for utilizing artificial intelligence.¹⁷ In 2023, acknowledging the vast potential of artificial intelligence, Georgian researchers and academics emphasized the urgency for a comprehensive strategy and proposed the “Guiding Principles of the Georgian National Strategy for Artificial Intelligence” to the government.¹⁸ Unfortunately, as of July 2024, this document

¹¹ The current global achievements and realities are well reflected in the information published on the official website of the World Economic Forum’s “Center for the Fourth Industrial Revolution”, in the form of reports, studies, videos and other forms. You can also see the Center’s AI Governance Alliance initiative, which brings together industry leaders, governments, scientific research institutions and public organizations worldwide and works together to address issues of global AI design, transparency and inclusive programming. Information on technological progress and experience in the use of AI in various industries around the world is available on the same website, <https://centres.weforum.org/centre-for-the-fourth-industrial-revolution/home> [10.08.2024].

¹² *Burkadze Kh.*, Towards the Status of Considering Artificial Intelligence as a subject of law, Journal “Justice”, №2 (5), 2023, 35-36 <[https://iustitia.gov.ge/2023-N2\(5\)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf](https://iustitia.gov.ge/2023-N2(5)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf)> [10.08.2024] (In Georgian).

¹³ Ibid.

¹⁴ *Gabisonia Z.*, Internet Law and Artificial Intelligence, Publishing House “Lawyers' World”, Tbilisi, 2022, 525-542 (In Georgian).

¹⁵ Ibid, 513.

¹⁶ Ibid, 543.

¹⁷ The Need for a National Artificial Intelligence Strategy, Research Report, 2020, <<https://btu.edu.ge/khelovnuri-inteleqtis-erovnuli-strategiis-satchiroeba/>> [02.08.2024] (In Georgian).

¹⁸ Study: Guiding Principles of the Georgian National Strategy for Artificial Intelligence, University of Business and Technology, Tbilisi, 2023, <<https://drive.google.com/file/d/1SRKp8Qe3jnJngO0W9OYNbhsnBigSb3tL/view>> [09.08.2024]. (In Georgian)

has not yet been adopted in Georgia. Consequently, the country's unified national vision on this increasingly critical issue remains ambiguous.

Regardless of whether the state has an approved vision document, it is important to examine whether artificial intelligence programs are being used in Georgia to assess the scale of their impact on human rights.

As already noted, a strategic policy document or any vision that would outline the state's long-term or short-term goals and objectives regarding artificial intelligence, including an indication of the scale of its impact on human rights, has not been approved in Georgia for July 2024. At the same time, the concept of artificial intelligence has not been defined, nor is there any act that would define the general principles and requirements for the use of artificial intelligence in the public or private sphere. Only a few of the legal acts in force in Georgia mention artificial intelligence itself as a tool that is used or will be used in the future in a particular sector of activity. For example, the Ministry of Finance envisages the introduction of artificial intelligence software (so-called Machine Learning) for the implementation of several customs procedures in the coming years within the framework of integrated management of state borders.¹⁹ The use of artificial intelligence is mentioned in Georgia's 2023-2025 National Tuberculosis Control Strategy and Action Plan,²⁰ and the use and potential of artificial intelligence are also indicated in the State Energy Policy Document approved by the Parliament of Georgia.²¹

The above-mentioned normative acts only refer to the use or possible use of artificial intelligence, however, unlike these legal acts, Order No. 151/04 of the President of the National Bank of Georgia dated August 17, 2020, "On the Approval of the Regulation on Risk Management of Data-Based Statistical, Artificial Intelligence and Machine Learning Models" develops a risk management framework for the use of this program for commercial banks, microbanks, non-bank depository institutions, microfinance organizations, credit information bureaus and lending entities in Georgia, which, among others, use artificial intelligence, and obliges the latter to develop such internal documents on risk management procedures.²²

The reference to artificial intelligence in the above-mentioned small number of acts creates an expectation that artificial intelligence is used in the relevant fields and areas. In addition, the study of

¹⁹ "On the Approval of the Strategy for Integrated Management of the State Border of Georgia for 2023-2027 and its Action Plan" Resolution No. 92 of the Government of Georgia of March 9, 2023, <<https://matsne.gov.ge/document/view/5746129?publication=1>> [15.08.2024] (In Georgian).

²⁰ "On the Approval of the National Tuberculosis Control Strategy and Action Plan of Georgia for 2023-2025" Order No. 54/n of the Minister of IDPs from the Occupied Territories, Labor, Health and Social Protection of Georgia of July 21, 2023 <<https://matsne.gov.ge/document/view/5863955?publication=0>> [10.08.2024] (In Georgian).

²¹ Resolution of the Parliament of Georgia №4349-XIVოლ-Xომ of June 27, 2024 on the approval of the "Energy Policy of the State of Georgia", <<https://matsne.gov.ge/document/view/6212458?publication=0>> [10.08.2024] (In Georgian).

²² "On Approval of the Regulation on Risk Management of Data-Based Statistical, Artificial Intelligence and Machine Learning Models" Order No. 151/04 of the President of the National Bank of Georgia of August 17, 2020, <<https://matsne.gov.ge/document/view/4964423?publication=2>> [29.07.2024] (In Georgian).

the practice of using digital technologies and artificial intelligence in the process of providing public services in Georgia is also of scientific interest. For example, Professor Zviad Gabisonia, in his 2023 scientific article “Digital Governance and Legal Technologies in the Justice System,” reviews the trends in the development of digital governance in this system, which also includes issues of artificial intelligence.²³

The scientist notes that digital technologies are related to the government offering various online resources to the public, such as online services for state registrations, online publication of public information, public online surveys, active two-way interaction between state structures and users, the existence of various online services, electronic voting format, etc. He also indicates that in the context of digital governance, the main institution of the country is the Ministry of Justice of Georgia. On the one hand, the LEPL – Digital Governance Agency is subordinate to it, and on the other hand, public and entrepreneurial registers, Public Service Halls, the State Services Development Agency, etc.²⁴

Unfortunately, no academic research on the use of artificial intelligence or its effectiveness in other public institutions or agencies in Georgia can be found in public sources. As for non-academic studies, the only available report is the one²⁵ prepared in 2021 by the NGO “Institute for Development of Freedom of Information”, which assesses the situation by that time. The document states that the implementation of artificial intelligence systems in the public sector of Georgia is at the initial stage of development; however, there are already many successful examples of the use of this technology in the private sector.²⁶ This report assessed the practice of using artificial intelligence in about 50 public institutions, which showed that the process in public institutions was chaotic and knowledge was scarce.²⁷ Given the growing and rapid trend of using artificial intelligence, the data, and assessments reflected in this NGO report may no longer reflect reality today; however, the research of this issue requires conducting an independent study, which goes beyond the objectives of the article.

As noted Georgia presently lacks a unified strategic vision—both short-term and long-term—concerning the principles and regulations for the use of artificial intelligence in public and private services. The existing legislation does not prohibit public and private entities from utilizing artificial intelligence; consequently, these entities are free to make their own decisions regarding its application based on their individual objectives. This autonomy allows them to determine their goals, establish rules, and define the parameters of the artificial intelligence programs they deploy. Numerous examples highlighted in this article suggest that such practices may pose significant risks to the realization of fundamental human rights and freedoms.

²³ Gabisonia Z., Digital Governance and Legal Technologies in the Justice System, Journal “Justice” 2023 1(4), <<https://doi.org/10.59172/2667-9876/2023-1/28-44>> [18.07.2024] (In Georgian).

²⁴ Ibid.

²⁵ NGO Institute for the Development of Freedom of Information, Use of Artificial Intelligence Systems in Georgia – Legislation and Practice, Tbilisi, 2021, <<https://idfi.ge/public/upload/Article/AI%20ENG%20FULL.pdf>> [14.08.2024] (In Georgian).

²⁶ Ibid.

²⁷ Ibid.

3. Negative Digital Impact

With the advancement of digital technologies and artificial intelligence and their growing influence on people's lives, it is increasingly vital to evaluate their impact effectively. The issue of the relationship between human rights and artificial intelligence has become a subject of discussion in international scientific circles and various discussions in recent years. Researchers are increasingly discussing this issue from different perspectives²⁸; however, discussions within Georgian academic literature remain limited. Additionally, the potential risks and negative consequences of artificial intelligence, often regarded as a troubling form of progress, have been emphasized not only by scholars but also by several international organizations, including the United Nations²⁹, the European Union³⁰, the Council of Europe³¹, etc.

The rapid advancement of artificial intelligence and its emerging capabilities render this discussion increasingly pertinent, particularly as the pace of scientific research often struggles to keep pace with technological development. For example, the artificial intelligence chatbot “TAY,” which, engaged with users on the social platform “X” (formerly known as “Twitter”) and received and processed a large amount of information, was taken offline just after 16 hours. The reason was that due to the failure to analyze and reassess the content it encountered and the program began to spread messages containing hate speech.³² Understanding such swiftly evolving events presents considerable challenges for the scientific community. Nevertheless, the analysis of the evaluations and studies discussed below underscores the significant threat that artificial intelligence poses to the realization of various human rights:

According to the United Nations, using a particularly large amount of data, artificial intelligence programs can purposefully influence the expression of the will of voters, which in turn is an infringement on the realization of the right to vote. At the same time, artificial intelligence, by spreading disinformation, harms the process of democratic development of countries, as it can undermine public trust in democratic institutions and processes.³³

The use of technology, along with significant positive effects, may also have negative effects and create a potential threat of human rights violations in labor relations. For example, the Georgian legal system provides for the possibility of employers, for various reasons or purposes,³⁴ to process a fairly large amount of personal data, including special categories of data.³⁵

²⁸ *Raso F., Hilligoss H., Krishnamurthy V., Bavitz Ch., Kimberly L.*, Artificial Intelligence and Human Rights: Opportunities and Risks, Berkman Klein Center for Internet and Society Research Publication, <http://nrs.harvard.edu/urn-3:HUL.InstRepos:38021439> [13.08.2024].

²⁹ <https://press.un.org/en/2023/sgsm22017.doc.htm> [13.08.2024].

³⁰ <https://joint-research-centre.ec.europa.eu/jrc-mission-statement-work-programme/facts4eufuture/artificial-intelligence-european-perspective/ai-opportunities-and-threats_en> [13.08.2024].

³¹ The Brain-Computer Interface: New Rights or New Threats to Fundamental Freedoms, COE Parliamentary Assembly, Recommendation 2184, (2020), <https://pace.coe.int/pdf/acace403a83aad11dc0a684067f2a6ae54a65ff2d70e7d1552e28e4b9ce8b05e?title=Rec.%202184.pdf> [14.08.2024].

³² <https://www.opinosis-analytics.com/blog/tay-twitter-bot/> [21.07.2024].

³³ <https://unric.org/en/can-artificial-intelligence-ai-influence-elections/> [21.07.2024].

³⁴ The Law of Georgia on Personal Data Protection grants employers the right to process special categories of data that are necessary for the purpose of employment obligations and the nature of the relationship,

At a glance, when discussing the issue of processing employee data by an employer, attention is often directed primarily toward the right to protect personal data, particularly in relation to potential human rights violations. However, the use of artificial intelligence may raise issues of harassment, other forms of discrimination, as well as persecution, and restrictions on freedom of expression as well. This issue is also the subject of academic research. According to the assessment of American scholars Balley and Stone, artificial intelligence not only revolutionizes the practices and capabilities of human resource management and influences labor law but also presents a significant risk of easily infringing upon employees' labor rights. Moreover, it can facilitate discrimination, compromise privacy rights, and restrict both trade union membership and participation, as well as freedom of expression.³⁶

This threat is real, given that, according to scholars, employers have the opportunity to use programs to select new employees, evaluate work performed, check discipline, conduct electronic video and audio surveillance, record biological data, track employees' movements, the time they spend on work, including their remote work, and even more so, monitor them during non-working hours. The collection of this type of data over a long period and the voluminous information obtained by artificial intelligence algorithms may be translated into the preparation of information reports about employees when it is possible to programmatically evaluate not only their past behavior but also predict future behavior, assess their effectiveness in the future, predict future estimated costs on the part of the employer, and so on. According to scholars, sometimes completely invisible electronic networks can be the cause of not only direct discrimination but also covert and indirect discrimination, the dysfunction and ineffectiveness of trade unions, and the violation of many other rights.³⁷

It is essential to conduct research and assessments regarding the potential risks posed by employers' use of artificial intelligence in labor relations. These concerns are not just speculative fears or excessive caution from scholars; they reflect a genuine reality that is already being observed. The following examples illustrate this issue clearly: One of the American companies of innovative technologies³⁸ processes records of communication with customers using a special algorithm, which

including for making a decision on employment or assessing the employee's work skills. Article 6, Part 1, Subparagraph "h" of the Law of Georgia on Personal Data Protection, <<https://matsne.gov.ge/document/view/5827307?publication=1>> [02.08.2024] (In Georgian).

³⁵ The Law of Georgia on the Protection of Personal Data considers as special categories of data, among others: racial or ethnic origin, political opinions, religious, philosophical or other beliefs, membership in a trade union, health, sex life, status of an individual as accused, convicted, acquitted or victim in criminal proceedings, conviction, sentencing, recognition as a victim of human trafficking or crime in accordance with the Law of Georgia on the Prevention of Violence against Women and/or Domestic Violence, Protection and Assistance to Victims of Violence, imprisonment and execution of a sentence against him, as well as biometric and genetic data that are processed for the purpose of uniquely identifying an individual. Article 3, subparagraph "b" of the Law of Georgia on the Protection of Personal Data. <<https://matsne.gov.ge/document/view/5827307?publication=1>> [02.08.2024] (In Georgian).

³⁶ Bales R.A., Stone K.V.W., The Invisible Web at Work: Artificial Intelligence and Electronic Surveillance in the Workplace, <<https://ssrn.com/abstract=3410655>> [07.07.2024].

³⁷ Bales R.A., Stone K.V.W., The Invisible Web at Work: Artificial Intelligence and Electronic Surveillance in the Workplace, <<https://ssrn.com/abstract=3410655>> [07.07.2024].

³⁸ For detailed information about the company, their products, and the opportunities created using artificial intelligence, see: <<https://cogitocorp.com/about/>> [08.07.2024].

evaluates the goodwill of the employee not only based on the content of the conversation, but also on the voice, intonation, and emotions of the interlocutors. Based on this, it makes positive or negative decisions regarding employees. Another similar program³⁹ allows employers to monitor the activities of employees, especially remote workers. For example, it is possible to process data on location (geolocation), on/off, social media activity, and types of activities. Another artificial intelligence program⁴⁰ allows employees to evaluate their mood and level of engagement in work by processing their written correspondence. In 2022, the Amsterdam District Court ruled that Uber's dismissal of five British and one Dutch couriers was unlawful, with the decision being made through software because the couriers had violated the rules for accessing their accounts. At the same time, the case materials revealed that the company had obtained information through software monitoring of couriers' activities using artificial intelligence.⁴¹ Of course, there are many other artificial intelligence programs on the global market; however, the above few examples are enough to illustrate that, against the backdrop of rapid development and progress, their use in labor relations poses a threat of violation of numerous rights.

The use of sophisticated and complex algorithms in social security decision-making is common across Europe, but with the use of the programs comes growing concerns about the negative impact these algorithms have on poverty and whether they are leading to increased inequality. These questions also apply to child welfare and the payment of unemployment benefits.⁴²

Artificial intelligence is used in certain cases to detect hate speech and, in various legal systems, may become a prerequisite for holding a person accountable, although a software error may also lead to unjustified restrictions on freedom of expression.⁴³

There is considerable interest in leveraging artificial intelligence in healthcare services, as it has the potential to significantly improve the quality, timeliness, and accuracy of diagnoses. However, the sheer volume of data processed by these systems presents substantial risks, particularly the possibility of sensitive personal information being accessed by malicious actors. Furthermore, even minor errors during data entry can result in misdiagnoses or serious, irreversible mistakes in medical procedures.⁴⁴ The Parliamentary Assembly of the Council of Europe noted in a resolution adopted in 2020 that the development of neurotechnology offers the potential for great progress and change, especially in the medical field, but efforts should be directed toward conducting research that does not undermine the dignity, freedoms, and equality of individuals, which are fundamental values in a democratic society.⁴⁵

³⁹ For detailed information about the company, their products, and the opportunities created using artificial intelligence, see: <<https://veriato.com/>> [08.07.2024].

⁴⁰ For detailed information about the company, their products, and the opportunities created using artificial intelligence, see: <<https://keencorp.com/solutions/>> [08.07.2024].

⁴¹ <<https://www.theguardian.com/technology/2021/apr/14/court-tells-uber-to-reinstate-five-uk-drivers-sacked-by-automated-process>> [18.07.2024].

⁴² Getting the Future Right – Artificial Intelligence and Fundamental rights, European Union Agency for Fundamental Rights, Publications Office of the European Union, 2020, <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-artificial-intelligence_en.pdf> <https://fra.europa.eu/sites/default/files/fra_uploads/ai_impact.pdf> [13.07.2024].

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ The Brain-Computer Interface: New Rights or New Threats to Fundamental Freedoms, COE Parliamentary Assembly, Recommendation 2184, (2020), <<https://pace.coe.int/pdf/acace403a83aad11dc0a684067f2a6ae54a65ff2d70e7d1552e28e4b9ce8b05e?title=Rec.%202184.pdf>> [14.08.2024].

The fundamental right to freedom of expression and access to information can be violated when information is sorted through artificial intelligence, and only the information that is determined by artificial intelligence is available to a person through social networks or other information channels. In addition, this practice is especially often resorted to by private companies due to commercial interests.⁴⁶ The systematic way in which artificial intelligence processes information could potentially interfere with the freedom of assembly. This is especially true when certain groups are unable to receive notifications about planned events. Restrictions on the right to free expression in online spaces may be unjustified, as algorithms can mistakenly categorize free speech as hate speech. Furthermore, artificial intelligence enables the monitoring of crowd movements, and the advanced predictions made by algorithms could realistically lead to interference with individuals' right to assemble, even resulting in preemptive detention.⁴⁷

The issue of protecting and realizing human rights is obviously directly related to the obligations of those responsible for protecting these rights and effective means of restoring violated rights. Today, self-driving vehicles are no longer part of human fantasy; the initiative, which began as an experiment in 2009, became a reality in several cities around the world in 2024, and for example, in Dubai and Los Angeles, passengers are transported by so-called robotaxis.⁴⁸ When traveling by such a vehicle in the event of a traffic accident, many questions arise about both liability and compensation for the damage caused. Among them, the issue of preferential assistance among passengers from various vulnerable groups may also arise during a car accident, in which case artificial intelligence must decide whether to save, for example, the older person or the minor first. In such cases, the use of artificial intelligence may also be a cause of infringement of the right to life.

According to the Council of Europe Commissioner for Human Rights, the benefits brought by artificial intelligence may only be neutral in appearance. However, studying its foundations may reveal that the enormous public good brought about by mathematical calculations is a heavy burden for individuals.⁴⁹ It is clear that artificial intelligence is fueled by human bias, as simple or complex algorithms are created by humans. Accordingly, a program created with such bias can ultimately be discriminatory against individuals. The Commissioner notes that there is a lot of evidence that confirms the discriminatory treatment of individuals based on gender, ethnicity, or other grounds through the use of programs.⁵⁰

⁴⁶ Getting the Future Right – Artificial Intelligence and Fundamental rights, European Union Agency for Fundamental Rights, Publications Office of the European Union, 2020, <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-artificial-intelligence_en.pdf>; <https://fra.europa.eu/sites/default/files/fra_uploads/ai_impact.pdf> [13.07.2024].

⁴⁷ Algorithms and Human Rights, <<https://rm.coe.int/algorithms-and-human-rights-en-rev/16807956b5>> [19.07.2024], Safeguarding Human Rights in the Era of Artificial Intelligence, <<https://www.coe.int/en/web/commissioner/-/safeguarding-human-rights-in-the-era-of-artificial-intelligence?redirect=%2Fen%2Fweb%2Fcommissioner%2Fthematic-work%2Fartificial-intelligence>> [29.07.2024].

⁴⁸ <<https://waymo.com/about/>> [29.07.2024].

⁴⁹ Safeguarding Human Rights in the Era of Artificial Intelligence, <<https://www.coe.int/en/web/commissioner/-/safeguarding-human-rights-in-the-era-of-artificial-intelligence?redirect=%2Fen%2Fweb%2Fcommissioner%2Fthematic-work%2Fartificial-intelligence>> [29.07.2024].

⁵⁰ Ibid.

In addition to the rights previously discussed, one of the most common violations within the spectrum of human rights is the right to the protection of personal data. Artificial intelligence primarily relies on large amounts of information, particularly personal data about individuals. As a result, this right is frequently at risk of being violated by technologies. Social media platforms and other online services collect vast quantities of personal data about users, often without their knowledge. This data can be used to predict individual behaviors and preferences. Such technologies enable the gathering of sensitive information regarding a person's health, political views, family life, and beliefs. Often, individuals are unaware of how this information is used and for what purposes.⁵¹

The examples provided of potential or actual violations of rights, drawn from various scientific and non-scientific sources, represent only a small and general overview of how artificial intelligence can affect the protection of human rights and freedoms. It is crucial to conduct a thorough study of this issue, including an analysis of the current situation in Georgia by researchers, to evaluate the extent of artificial intelligence's impact on human rights at the national level.

4. Minimum Standards for Protecting Rights

Academic sources suggest that improving the accessibility of public services and simplifying governance processes can be achieved through the development of artificial intelligence. However, it is also crucial to introduce appropriate tools and methodologies to mitigate the risks associated with high-risk artificial intelligence systems. As one researcher points out, these potentially hazardous mechanisms can significantly harm the interests of citizens, society, and the state, as well as infringe upon human rights. Therefore, addressing the challenges posed by artificial intelligence requires defining, implementing, and monitoring organizational and technical measures to protect both public and private interests.⁵² In this regard, joint efforts of states are increasing at the international level to reduce this negative impact by enacting regulations and setting standards. Individual countries are also making relevant decisions at the national level and creating regulatory norms or oversight mechanisms. At the same time, given that the impact of technologies affects a wide range of human rights, effective mechanisms for protecting personal data alone are no longer enough.

Below are examples of several countries that have taken steps to regulate artificial intelligence and reduce its negative impact on rights, although these examples are a small list and indicate the need for in-depth comparative legal research in the future.

In Europe, the Kingdom of the Netherlands was the first country in 2022 to adopt a human rights impact assessment requirement for public institutions that intend to use algorithms in their decision-making processes.⁵³ Also, in January 2021, the same country's legislature called on the government to create an algorithm register, which would describe which algorithms the government uses, for what purpose, and based on what data.⁵⁴

⁵¹ Ibid.

⁵² *Burkadze Kh.*, Towards the Status of Considering Artificial Intelligence as a Subject of Law, *Journal "Justice"*, № 2 (5), 2023, 39, <[https://iustitia.gov.ge/2023-N2\(5\)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf](https://iustitia.gov.ge/2023-N2(5)-32-44-%E1%83%91%E1%83%A3%E1%83%A0%E1%83%99%E1%83%90%E1%83%AB%E1%83%94.pdf)> [10.08.2024].

⁵³ <<https://ecnl.org/news/netherlands-sets-precedent-human-rights-safeguards-use-ai>> [27.07.2024].

⁵⁴ <<https://algoritmes.overheid.nl/nl>> [27.07.2024].

In November 2021, the UK government approved an algorithmic transparency standard that requires the public sector to make more information available about algorithms, particularly those used by law enforcement agencies in decision-making processes.⁵⁵

In addition to regulating the issue at the general state level, there are also examples of local regulation of when artificial intelligence systems are used to ensure transparency. For example, in 2020, Amsterdam and Helsinki began maintaining registers of artificial intelligence programs and making information public.⁵⁶

In certain instances, there are examples of regulating and establishing standards, as well as creating supervisory bodies for the use of artificial intelligence. Spain is among the first countries in Europe to set up an agency responsible for overseeing the use of artificial intelligence. This agency is tasked with monitoring the development and application of artificial intelligence systems, particularly those that could impact the realization of fundamental rights.⁵⁷

It is clear that it is very important for states to make appropriate efforts and find solutions to protect human rights, however, in the context of modern technologies and artificial intelligence, the territorial jurisdiction of states has a conditional meaning, and accordingly, international and collective efforts become even more valuable and important.

In May 2023, the Fourth Summit of the Heads of State of the Council of Europe was held in Reykjavik (Iceland), during which the Reykjavik Declaration⁵⁸ was adopted, in which the heads of state of the international organization's member states outlined the future and strategic tasks and goals of the Union. The document highlights, on the one hand, the positive impact and opportunities created by new and emerging digital technologies, while, on the other hand, it highlights the need to reduce the negative impacts of technology on human rights, democracy, and the rule of law. In the declaration, the Heads of State of the Council of Europe committed themselves to play a leading role in the development of standards in the digital age in the Council of Europe region to protect human rights in both physical and digital realities. The priority of finalizing the Council of Europe Framework Convention on Artificial Intelligence was underlined.⁵⁹

In May 2024, a year after the adoption of the Declaration, the Council of Europe adopted the first legally binding convention, which aims to ensure that signatory states respect human rights, the rule of law, and legal standards of democracy in the use of artificial intelligence systems.⁶⁰

The Convention⁶¹ is open for signature by Council of Europe member states as well as non-European countries. The document establishes a legal framework and outlines principles that signatory states must implement at the national level for the entire life cycle of artificial intelligence systems.

⁵⁵ <<https://www.gov.uk/algorithmic-transparency-records>> [27.07.2024].

⁵⁶ <<https://ai.hel.fi/en/ai-register/>> <<https://algoritmeregister.amsterdam.nl/>> [27.07.2024].

⁵⁷ <<https://mpt.gob.es/en/politica-territorial/desconcentracion-sector-publico-institucional-estatal/determinacion-sede-AESIA.html>> [27.07.2024].

⁵⁸ Reykjavik Declaration, Council of Europe, Ref. 089123GBR, 2023, <<https://edoc.coe.int/en/the-council-of-europe-in-brief/11619-united-around-our-values-reykjavik-declaration.html#>> [06.08.2024].

⁵⁹ Reykjavik Declaration, Council of Europe, Ref. 089123GBR, 2023, <<https://edoc.coe.int/en/the-council-of-europe-in-brief/11619-united-around-our-values-reykjavik-declaration.html#>> [06.08.2024].

⁶⁰ <<https://www.coe.int/en/web/portal/-/council-of-europe-adopts-first-international-treaty-on-artificial-intelligence>> [06.08.2024].

The Convention applies to the use of artificial intelligence by both public institutions and private entities. For the Convention, the entire life cycle of artificial intelligence includes not only the period of use of programs but also the stages of design, creation, development, and use of artificial intelligence systems. The document creates a legal framework and defines the fundamental principles on which the use of artificial intelligence in the contracting states should be based.⁶²

Given the objectives and scope of the article, as well as taking into account that the Convention will be opened for signature on September 5, 2024, and only then will its ratification by countries and the Convention enter into force, its in-depth analysis and assessment, as well as an assessment of the effectiveness of its implementation, are the subject of future research, however, at this stage it is important to highlight the principles that are defined by the Convention as guarantees for the protection of human rights. In particular, the Convention states that throughout the entire life cycle of artificial intelligence systems, states must respect human dignity and the principles of autonomy, states must establish mechanisms for transparency and accountability, as well as monitor the entire life cycle of artificial intelligence systems to ensure their observance of human rights, democracy and the rule of law. Mechanisms need to be established to ensure that programs uphold the principle of equality, particularly gender equality. States must protect personal data and implement measures to enhance the trustworthiness of artificial intelligence systems and the reliability of their outcomes. This may include setting requirements related to adequate quality and security. To prevent negative impacts on human rights, democracy, and the rule of law, while also promoting innovation, states should create a controlled environment for the development, experimentation, and testing of artificial intelligence systems, supervised by competent authorities.⁶³

The Convention also indicates and requires states to take into account the interests of children, persons with disabilities and other groups at the implementation stage, as well as to ensure compliance with standards established by all other international mechanisms.⁶⁴

The adoption of the Council of Europe Framework Convention is a major progressive step forward in neutralizing the possible negative consequences and risks of artificial intelligence, however, it is clear that approval alone is not enough and it is important that as many states as possible ensure its ratification and implementation in practice. This issue must certainly become a subject of evaluation and research in the future.

In addition to this special convention approved by the Council of Europe, it is important to mention the already well-established regulations that concern the processing of personal data and have been developed both at the international level and as part of the legal systems of many countries, including Georgia. For example, the General Data Protection Regulation of the European Union, which entered into force on 25 May 2018, sets out a number of standards for the protection of personal

⁶¹ Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, <<https://rm.coe.int/1680afae3c>> [15.08.2024].

⁶² Ibid.

⁶³ Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, <<https://rm.coe.int/1680afae3c>> [15.08.2024]

⁶⁴ Ibid.

data in the digital environment and defines the ways in which appropriate mechanisms can be put into practice in order to ensure the fundamental rights of individuals.⁶⁵ The relevant regulations are also provided for in the Law of Georgia on Personal Data Protection.⁶⁶

5. Conclusion

Georgia is not recognized as a technologically advanced country, which means that the creation and development of artificial intelligence programs may not be a prominent focus. However, the adoption of digital technologies in both public and private sectors presents a significant opportunity for the integration of artificial intelligence into these processes. This underscores the necessity for a national-level strategy that articulates a common vision and policy framework. This document should address fundamental issues, including how to evaluate the impact of artificial intelligence on human rights and freedoms at various stages, particularly in the usage and acquisition of these programs. Research indicates that the risk of human rights violations increases with extensive data processing, analysis, and categorization. Artificial intelligence programs employing algorithms may inadvertently facilitate hate speech or generate content that is derogatory or humiliating to various vulnerable groups. Moreover, the diversity of artificial intelligence programs can give rise to human rights violations not just from processing discriminatory information but also due to the algorithms themselves. For instance, during big data analysis, algorithms may prioritize certain data elements without sufficient justification, ultimately leading to infringements on human rights. A pertinent example is the use of biased algorithms by financial institutions to make credit decisions, which can discriminate against specific vulnerable groups. The wide range of human rights that can be violated by the use of algorithms highlights that artificial intelligence poses not only a potential threat to personal data, but also a risk to human rights, democratic stability, and the rule of law. Given the rapid advancement of technology, it is essential for Georgia to establish analytical solutions and regulatory measures. This approach will help harness the positive effects and benefits of artificial intelligence while preventing these technologies from illegitimately and disproportionately infringing upon areas protected by human rights law.

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⁶⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing (General Data Protection Regulation), Directive 95/46/EC, <<https://eur-lex.europa.eu/eli/reg/2016/679/oj>> [29.07.2024].

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