

China

National AI Strategy

Since 2013, the Chinese government has published several national-level policies, guidelines, and action plans, which reflect the intention to develop, deploy, and integrate AI in various sectors. In 2015, Prime Minister Li Keqiang launched the “Made in China” (MIC 2025) initiative aimed at turning the country into a production hub for high-tech products within the next few decades. In the same year, the State Council released guidelines on China’s Internet +Action plan. It sought to integrate the internet into all elements of the economy and society. The document emphasized the importance of cultivating emerging AI industries and investing in research and development. The Central Committee of the Communist Party of China’s 13th 5-year plan is another notable example. The document mentioned AI as one of the six critical areas for developing the country’s emerging industries and as an essential factor in stimulating economic growth. Robot Industry Development Plan,²³⁸ Special Action of Innovation and Development of Smart Hardware Industry,²³⁹ and Artificial Intelligence Innovation Action Plan for Higher Institutions²⁴⁰ illustrate detailed action plans and guidelines concerning specific sectors.

Most notable of all is the New Generation Artificial Intelligence Development Plan (AIDP) – an ambitious strategy to make China the world leader in AI by 2030 and the most transparent and influential indication of China's AI strategy’s driving forces. China’s State Council issued the AIDP in 2017. According to the plan, AI should be used in a broad range of sectors, including defense and social welfare. The AIDP also indicates the need to develop standards and ethical norms for the use of AI. Remarkably, the actual innovation and transformation are expected to be driven by the private sector and local governments.²⁴¹ The Chinese government has

²³⁸ 机器人产业发展规划（2016-2020年）

https://www.ndrc.gov.cn/xxgk/zcfb/ghwb/201604/t20160427_962181.html

²³⁹ 智能硬件产业创新发展专项行动（2016-2018年） http://www.gov.cn/xinwen/2016-09/21/content_5110439.htm

²⁴⁰ 高等学校人工智能创新行动计划

http://www.moe.gov.cn/jyb_xwfb/xw_fbh/moe_2069/xwfbh_2018n/xwfb_20180608/201806/t20180608_338911.html

²⁴¹ 3-year plan promoting the AIDP (2018–2020) emphasizes coordination between provinces and local governments.

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handpicked three major tech giants to focus on developing specific sectors of AI, Baidu, Alibaba and Tencent.²⁴² In return, these companies receive preferential contract bidding, preferential contract bidding, more convenient access to finance, and sometimes market share protection.

With regard to local governments, there is a system of incentives for fulfilling national government policy aims. For this reason, local governments often become a testing ground for the central government's policies. A clear example of this are the surveillance technologies that were first tested in Xinjiang²⁴³ to research into "ethnic" aspects of AI-enabled facial recognition templates distinguishing "Uyghur" features.²⁴⁴ Chinese cities and provinces, regional administrations compete for the new AI incentives. While large metropolises, such as Tianjin and Shanghai, have already launched multi-billion-dollar AI city Venture Capital funds and converted entire districts and islands for new AI companies. Other provinces are still in the process of learning and development.

AI Core Values

International Competition & National Security

The AIDP strategy document states that "the development of AI [is] ... a major strategy to enhance national competitiveness and protect national security" and that China will "[p]romote all kinds of AI technology to become quickly embedded in the field of national defense innovation."

At the 8th Beijing Xiangshan Forum (BXF),²⁴⁵ China's major platform for international security and defense dialogue, Major General

²⁴² Meng Jing and Sarah Dai, *China recruits Baidu, Alibaba and Tencent to AI 'national team,'* South China Morning Post (Nov. 21, 2017), <https://www.scmp.com/tech/china-tech/article/2120913/china-recruits-baidu-alibaba-and-tencent-ai-national-team>.

²⁴³ Angela Dely, *Algorithmic oppression with Chinese characteristics: AI against Xinjiang's Uyghurs,* Global Information Society Watch (2019), https://www.giswatch.org/node/6165#_ftn33

²⁴⁴ Zuo, H., Wang, L., & Qin, J. (2017). XJU1: *A Chinese Ethnic Minorities Face Database.* Paper presented at IEEE International Conference on Machine Vision and Information Technology (CMVIT). <https://ieeexplore.ieee.org/abstract/document/7878646>

²⁴⁵ Rajeev Ranjan Chaturvedy, *Beijing Xiangshan Forum and the new global security landscape,* EastAsiaForum (Dec. 1, 2018), <https://www.eastasiaforum.org/2018/12/01/beijing-xiangshan-forum-and-the-new-global-security-landscape/>

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Ding Xiangrong, Deputy Director of the General Office of China's Central Military Commission, gave a major speech in which he stated that China's military goals are to use AI to advance Chinese military.²⁴⁶ Another speaker Zeng Yi, a senior executive at China's third largest defense company, predicted that by 2025 lethal autonomous weapons, military command decision-making would be commonplace and said that ever-increasing military use of AI is "inevitable." Notably, he emphasized that military AI would replace the human brain and exercise independent judgment by stating that "AI may completely change the current command structure, which is dominated by humans" to one that is dominated by an "AI cluster." These sentiments are shared by academics from the People's Liberation Army (PLA) who believe that AI will be used to predict battlefield situations and outpace human decision-making.²⁴⁷

China's Ministry of National Defense has established two major new research organizations focused on AI and unmanned systems: the Unmanned Systems Research Center (USRC) and the Artificial Intelligence Research Center (AIRC).²⁴⁸ According to some experts, China is pursuing the most aggressive strategy for developing AI for military uses among the major military powers.²⁴⁹ In the spring of 2017, a civilian Chinese university with ties to the military demonstrated an AI-enabled swarm of 1,000 uninhabited aerial vehicles at an airshow. A media report released after the fact showed a computer simulation of a similar swarm formation finding and destroying a missile launcher.^[1] Open-source publications indicate that China is also developing a suite of AI tools for cyber operations.^{[1] [12]}

Economic Development

²⁴⁶ Elsa Kania, "AlphaGo and Beyond: The Chinese Military Looks to Future 'Intelligentized' Warfare." Lawfare (June 5, 2017), <https://www.lawfareblog.com/alphago-and-beyond-chinese-military-looks-future-intelligentized-warfare>.

²⁴⁷ Kania EB (2017a) 杀手锏 and 跨越发展: trump cards and leapfrogging. Strategy Bridge. <https://thestrategybridge.org/the-bridge/2017/9/5/-and-trump-cards-and-leapfrogging>

²⁴⁸ Gregory C. Allen, *Understanding China's AI Strategy: Clues to Chinese Strategic Thinking on Artificial Intelligence and National Security* 4-9, Center for a New American Security (Feb. 6, 2019), <https://www.cnas.org/publications/reports/understanding-chinas-ai-strategy>

²⁴⁹ Adrian Pecotic, *Whoever Predicts the Future Will Win the AI Arms Race*, Foreign Policy (Mar. 5, 2019), <https://foreignpolicy.com/2019/03/05/whoever-predicts-the-future-correctly-will-win-the-ai-arms-race-russia-china-united-states-artificial-intelligence-defense/>

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The AIDP promotes and highlights the reconstruction of economic activities using AI as the driving force behind a new round of industrial transformation, which will “inject new kinetic energy into China’s economic development.”²⁵⁰ Guiding Opinions on Promoting on Promoting Integration of AI and Real Economy further specifies that with high integration and strong empowerment, AI is expected to boost the transition of China’s economy from high-speed development to high-quality development.²⁵¹ Moreover, President Xi has frequently spoken of the centrality of AI to the country’s overall economic development.²⁵²

Notably, the Chinese government is better prepared than many other countries when it comes to the longer-term challenges of automation.²⁵³ For instance, there are higher education courses that address the shortage in AI skills and support the skilled labor required in the information age.²⁵⁴ China has oriented its education system to prioritize high-proficiency in science, technology, and engineering²⁵⁵ and has issued several policy directives toward this end.²⁵⁶ According to China’s New Generation of AI Development Report 2020, in 2019, 180 Chinese universities added AI,

²⁵⁰ New America, *China's 'New Generation Artificial Intelligence Development Plan'* (English translation) (2017), <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/full-translation-chinas-new-generation-artificial-intelligence-development-plan-2017/>

²⁵¹ Xi Jinping presided over the seventh meeting of the Central Committee for deepening reform in an all-round way. Keep a stable direction, highlight actual results, make all efforts to tackle difficulties, and unswervingly promote the implementation of major reform measures People’s Daily, http://paper.people.com.cn/rmrb/html/2019-03/20/nw.D110000renmrb_20190320_2-01.htm

²⁵² Jeffrey Ding, *Deciphering China’s AI dream*. Centre for Governance of AI, Future of Humanity Institute, University of Oxford, Oxford, https://www.fhi.ox.ac.uk/wp-content/uploads/Deciphering_Chinas_AI-Dream.pdf. Elsa B Kania, *China’s embrace of AI: Enthusiasm and challenges*, European Council on Foreign Relations (Nov. 6, 2018), https://ecfr.eu/article/commentary_chinas_embrace_of_ai_enthusiasm_and_challenges/

²⁵³ The Automation Readiness Index: *Who is Ready for the Coming Wave of Automation?* (2018) The Economist Intelligence Unit.

<https://www.automationreadiness.eiu.com/static/download/PDF.pdf>

²⁵⁴ Fang A (2019) *Chinese colleges to offer AI major in challenge to US*. Nikkei Asian Review. <https://asia.nikkei.com/Business/China-tech/Chinese-colleges-to-offer-AI-major-in-challenge-to-US>

²⁵⁵ *Is China ready for intelligent automation?* (2018) China Power, Center for Strategic and International Studies. <https://chinapower.csis.org/china-intelligent-automation/>

²⁵⁶ the National Medium- and Long-term Education Reform and Development Plan (2010-2020)

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undergraduate majors. Among them, 11 universities, including Peking University, established new academic institutes designated for AI research.

Social Governance and Welfare

Social governance is another area in which AI is promoted as a strategic opportunity for China. The Chinese authorities focus on AI as a way of overcoming social problems and improving the welfare of citizens.²⁵⁷ Specifically, in the healthcare reform,²⁵⁸ environmental protection²⁵⁹, the administration of justice,²⁶⁰ and Social Credit System or Social Score.²⁶¹ Another concrete example of how China is using AI in social governance can be seen in the sphere of internal security and policing. China has been at the forefront of the development of smart cities equipped with surveillance technologies, such as facial recognition and cloud computing. A recent proposal for the southwestern Chinese city of Chongqing would put “AI in charge.”²⁶² Today’s half of the world’s smart cities are located within China. Thus, these ambitious goals exemplify the Chinese government’s intent to rely on AI technology for social governance and also for control of the behavior of its citizens.

²⁵⁷ Heilmann S (2017) *Big data reshapes China’s approach to governance*. Financial Times <https://www.ft.com/content/43170fd2-a46d-11e7-b797-b61809486fe2>

²⁵⁸ Ho A (2018) AI can solve China’s doctor shortage. Here’s how. World Economic Forum. <https://www.weforum.org/agenda/2018/09/ai-can-solve-china-s-doctor-shortage-here-s-how/>.

²⁵⁹ Kostka G, Zhang C (2018) Tightening the grip: environmental governance under Xi Jinping. *Environ Politics* 27(5):769–781. <https://doi.org/10.1080/09644016.2018.1491116>; AI-powered waste management underway in China (2019) People’s Daily Online. <https://en.people.cn/n3/2019/0226/c98649-9549956.html>

²⁶⁰ Finder S (2015) China’s master plan for remaking its courts. *The Diplomat*. <https://thediplomat.com/2015/03/chinas-master-plan-forremaking-its-courts/>; Li A (2016) Centralization of power in the pursuit of law-based governance: legal reform in China under the Xi Administration. *China Prospect* 2016:2

²⁶¹ Severine Arsene, *China’s Social Credit System: A Chimera with Real Claws*, Asia Visions, 2019 https://www.ifri.org/sites/default/files/atoms/files/arsene_china_social_credit_system_2019.pdf

²⁶² Umberto Bacchi, *‘I know your favorite drink’: Chinese smart city to put AI in charge*, Reuters (Dec. 5, 2020), <https://news.trust.org/item/20201203131328-4n7on>

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Facial Recognition

There are many reports on China's use of facial recognition technology against ethnic minorities.²⁶³ The discriminatory ways in which state organs, companies and academics have researched, developed and implemented facial recognition in China would seem not to comply with the OECD AI Principles or as the Governance Principles for the New Generation Artificial Intelligence. The deployment of facial recognition has also provoked opposition within China.²⁶⁴ This gap between stated ethical principles and on-the-ground applications of AI demonstrate the weakness of unenforceable ethics statements. (See section below regarding AI and Surveillance).

Medical AI

In China, the ultimate ambition of AI is to liberate data for public health purposes. The AIDP, outlines the ambition to use AI to “strengthen epidemic intelligence monitoring, prevention and control,” and to “achieve breakthroughs in big data analysis, Internet of Things, and other key technologies” for the purpose of strengthening intelligent health management. The State Council's 2016 official notice on the development and use of big data in the healthcare sector, also explicitly states that health and medical big data sets are a national resource and that their development should be seen as a national priority to improve the nation's health.²⁶⁵ However, there is a rising concern that relaxed privacy rules and the transfer of personal data between government bodies will promote the collection and aggregation of health data without the need for individual consent.²⁶⁶ Some experts warn that this concept of public health and social welfare in China will diminish already weak safeguards for personal data.

²⁶³ Joi Ito, *My talk at the MIT-Harvard Conference on the Uyghur Human Rights Crisis* (May 2, 2019), <https://joi.ito.com/weblog/2019/05/02/my-talk-at-the-.html>.

²⁶⁴ Seungha Lee, *Coming into Focus: China's Facial Recognition Regulations*, Center for Strategic and International Studies (May 4, 2020), <https://www.csis.org/blogs/trustee-china-hand/coming-focus-chinas-facial-recognition-regulations>

²⁶⁵ Zhang Zhihao, *China to focus on innovation to boost economy, lives*, China Daily (Sept. 1, 2018), <https://www.chinadaily.com.cn/a/201801/09/WS5a543bd5a31008cf16da5fa9.html>

²⁶⁶ Huw Roberts, Josh Cows, Jessica Morley, Mariarosaria Taddeo, Vincent Wang, Luciano Floridi, *The Chinese approach to artificial intelligence: an analysis of policy, ethics, and regulation*, *AI and Society* (June 17, 2020), <https://link.springer.com/article/10.1007/s00146-020-00992-2>

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Use of AI in Covid-19 Response

In June 2020, the State Council released a White Paper, entitled “Fighting COVID-19: China in Action,” which provides that China has “fully utilized” artificial intelligence to not only research, analyze, and forecast COVID-19 trends and developments, but also to track infected persons, identify risk groups, and facilitate the resumption of normal business operations.”²⁶⁷ During the pandemic, China has used AI for surveillance of infected individuals and medical imaging. China also sought to reduce human interaction by using computers and robots for various purposes and have proven to be very effective in reducing exposure, providing necessary services such as assistance for healthcare professionals, improving efficiency in hospitals, and precautionary measures for returning to normal business operations.²⁶⁸

AI Ethics

Despite widely reported cases of unethical use of AI in China, the Chinese authorities, private companies and academia have been active in the global trend towards formulating and issuing statements on AI ethics. The AIDP goes as far as to outline a specific desire for China to become a world leader in defining ethical norms and standards for AI.²⁶⁹ There has been a recent wave of attempts to define ethical standards by both government bodies and private companies.

In 2017, China’s Artificial Intelligence Industry Alliance (AIIA), released a draft “joint pledge” on self-discipline in the artificial intelligence (AI) industry - emphasizing AI ethics, safety, standardization, and international engagement.²⁷⁰

²⁶⁷ “Full Text: Fighting COVID-19: China in Action,” Xinhua News via the State Council, June 7, 2020, <https://archive.vn/NYJQg>.

²⁶⁸ Emily Weinstain, *China’s use of AI in its Covid-19 Response*, the Center for Security and Emerging Technology (Aug. 2020), <https://cset.georgetown.edu/research/chinas-use-of-ai-in-its-covid-19-response/>

²⁶⁹ *China’s ‘New Generation Artificial Intelligence Development Plan’* (July 20, 2017) (English translation), <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/full-translation-chinas-new-generation-artificial-intelligence-development-plan-2017/>

²⁷⁰ *Chinese AI Alliance Drafts Self-Discipline ‘Joint Pledge’* (June 17, 2019) (English translation) <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/translation-chinese-ai-alliance-drafts-self-discipline-joint-pledge/>

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In 2019, the Beijing Academy of Artificial Intelligence (BAAI) released the Beijing AI Principles²⁷¹ to be followed for the research and development, use, and governance of AI. The Beijing Principles are centered around doing good for humanity, using AI “properly,” and having the foresight to predict and adapt to future threats. But just like other principles presented, they are still very vague.

In line with these principles, Governance Principles for Developing Responsible Artificial Intelligence²⁷² prepared in 2019, by the National New Generation Artificial Intelligence Governance Expert Committee that was established by China’s Ministry of Science and Technology. This document outlines eight principles for the governance of AI: harmony and friendliness, fairness and justice, inclusivity and sharing, respect for human rights and privacy, security, shared responsibility, open collaboration and agility to deal with new and emerging risks. Above all else, AI development should begin from enhancing the common well-being of humanity, states the document.

Another important document is a white paper on AI standards²⁷³ released in 2018 by the Standardization Administration of the People’s Republic of China, the national level body responsible for developing technical standards. Three key principles for setting the ethical requirements of AI technologies are (1) the ultimate goal of AI is to benefit human welfare; (2) transparency and the need to establish accountability as a requirement for both the development and the deployment of AI systems and solutions; (3) protection of intellectual property.

It is apparent that these principles bear some similarity to the OECD AI Principles. Nevertheless, the principles established in China place a greater emphasis on social responsibility, community relations, national security and economic growth, with relatively less focus on individual rights. However, establishing ethical AI principles can be viewed as a first

²⁷¹ Beijing Principles, <https://www.baai.ac.cn/news/beijing-ai-principles-en.html>

²⁷² *Chinese Expert Group Offers 'Governance Principles' for 'Responsible AI'* (June 17, 2019) (English translation), <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/translation-chinese-expert-group-offers-governance-principles-responsible-ai/>

²⁷³ Jeffrey Ding and Paul Triolo, *Translation: excerpts from China’s ‘White Paper on Artificial Intelligence Standardization,’* New America (June 20, 2018), <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/translation-excerpts-chinas-white-paper-artificial-intelligence-standardization/>

step and a signal that China wishes to become engaged in a dialogue with international partners.

AI and Surveillance

As early as the 2008 Beijing Olympics, China began to deploy new technologies for mass surveillance.²⁷⁴ China put in place more than two million CCTV cameras in Shenzhen, making it the most watched city in the world.²⁷⁵ In recent years the techniques for mass surveillance have expanded rapidly, most notably in Shenzhen, also to oversee the Muslim minority group the Uyghurs, and in Hong Kong. Modern systems for mass surveillance rely on AI techniques for such as activities as facial recognition, communications analysis and location tracking. As one industry publication has reported, “In the world of surveillance, no country invests more in its AI-fueled startups and growth-stage businesses than China. And no technology epitomises this investment more than facial recognition—a technology that courts more controversy than almost any other.”²⁷⁶ Forbes continues, “But a thriving domestic tech base has done nothing to quell the concerns of citizens. China is held up as a Big Brother example of what should be avoided by campaigners in the West, but that doesn't help people living in China.”

In September 2019, China's information-technology ministry announced that telecom carriers must scan the face of anyone applying for mobile and internet service.²⁷⁷ There are over 850 million mobile Internet

²⁷⁴ EPIC/Privacy International, *Privacy and Human Rights: An International Survey of Privacy Laws and Developments* (2006) (Report on People's Republic of China), http://www.worldlii.org/int/journals/EPICPrivHR/2006/PHR2006-People_s.html;

²⁷⁵ Naomi Wolf, *China's All-Seeing Eye With the help of U.S. defense contractors, China is building the prototype for a high-tech police state. It is ready for export*, Rolling Stone (May 15, 2018), <https://www.commondreams.org/views/2008/05/15/chinas-all-seeing-eye>.

²⁷⁶ Zak Doffman, *Hong Kong Exposes Both Sides Of China's Relentless Facial Recognition Machine* (Aug. 26, 2019), <https://www.forbes.com/sites/zakdoffman/2019/08/26/hong-kong-exposes-both-sides-of-chinas-relentless-facial-recognition-machine/>

²⁷⁷ Jane Li, *Getting a new mobile number in China will involve a facial-recognition test*, Quartz (Oct. 3, 2019), <https://qz.com/1720832/china-introduces-facial-recognition-step-to-get-new-mobile-number/>

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users in China. Meanwhile, the Hong Kong government invoked emergency powers in October 2019 to ban demonstrators from wearing face masks.²⁷⁸

Protests in Hong Kong over the use of facial surveillance are widespread. Umbrellas once used to deflect pepper spray, are now deployed to shield protester activities from the digital eyes of cameras.²⁷⁹ It is notable that the battle over the use of facial surveillance in Hong Kong began with widespread public protests about a national security law that extended police authority over the semi-autonomous region.²⁸⁰ According to the AP, “Young Hong Kong residents protesting a proposed extradition law that would allow suspects to be sent to China for trial are seeking to safeguard their identities from potential retaliation by authorities employing mass data collection and sophisticated facial recognition technology.”²⁸¹

China is also exporting the model of mass surveillance by facial recognition to other parts of the world. A detailed report, published in *The Atlantic* in September 2020, stated that “Xi Jinping is using artificial intelligence to enhance his government’s totalitarian control—and he’s exporting this technology to regimes around the globe.”²⁸² According to *The Atlantic*, “Xi’s pronouncements on AI have a sinister edge. Artificial intelligence has applications in nearly every human domain, from the instant translation of spoken language to early viral-outbreak detection. But Xi also wants to use AI’s awesome analytical powers to push China to the cutting edge of surveillance. He wants to build an all-seeing digital system of social control, patrolled by precog algorithms that identify potential dissenters in real time.”

²⁷⁸ Ilara Maria Sala, *Hong Kong is turning to a 1922 law that was used to quell a seamen’s strike to ban face masks*, Quartz (Oct. 4, 2019), <https://qz.com/1721951/anti-mask-law-the-1922-origins-of-hong-kongs-emergency-powers/>

²⁷⁹ Paul Mozur and Lin Qiqing, *Hong Kong Takes Symbolic Stand Against China’s High-Tech Controls*, New York Times (Oct. 3, 2019), <https://www.nytimes.com/2019/10/03/technology/hong-kong-china-tech-surveillance.html>

²⁸⁰ BBC, *Hong Kong security law: What is it and is it worrying?* (June 30, 2020), <https://www.bbc.com/news/world-asia-china-52765838>

²⁸¹ Christopher Bodeen, *Hong Kong protesters wary of Chinese surveillance technology* (June 13, 2019), <https://apnews.com/article/028636932a874675a3a5749b7a533969>

²⁸² Ross Anderson, *The Panopticon is Already Here*, *The Atlantic* (Sept. 2020), <https://www.theatlantic.com/magazine/archive/2020/09/china-ai-surveillance/614197/>

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In September 2020, the United States State Department issued voluntary guidelines for American companies “to prevent their products or services . . . from being misused by government end-users to commit human rights abuses.”²⁸³ The report comes amid growing concern that China is rapidly exporting its own surveillance capabilities to authoritarian regimes around the world, as part of its Belt and Road Initiative (BRI).²⁸⁴ But the *Washington Post* recently highlighted the ongoing role of US-made technology in the sweeping surveillance of China, and notably the Uighur Muslim minority.²⁸⁵ The *Washington Post* explained that “the aim is to monitor cars, phones and faces — putting together patterns of behavior for ‘predictive policing’ that justifies snatching people off the street for imprisonment or so-called reeducation. This complex opened four years ago, and it operates on the power of chips manufactured by U.S. supercomputer companies Intel and Nvidia.”

The *Post* editorial followed a *New York Times* investigation which found extensive involvement by U.S. firms in the Chinese surveillance industry.²⁸⁶

Public Opinion

There is growing concern in China about the misuse of personal data and the risk of data breaches. In a 2018 survey by the Internet Society of

²⁸³ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, *U.S. Department of State Guidance on Implementing the "UN Guiding Principles" for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities* (Sept. 30, 2020), <https://www.state.gov/key-topics-bureau-of-democracy-human-rights-and-labor/due-diligence-guidance/>

²⁸⁴ Abhijnan Rej, *US Issues Human Rights Guidelines for Exporters of Surveillance Tech: The directions to American businesses come amid growing concern around China's export of advanced mass-surveillance capabilities to more than 60 countries*, *The Diplomat* (Oct. 2, 2020), <https://thediplomat.com/2020/10/us-issues-human-rights-guidelines-for-exporters-of-surveillance-tech/>

²⁸⁵ The Washington Post, Editorial, *U.S.-made technologies are aiding China's surveillance of Uighurs. How should Washington respond?* (Nov. 28, 2020), https://www.washingtonpost.com/opinions/us-made-technologies-are-aiding-chinas-surveillance-of-uighurs-how-should-washington-respond/2020/11/26/0218bbb4-2dc9-11eb-bae0-50bb17126614_story.html

²⁸⁶ Paul Mazur and Don Clark, *China's Surveillance State Sucks Up Data. U.S. Tech Is Key to Sorting It: Intel and Nvidia chips power a supercomputing center that tracks people in a place where government suppresses minorities, raising questions about the tech industry's responsibility* (Nov. 22, 2020), <https://www.nytimes.com/2020/11/22/technology/china-intel-nvidia-xinjiang.html>

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China, 54% of respondents stating that they considered the problem of personal data breaches as ‘severe.’²⁸⁷ The World Economic Forum suggest that 2018-2019 “could be viewed as the time when the Chinese public woke up to privacy.” According to the WEF, a controversy arose in 2019 when the Zao app, using AI and machine learning techniques, allowed users to swap faces with celebrities in movies or TV shows.²⁸⁸ “It went viral as a tool for creating deepfakes, but concerns soon arose as people noticed that Zao’s user agreement gave the app the global rights to use any image or video created on the platform for free.” The company later clarified that the app would not store any user’s facial information. Chinese consumers also challenged Alibaba when they learned that they had been enrolled in a credit scoring system by default and without consent. “Under pressure, Alibaba apologized.”

Data Protection

In October 2020, the Chinese government published a draft Personal Data Protection Law (个人信息保护法 (草案)).²⁸⁹ The law is modeled after the EU GDPR and is meant to be the first dedicated system to protect the privacy and personal data in China.²⁹⁰ A significant portion of the law covers private collection of data, imposes consent and notice requirement, and enhanced legal liability for infringement. However, the law places a greater emphasis on how private companies may collect and use data rather than the use of data by authorities. For instance, article 27 on personal images and facial recognition allows the collection of unlimited amounts of personal data so long as it is done “for the purpose of safeguarding public

²⁸⁷ Technology Review, *China’s citizens do care about their data privacy, actually*, (Mar. 28, 2018), <https://www.technologyreview.com/2018/03/28/67113/chinas-citizens-do-care-about-their-data-privacy-actually/>

²⁸⁸ World Economic Forum, *China is waking up to data protection and privacy. Here’s why that matters* (Nov. 12, 2019), <https://www.weforum.org/agenda/2019/11/china-data-privacy-laws-guideline/>

²⁸⁹ *China’s Draft ‘Personal Information Protection Law’* (Oct. 21, 2020) (English Translation) <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/chinas-draft-personal-information-protection-law-full-translation/>

²⁹⁰ Gabriela Zanfir-Fortuna, *China’s Draft Personal Information Protection Law in 13 Key Points*, the StartUp (Nov. 3, 2020), <https://medium.com/swlh/chinas-draft-personal-information-protection-law-in-13-key-points-5a9b9cdcf02c>. Gil Zhang and Kate Yin, *A look at China’s draft of Personal Data Protection Law*, IAPP (Oct. 26, 2020), <https://iapp.org/news/a/a-look-at-chinas-draft-of-personal-data-protection-law/>

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security.”²⁹¹ That is to say, the draft law does not limit the government’s ability to collect or store biometric data obtained through facial recognition. In contrast, EU GDPR sees personal images as sensitive biometric data and requires Data Protection Impact Assessment (DPIA) for facial recognition technology. Finally, the draft law does not assign responsibilities when it comes to government entities that collect personal data, and who will be held responsible when it leaks. This became increasingly important with the rise of recent incidents of government leaks of personal information of its citizens.²⁹²

Nevertheless, as the big data industry has been rapidly growing in China, the draft law will significantly impact companies and provide more protection to users against unwanted data collection by private companies.

Fundamental Rights & OECD AI Principles

China has endorsed Universal Declaration of Human Rights and G20 AI Principles. As a party to the UDHR, China shall recognize “the inherent dignity” of all human beings and to secure their fundamental rights to “privacy.” Privacy rights are guaranteed to Chinese citizens under the Constitution. However, Article 40 of the Chinese constitution justifies the invasion of privacy “to meet the needs of State security.” Furthermore, the Constitution is regarded as irrelevant, as there is neither a constitutional court nor any possibility to assert constitutional rights.²⁹³ Relatedly, problematic exemptions for the collection and use of data, when it is related to security, health, or the flexibly interpretable “significant public interests”²⁹⁴ contribute to weak data protection in China.

²⁹¹ *China's Draft 'Personal Information Protection Law'* (Oct. 21, 2020) (English Translation) <https://www.newamerica.org/cybersecurity-initiative/digichina/blog/chinas-draft-personal-information-protection-law-full-translation/>

²⁹² *China, coronavirus and surveillance: the messy reality of personal data*, *Financial Times* (Apr. 2, 2020), <https://www.ft.com/content/760142e6-740e-11ea-95fe-fcd274e920ca>; Paul Mozur, *China, Desperate to Stop Coronavirus, Turns Neighbor Against Neighbor*, *The New York Times* (Feb. 3, 2020), <https://www.nytimes.com/2020/02/03/business/china-coronavirus-wuhan-surveillance.html>; Personal data leaks spread along with coronavirus panic, TechNode, <https://technode.com/2020/02/03/wuhan-data-leak-coronavirus/>

²⁹³ Greenleaf, *Data Privacy* (n 3) 196 f; Wang, ‘Redefining Privacy’ (n 11) 110; Ma and Roth (n 2) 355

²⁹⁴ Sacks S (2018) *New China Data Privacy Standard Looks More Far-Reaching than GDPR*. Center for Strategic and International Studies. <https://www.csis.org/analysis/new-china-data-privacystandard-looks-more-far-reaching-gdpr>.

Artificial Intelligence and Democratic Values

These exemptions are also behind the big data collection and mass surveillance system, the Integrated Joint Operations Platform (IJOP),²⁹⁵ used in Xinjiang for monitoring minorities. Another example is Social Credit System, a system that collects all kinds of data about citizens and companies, sorts, analyses, evaluates, interprets and implements actions based on it. Thus, the strength of privacy protection in China is likely to be determined by the government's decisions surrounding data collection and usage, rather than legal and practical constraints.²⁹⁶ Moreover, policies and administrative decisions on both central and provincial levels often contradict the legal protection²⁹⁷ as administrative agencies may ignore the law on the basis of party policy, morality, public opinion, or other political considerations.²⁹⁸

Evaluation

China has emerged as one of the first AI superpowers and has an ambitious plan of leading the world in AI by 2030. In addition to the G20 AI Principles, China has endorsed important principles on AI and ethics and recently announced a new law on data protection. However, China's use of its AI against ethnic minorities and protesters in Hong Kong, as well as a means to score citizens for their alliance with the state, is the source of widespread fear and skepticism. There is also a concern about the development of lethal autonomous weapons. As China is now rapidly deploying AI systems, there is an urgent need to assess China's actual practices against global standards for human-centric AI.

²⁹⁵ China's Big Brother App, Human Rights Watch

<https://www.hrw.org/news/2019/05/01/interview-chinas-big-brother-app>

²⁹⁶ Huw Roberts, Josh Cowls, Jessica Morley, Mariarosaria Taddeo, Vincent Wang, Luciano Floridi, *The Chinese approach to artificial intelligence: an analysis of policy, ethics, and regulation*, May 2020

²⁹⁷ Aktas, I. (2015). Uighur Separatism and Human Rights: A Contextual Analysis. In M. Kosmala-Mozłowska (Ed.), *Democracy and Human Rights in East Asia and Beyond – Critical Essays*. Warsaw: Collegium Civitas Press.

²⁹⁸ Wang J, Liu S (2019) *Ordering power under the party: a relational approach to law and politics in China*. *Asian J Law Soc* 6(1):1–18. <https://doi.org/10.1017/als.2018.40>