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Canadian Institute  
for the Administration  
of Justice

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Listening. Learning. Leading.

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Institut canadien  
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Écouter. Apprendre. Inspirer.

# Digital Challenges, Artificial Intelligence and Borders

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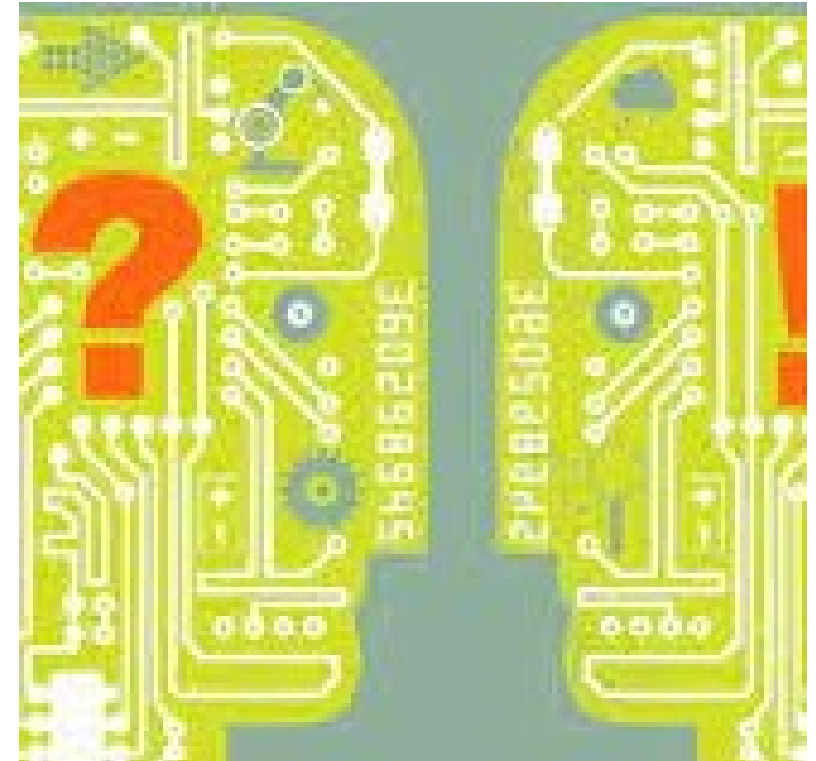
# Law and Digital Technologies: specific challenges

- “Technological” objects are new and evolutive
  - E.g. Internet, blockchain, AI, etc... How to regulate them?
- **Cross-border technologies by nature *versus* territoriality of national laws**
  - E.g. activities on Internet, data flows
- Immaterial Objects *versus* Traditional Concepts of International Law based on Materiality
  - E.g. Data is duplicable and not rivalrous.
- Economy (Property) and Protection (personality)
  - E.g. personal data protection versus free circulation
- Cybercriminality
  - E.g. attribution problem (private parties, States?) and multi-territoriality of the attacks



# Artificial Intelligence Technology

- What is Artificial intelligence (AI)?
- AI refers to systems that demonstrate intelligent behavior by analyzing their environment and taking action, with a certain degree of autonomy, to achieve goals (AI system + data)
- **Cross-border technology and cross-border data flows (personal & non personal data)**
- **International Leadership (US, China)**



# AI and Cognitive Functions

## Impact on individual and society (no borders)

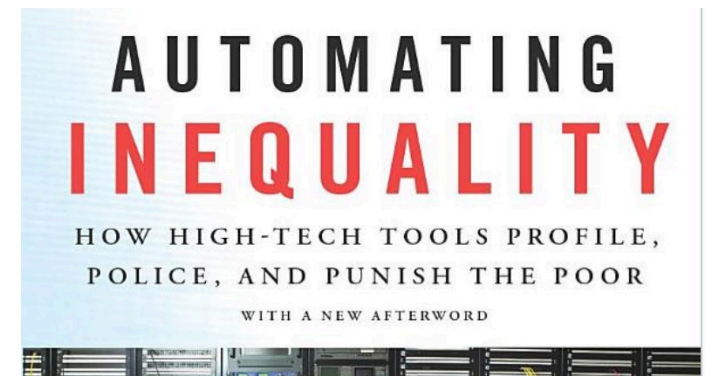
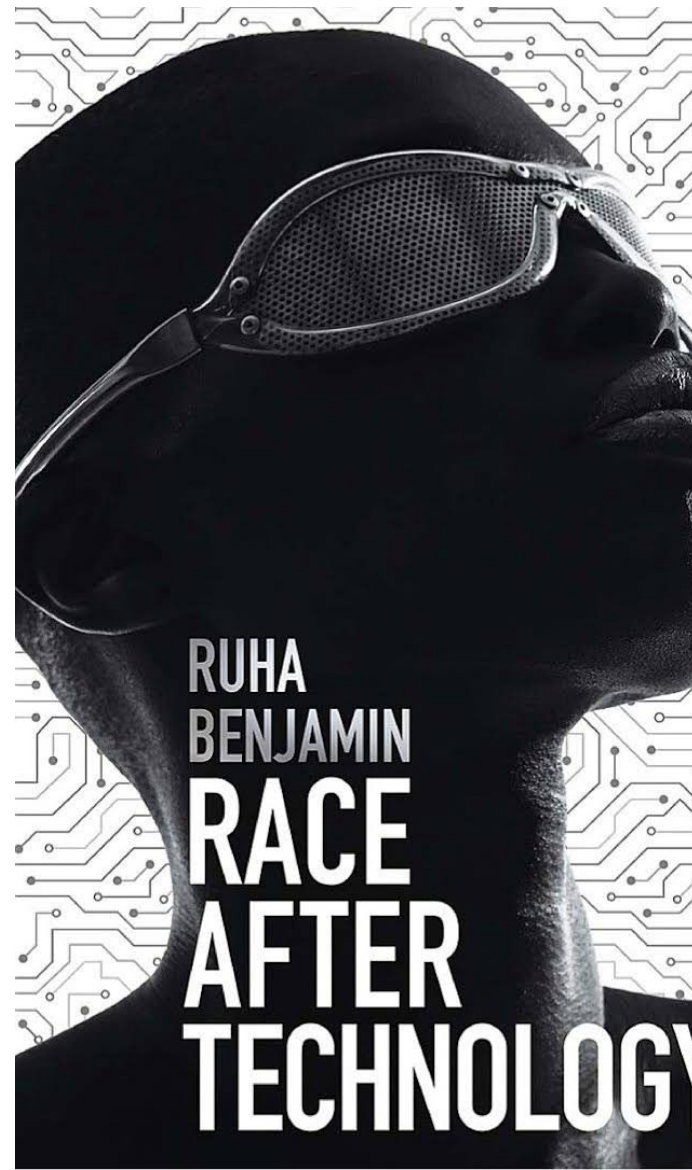
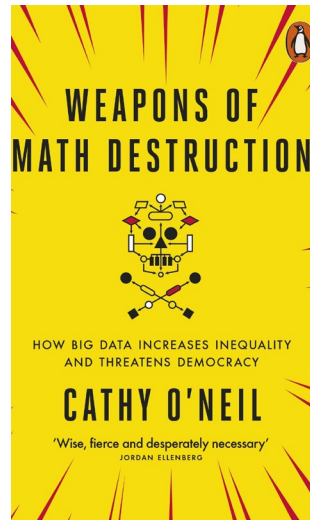
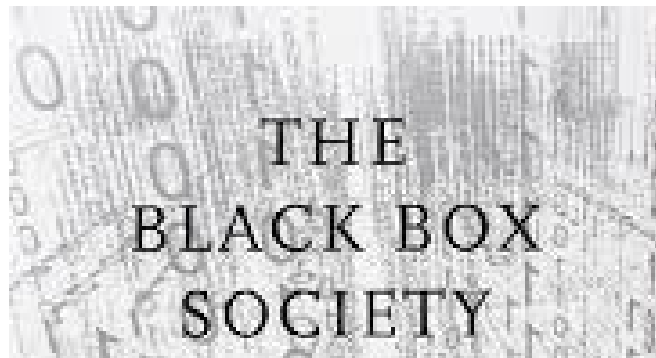
Prediction

Recommandation

Decision-making

Content generation (text, images, video, computer code, etc.)

# Vulnerabilities: Opacity, biases, discrimination, manipulation



# Generative AI: Intellectual Property, Personal Data, Confidentiality

## DALL-E 2 peut désormais étendre les images au-delà de leurs bords.

Publié le 1 septembre 2022 à 21h06 par Laurence Jardin  
Temps de lecture: 4 minutes

**DALL-E 2, l'outil d'intelligence artificielle capable de créer des images à partir de commandes textuelles, offre désormais la possibilité d'étendre toute image au-delà de ses bords.**



Turanur Islam

21 Oct 2022 00:00:00 | Update: 21 Oct 2022 01:07:30



**AI-generated artwork, a new genre of art created by artificial intelligence-based algorithms by writing some text descriptions in English, has caused one of the greatest stirs among artist community.**

# How to regulate Artificial intelligence? Military domain: International Humanitarian Law

**REAIM**

Responsible AI in the Military domain **Summit**

The Hague

The Netherlands 2023

February 15-16

Co-hosted by the Republic of Korea

50 countries including China and the United States  
Russia not invited

## **REAIM Call to Action**

*19. We invite states to develop national frameworks, strategies and principles on responsible AI in the military domain.*

*24. We encourage multi-stakeholder dialogue on best practices to guide the development, deployment and use of AI in the military domain to ensure an interdisciplinary discussion throughout of good practices and policies on responsible use of AI in the military domain.*



# How to regulate Artificial intelligence? International Law & Human Rights (Regional Institution)

- Council of Europe: international human rights watchdog with 46 member countries
- + observer countries (USA, **Canada**, Mexico, Japan and Israel)

- **Article 1er Purpose and object**

This Convention establishes certain fundamental principles, rules and rights aimed at ensuring that design, development and application of artificial intelligence systems is fully consistent with respect for human rights, the functioning of democracy and the observance of rule of law



Strasbourg, 6 January 2023

## COMMITTEE ON ARTIFICIAL INTELLIGENCE (CAI)

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REVISED ZERO DRAFT [FRAMEWORK] CONVENTION  
ON ARTIFICIAL INTELLIGENCE, HUMAN RIGHTS,  
DEMOCRACY AND THE RULE OF LAW

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# How to regulate Artificial intelligence? National Approach – Canada: Bill C-27

First Session, Forty-fourth Parliament,  
70-71 Elizabeth II, 2021-2022

HOUSE OF COMMONS OF CANADA

BILL C-27

An Act to enact the Consumer Privacy Protection Act, the Personal Information and Data Protection Tribunal Act  
and the Artificial Intelligence and Data Act and to make consequential and related amendments to other Acts

FIRST READING, JUNE 16, 2022

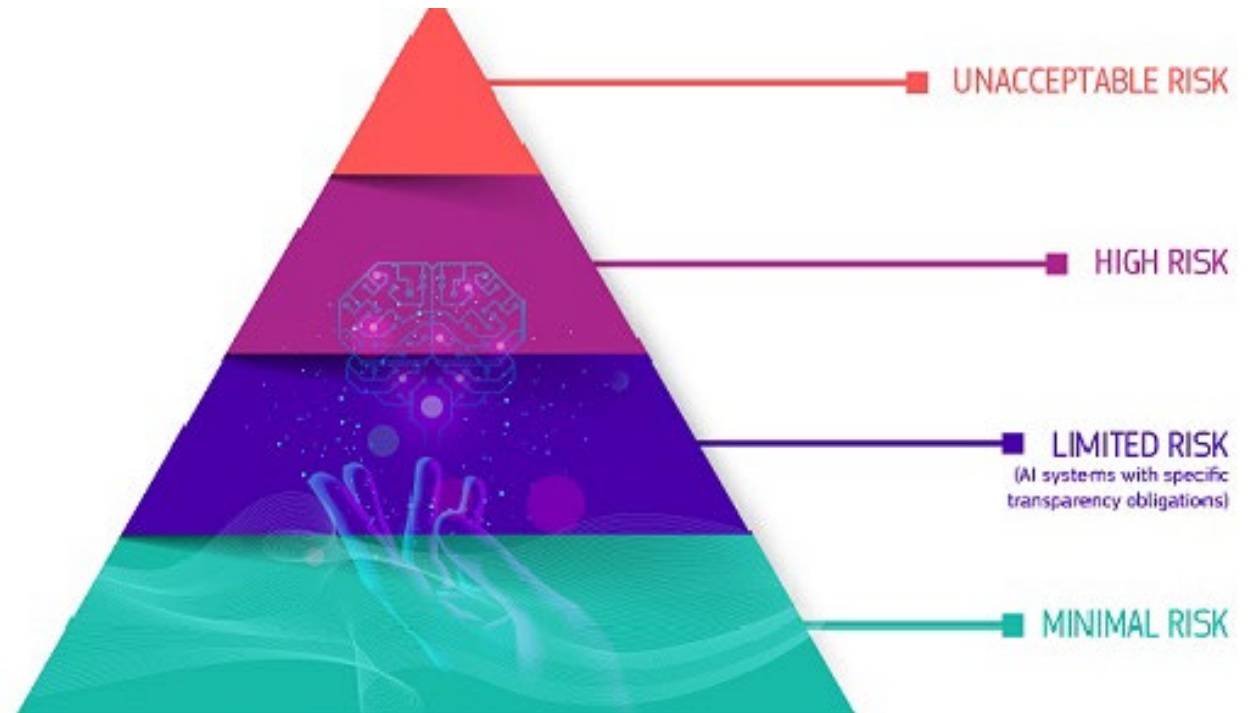
MINISTER OF INNOVATION, SCIENCE AND INDUSTRY

- **Scope : Non-application**
- **3 (1)** does not apply to a **government institution**
- **Purposes:**
- **(a)** to regulate **international and interprovincial trade and commerce** in AI systems by establishing common requirements, **applicable across Canada**  
(NOT intraprovincial commerce)
- **(b)** to prohibit certain conduct in relation to AI systems that may result in **serious harm** to individuals (physical or psychological harm, individual's property, economic loss) or **biased output** (section 3 of the *Canadian Human Rights Act*)
- Regulation of « High Impact Systems »

# How to regulate Artificial intelligence?

## European Approach: European Commission Proposal on AI Act (April 2021)

- ▶ Covers risks to health, safety and/or fundamental rights
- ▶ A list of high-risk use cases (annexes 2 & 3)



# Conclusion

- **Negative impact of a cross-border technology such as AI**
  - ❖ Vulnerabilities, biases and discrimination generated by the technology: a need for an AI Law
  - ❖ Fragmentation of national AI laws: unsuitable territorial approach
  - ❖ Insufficient international cooperation on AI Regulation: a call for an international AI Law