

24th session of the Committee of Experts on Public Administration

Written statement by Public Services International

Agenda item 6: Role of Governments in ensuring transparency and accountability of artificial intelligence systems in public administration.

Public Services International thanks the Committee's paper and wishes to contribute to the discussions with the following inputs:

Challenges and risks associated with the use of artificial intelligence in the public sector

The report highlights several significant challenges and risks of deploying artificial intelligence in the delivery of public services and public administration. These risks should not be understated. Unlawful cancellation of welfare support resulting from flawed algorithmic decision making, for example, has reportedly led to deaths of welfare recipients. In one large country, every low-income person in receipt of any form of social protection, has decisions made about their eligibility by artificial intelligence with little to no oversight. Predictive criminal profiling has resulted in miscarriages of justice, entrenched discrimination, and loss of confidence in the justice system.

In addition to the risks highlighted in the report, Public Services International is concerned about the significant risks of deploying artificial intelligence for military and security purposes and about the potential commercialisation of public data and public services that can occur when artificial intelligence that is owned and controlled by private sector actors is deployed in the delivery of public services. Artificial intelligence had already been deployed in warfare with extensive human rights implications. The potential catastrophic consequences of artificial intelligence, acknowledged in the Bletchley Declaration, could emerge from development of artificial intelligence for military and cybersecurity purposes. While this field may be outside of the Committee's current terms of reference, artificial intelligence regulatory systems must take into consideration the urgency of regulating it for military and intelligence gathering.

Without comprehensive regulation and oversight, public data may be collated, aggregated, and commercialised when private sector applications are used in the delivery of public services. Aggregated public data, including in large language sets, is crucial for public planning, public health, public research and for innovation needed to address the climate crisis and other threats that require public policy responses. The capacity of the private sector to control, aggregate and profit from vast amounts of data weakens the role of the state and increases the risks of violations that occur as a result of privatisation (a risk documented by the UN Special Rapporteur on Extreme Poverty and Human Rights). Corporations that have secured early procurement contracts to provide automated decision making or artificial intelligence in the delivery of public services have obtained a foothold that provides access to increasing amounts of public data whilst expanding across government services and getting long term maintenance contracts and dependency. To arrest this flight of data value from the public sphere into captive private ecosystems, regulatory systems that democratize data and artificial intelligence dividends to serve the collective good are required.

The need for regulation and oversight

Public Services International supports the report's suggestion that the decision to utilise artificial intelligence should be determined through an analysis of public good, rather than efficiencies alone. Governments should develop clear guidelines on the process to conduct a public good analysis which should include public consultation and social dialogue with public service unions and include an analysis of impact on employment. The environmental and climate impacts of artificial intelligence must be a factor in the determination.

A critical element of an effective regulatory system that ensures artificial intelligence is transparent, accountable and advances – rather than undermines – international human rights, environmental and humanitarian obligations, is building the tools, capacities, and responsibilities of a robust public administration workforce. All workers engaged in agencies where artificial intelligence or automated decision making is deployed must be trained to understand and review decisions made by artificial intelligence and understand the risks of automation bias. Public administration workers must be engaged in any proposals to introduce artificial intelligence or automation of decision making and collective employment agreements should incorporate clear processes for the introduction of new technologies. Whistleblowing procedures should be introduced that enable workers and their unions to report concerns relating to the use and outcomes of artificial intelligence. Governments should also develop internal capacities to build public artificial intelligence systems, ensuring the risks associated with systems designed to harvest and commercialise data are eliminated, and that full algorithmic control is held with the government, guaranteeing public accountability.

Public Services International supports the need for regulatory systems which mandate algorithmic accountability and transparency, incorporating the components outlined in the report including explainability and traceability, data use and disclosure, algorithmic transparency, and public communication. Given the opacity of the “black box” of algorithms, the burden to prove that automated systems have not produced discriminatory outcomes, or other human rights violations, should lie on the owner of the source code.

In light of the above, we would like to suggest that the Committee further considers that governments:

- Establish independent data regulators with internal capacities to analyse and test all algorithms and large language models;
- Ensure that the use of large language models be subject to licensing from regulatory agencies and any large language model must be lodged with the regulatory agency for modelling and ex-ante human rights, environmental and public good impact assessments prior to release and be subject to periodic review;
- Develop data licensing systems which ensure that the rights to access and benefit from personal and collective data are retained by data subjects;
- Institute a right to human decision making / review in all public administrative decisions and a mandatory human backup system in case of artificial intelligence system failure;

- Adopt legislation that include protection for whistle-blowers, including the capacity for public administration unions and others to report on the adverse impact of deployment of artificial intelligence systems;
- Design and deliver ongoing capacity-building of public administration workers in departments where artificial intelligence is deployed at all levels of government that addresses the complex technical, legal, and ethical challenges of artificial intelligence systems;
- Establish the right to information as central to artificial intelligence procurement and deployment, prioritizing algorithmic transparency over intellectual property or trade secrets claims, including in trade and digital trade/e-commerce treaties. Explainability and interpretability of artificial intelligence models, especially in high-risk cases affecting fundamental human rights, should be legally mandated;
- Develop and invest in opensource public systems and digital public infrastructure for artificial intelligence and develop public artificial intelligence repositories. These investments need to be accompanied by careful licensing systems to ensure open-source systems are not inappropriately used;
- Ensure that any proposals to introduce artificial intelligence or automated systems are negotiated through social dialogue and collective bargaining;
- Develop contract blueprints to ensure that governments at all levels, public authorities and other public entities/institutions – including state-owned enterprises – dealing with private artificial intelligence providers maintain data sovereignty over public and citizen data;
- Incorporate requirements at all levels of government for the capacity building of public sector employees to understand, use, monitor, design and amend artificial intelligence systems and provisions to enable insourcing of artificial intelligence systems to protect public and citizen data;
- Imbed the precautionary principle into global and national governance of artificial intelligence;
- Withdraw from and restrain from signing on to barriers to artificial intelligence regulation that appear in trade agreements as “e-commerce” or digital trade rules which prohibit algorithmic transparency, localisation of data, a local presence of corporations who deploy artificial intelligence systems or any other regulations that may be required to ensure artificial intelligence is safe and deployed for public good.