Towards Substantive Equality in Artificial Intelligence: Transformative AI Policy for Gender Equality and Diversity

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Summary of Key Recommendations for Transformative AI Policy

The summary of key recommendations provides a brief overview of concrete measures that policy makers can take to effectively integrate gender equality and diversity principles throughout AI policy frameworks, laws, regulations and practices.

Inclusive Design and Democratic Innovation

- 1. Involve Marginalised Groups in Technical and Non-Technical Roles Throughout the AI Ecosystem Implement affirmative action across the AI ecosystem to involve women and other historically marginalised groups in technical and non-technical roles throughout the AI ecosystem to increase diversity in perspectives. Allocate resources to identify and remove barriers to diverse representation. This includes ensuring accessible, inclusive education beyond AI ecosystems.
- 2. Invest in Capacity Building for Institutional Inclusion Invest in capacity development and awareness raising, within public and private institutions and teams, on the experiences and rights of historically marginalised groups. Ensure regular dialogue with representatives of marginalised groups to understand and eliminate the specific barriers they face.
- 3. Permit Processing of Special Categories of Data Permit the processing of special categories of data under certain exceptional circumstances, based on substantial public interest, to achieve equality and non-discrimination. To prevent discriminatory outputs, AI system providers must test for systemic bias and ensure the representation of diverse datasets. This should be done without contravening personal data protection rights.

4. Fund Transformative Technology Research and Design Approaches in Al Innovation

Fund research and provide grants and public recognition to incentivise the application of inclusive and transformative techno-design approaches in AI, such as those anchored in feminist technology design principles. These approaches address the gaps between technical and political fairness. Supporting AI system innovations that align with these principles advances more equitable and just applications, practices and processes.

Meaningful Participation in Al Governance

5. Promote Effective Public Engagement and Community Participation

Employ various public engagement methodologies on national and international levels. Include marginalised voices in national AI governance discussions and amplify the Global Majority in international AI governance forums. Enable participation of representatives of marginalised groups by allocating budgets for participation costs ensuring that information and consultation processes are accessible, free, and comprehensible.

6. Invest in Capacity Development Among Marginalised Groups

Fund and support educational programmes, networking structures, and other resources that seek to develop the skills and confidence among marginalised groups to participate meaningfully or to actively lead the processes that serve their needs. Work with marginalised communities and representative organisations of marginalised groups to hold their own awareness sessions and consultations on AI-related issues.

7. Legislate for Ex Ante Public Participation Rights

Ground AI decision-making processes in ex ante public participation rights such as those established through the UNECE Aarhus Convention. Applying these principles to AI decision-making processes enables affected parties, as well as civil society organisations and the general public, to contest algorithmic decision-making consequences through public reasoning and deliberation.

8. Protect Collective Data and Al Rights

Revise rights frameworks that are impacted by AI systems and processes, such as intellectual property and data rights frameworks to 1) safeguard the data and knowledge sovereignty of Indigenous people and marginalised groups, including linguistic, religious and ethnic minorities; and 2) ensure the right to benefit from scientific progress.





Transparency and Accountability for Harm Prevention

9. Establish the Right to Information in AI Systems and Enhance Algorithmic Transparency

Establish the right to information in AI. This right should grant individuals the right to access clear, accessible details on when AI is employed, what algorithms are used, what data are used for input, and what criteria are used in decision-making processes. Requiring enhanced algorithmic transparency allows individuals negatively impacted by AI systems to challenge their outcomes. It also encourages technological innovation to confront limitations, such as behavioural opacity, and enhance interpretability and explainability.

10. Enable and Conduct Obligatory Human Rights Impact Assessments (HRIAs)

Enable and conduct impact assessments by providing policy guidance on how to conduct them. The assessments should evaluate whether risks of harm are acceptable under fundamental rights law and include clear duties to eliminate or prevent such risks. The assessments must also consider and compare possible non-technological approaches to identify the least intrusive measures to human rights.

11. Develop Accountability Measures for Public-Sector Algorithmic Systems and Processes

Develop AI-specific public procurement guidelines to protect human rights and due process, addressing complexities and risks introduced by algorithmic and AI systems and processes. Promote open data initiatives to build open libraries of algorithms used in public-sector systems. Ensure that policy makers undergo capacity-building so they can effectively conduct due diligence in AI procurement.

Effective Access to Justice

12. Strengthen Contextual Liability for Non-Discrimination in Al Systems

Strengthen contextual liability for non-discrimination in AI systems in proportion to other accountability measures such as level of transparency, interpretability, and explainability. Product and fault liability regulations require revision to accurately reflect the complexities of AI systems and data-driven decision- making. Effective accountability in AI development and deployment takes into account specific characteristics such as opacity, explainability, autonomous behaviour, continuous adaptation and limited predictability. Chart a path towards liability in AI to ensure appropriate accountability among public and private providers and deployers.

13. Empower Equality Bodies to Initiate Action

Empower equality bodies, including national human rights institutions and other public interest organisations, to take action in the public interest. Allow these bodies to submit complaints to supervisory authorities even without identifiable complainants. Ease the burden of proof and equip these bodies with the legal authority and necessary training to effectively address discrimination and harms caused by Al systems and related processes.

14. Ease the Burden of Proof for Claimants

Review and revise evidence rules to ease the burden of proof for claimants (World Commission on the Ethics of Scientific Knowledge and Technology, 2005). Existing product liability rules often require harmed parties to demonstrate the causal link between product faults and specific damages. Consider adjusting these rules to make it easier for claimants to prove their cases and claim compensation.



Step-by-step roadmap for successful implementation As illustrated in the Policy Guide for Implementing Transformative AI Policy Recommendations



