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Towards Substantive Equality in Artificial Intelligence

Transformative AI Policy for Gender Equality and Diversity

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Session objectives

1. **Examine the benefits of substantive equality in AI policy**
   Explore how the integration of transformative and equality-driven AI policies into national and regional African frameworks can drive community development, enhance productivity, and foster inclusive growth.

2. **Identify context-relevant approaches to inclusive AI governance**
   Discuss practical measures for promoting inclusive design, enabling meaningful participation, ensuring transparency and accountability, preventing harm, and facilitating effective access to justice within participants' specific contexts.

3. **Promote collaborative action for inclusive AI governance**
   Define concrete, actionable steps that stakeholders across sectors can take to enhance regional and international collaboration in advancing inclusive and rights-respecting AI governance in Africa.

Background to the report

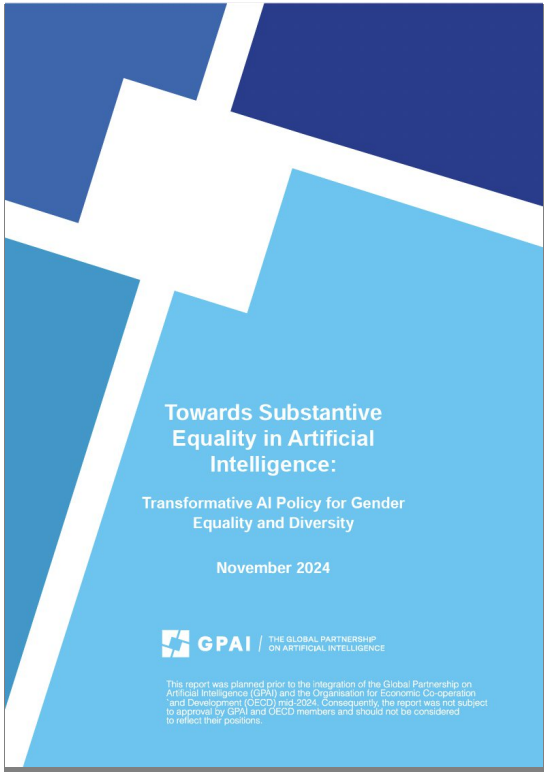
Report in numbers

3 AIMS

1. To explore how AI systems reinforce systemic inequalities
2. Focus on impacts of AI on women and marginalised communities
3. Recognises AI's potential and its role in amplifying bias and power imbalances.

200 participants: Civil society organisations, academic institutions, government bodies, and indigenous communities.

5 global regions: Sub-Saharan Africa, Latin America, Asia-Pacific, the Middle East and North Africa and Europe/North America




The report calls for transformative change rooted in substantive equality, meaningful participation, and global solidarity, urging policymakers to move beyond technical fixes and address the structural inequalities embedded in AI systems.

Interrelated report themes

Human rights–based approach
Anchors AI policy in international legal frameworks such as CEDAW, ICESCR, and UNCRPD, ensuring that dignity, equality, and agency are at the heart of how AI systems are designed, deployed, and regulated.

Substantive equality
Shifts the focus from formal equality to fair and equitable outcomes by addressing structural disadvantage, power imbalances, and the need to redress systemic inequalities.

Transformative change
Calls for deep, structural reforms, not just technical adjustments, that challenge the roots of exclusion and position AI as a force for justice and societal transformation.

Global justice and solidarity
Elevates the knowledge, priorities, and lived experiences of the Global Majority.

Interconnected rights

The Transformative AI Policy Framework is based on three interconnected rights:

- **The right to inclusion:** Remedying systemic disadvantage.
- **The right to participation:** Redressing the democratic deficit in AI development.
- **The right to dignity:** Reversing misrecognition and injustice.

What is at stake?

AI can widen inequality – or redress it

“AI systems are not neutral. They reproduce the world models, cultural values, knowledge, and languages of the contexts in which they are conceived, thereby replicating or amplifying systemic inequalities.”

— Report Foreword

“The starting point should be the harms that people experience and will likely experience. This requires listening to those who are affected.”

— Volker Türk, UN High Commissioner for Human Rights, 2023

AI can widen inequality – or redress it

- AI systems reflect the values, knowledge, and power structures of the societies that build them.

- If left unexamined, AI entrenches existing inequalities — particularly for marginalised groups, especially women, Indigenous communities, people with disabilities, among others.

- But with **transformative, equality-driven policies**, AI can be reimagined to advance substantive equality — not just formal access, but actual benefit
and inclusion.

Three barriers to substantive equality in AI

Access does not equate to inclusion

“Inclusion in AI is not just about adding or giving access. It is actually about access that leads to flourishing or access that leads to benefiting. So if your access does not result in benefiting, then that access becomes exclusionary.”

— Angella Ndaka, Centre for African Epistemic Justice, Kenya

Knowledge exclusion and epistemic injustice

“A lack of diverse representation can lead to AI development teams ignoring the needs and perspectives of women, people of colour and other marginalised groups.”

— Anonymous, Asia consultation

“Aligning our technologies with our history and culture is really important, and sovereignty and reciprocity are key values for AI.”

— Florian Lebret, Indigenous communities, Canada

Unequal distribution of resources & exploitation

“The nice words about start-ups and economic liberation mask the reality that […] we are in another form of colonisation.”

— Maha Jouini, African Center for AI and Digital Technology, Mauritania

“When we’re talking about the AI lifecycle, we’re also talking about the extraction of minerals from cobalt mines in Congo. To what extent are
we thinking about the gendered implications of AI development in that regard?”

— Kelly Stone, AI Observatory, South Africa

What does transformative AI policy look like?

Key recommendations

1. **Inclusive design and democratic innovation:** Integrate affirmative action and measures for institutional inclusion, and support inclusive technology design.

2. **Meaningful participation:** Foster and ensure the active involvement of marginalised groups in AI governance to ensure better AI policy for all.

3. **Transparency and accountability for harm prevention:** Establish ex ante safeguards and mechanisms for accountability among all AI actors to prevent harm and ensure fairness.

4. **Effective access to justice:** Measures to ensure that marginalised groups have access to legal recourse against AI-driven discrimination and bias.

Key findings

Inclusion is not equal to access

Inclusion is often mistaken for mere access to AI tools like mobile phones or internet platforms, without considering empowerment or benefit.

- Access alone does not guarantee participation in decision-making, benefit from outcomes, or protection from harm.
- Many users remain passive data providers, not empowered contributors or beneficiaries.

Implication: True inclusion means historically marginalised groups must be decision-makers, not just end-users or data sources.

AI and colonial exploitation

- The economic benefits, infrastructure, and innovation capacity in AI are heavily skewed towards the Global North and corporate entities.
- AI development reflects extractive models. Africa supplies data, minerals (e.g. cobalt), and cheap labour but receives minimal value in return.
- The Global South and marginalised groups are largely data providers and labourers in the AI value chain, not owners or decision-makers.

Implication: AI ecosystems reproduce environmental, labour, and data exploitation, with women and marginalised workers most affected.

Lack of local representation in AI development

- AI systems deployed in Africa are predominantly developed in the Global North, often without adequate understanding of local contexts, needs, or cultural dynamics.
- Support for African-led innovation remains minimal.
- For example, AI tools used in public services, such as facial recognition or identity verification, frequently misclassify individuals with darker skin tones or non-Western naming conventions, resulting in service denial or errors in identification.

Implication: Poor contextualisation exacerbates systemic exclusion, especially for people with disabilities, rural populations, and those who spe minority languages, reinforcing digital inequality.

Data exploitation and weak consent mechanisms

- Many AI deployments involve opaque data collection practices, with people unaware of how their information is used.
- For example, African populations are increasingly targeted for data harvesting through mobile apps and biometric systems, often with no meaningful consent or control..

Implication: “Informed consent” becomes meaningless in contexts of structural inequality, where individuals cannot realistically refuse participation. This highlights significant power asymmetries in how data is gathered and used.

Government capacity gaps in AI governance

- Many governments lack the technical expertise, legal frameworks, and institutional readiness needed to effectively regulate AI systems or evaluate their societal impact.

Implication: Without targeted capacity building and cross-sector support, states may unintentionally adopt or endorse harmful AI technologies under the guise of innovation, deepening inequality and eroding public trust.

Exclusion of local knowledge systems

- Mainstream AI models are predominantly shaped by Western, technocratic perspectives and often fail to recognise or incorporate Africa's rich cultural, linguistic, and epistemic diversity.
- Indigenous, feminist, and Global South knowledge systems are excluded from AI development.

Implication: This results in epistemic injustice, where certain voices are invalidated or rendered invisible, limiting the relevance, inclusivity, and legitimacy of AI solutions in local contexts.

Call for ethical, participatory AI

There is a strong regional drive to decolonise AI by supporting locally grounded, participatory design.

Recommendations include:

- Fund community-led AI innovation
- Mandate algorithmic transparency in public services
- Create regional data sovereignty frameworks

Policy recommendations

Inclusive design and democratic innovation

1. **Involve Marginalised Groups in Technical and Non-Technical Roles**
   - Enforce affirmative action policies.
   - Tackle structural barriers in education and employment.
2. **Invest in Capacity Building for Institutional Inclusion**
   - Train public and private sector actors on intersectional inclusion.
   - Institutionalise dialogue with marginalised communities.
3. **Permit Processing of Special Categories of Data**
   - Allow collection of sensitive data (e.g. race, gender) for equity monitoring under strict safeguards.
   - Ensure strong data protection and informed consent protocols.
4. **Fund Transformative Technology Research and Design**
   - Incentivise feminist, decolonial, and community-led approaches.
   - Provide grants and public recognition to inclusive innovation efforts.

Meaningful participation in AI Governance

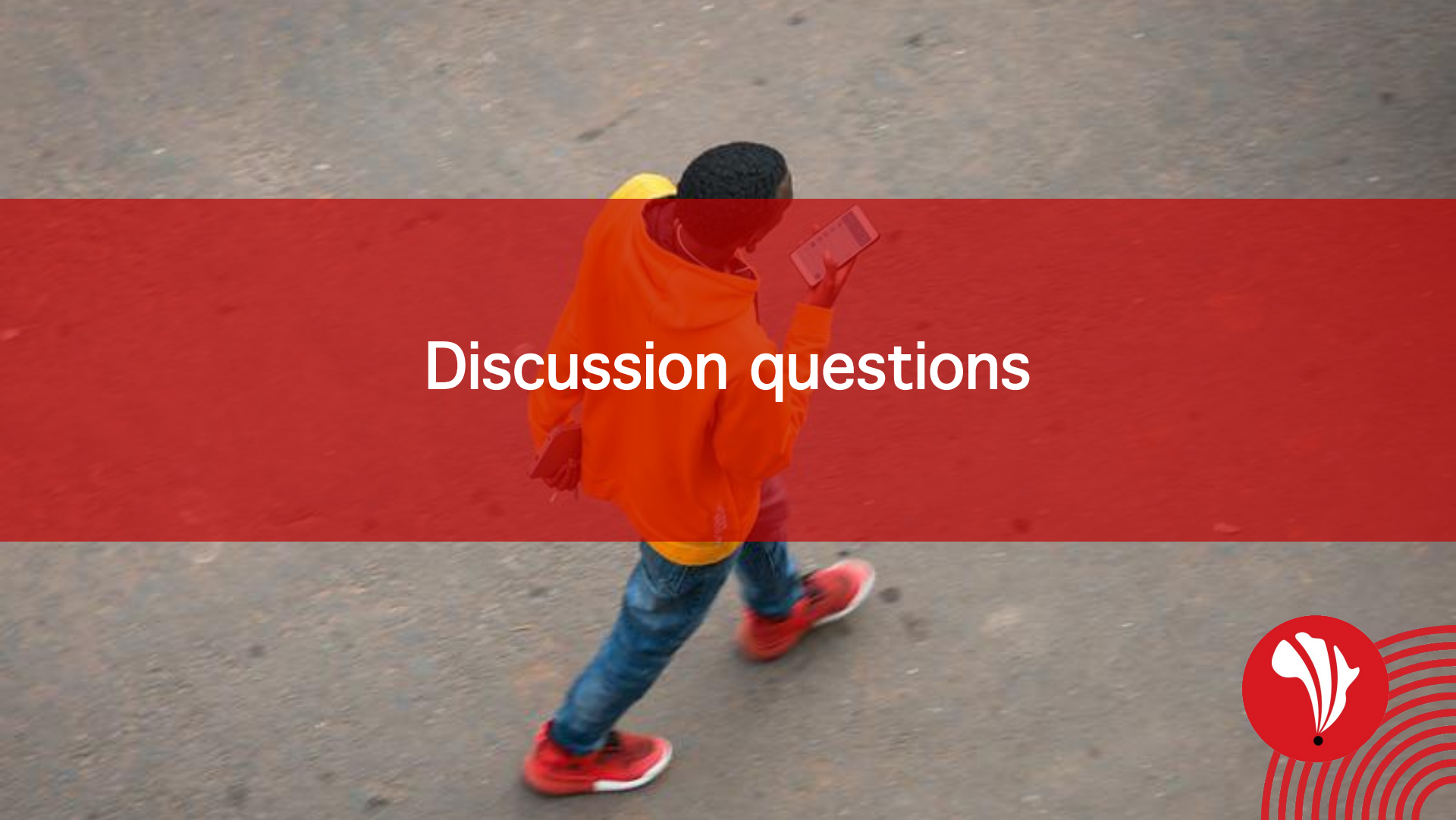
5. **Promote Effective Public Engagement and Community Participation**
   - Support forums and initiatives that amplify marginalised voices.
   - Fund participation-related costs (e.g. travel, interpretation).
6. **Invest in Capacity Development Among Marginalised Groups**
   - Enable education, advocacy, and leadership development.
   - Fund grassroots consultations and community-driven AI literacy.
7. **Legislate for Ex Ante Public Participation Rights**
   - Guarantee legal rights to public consultation before AI systems are deployed.
   - Draw from models like the Aarhus Convention.
8. **Protect Collective Data and AI Rights**
   - Adapt IP and data protection laws to protect Indigenous knowledge.
   - Acknowledge and enforce group-based rights and data sovereignty.

Transparency & accountability for harm prevention

9. **Establish the Right to Information in AI Systems**
   - Mandate public disclosure of system design, logic, and data sources.
   - Promote interpretability and algorithmic transparency.
10. **Enable and Conduct Human Rights Impact Assessments (HRIAs)**
   - Require HRIAs before deploying high-risk AI.
   - Assess both risks and whether alternatives exist.
11. **Develop Accountability Measures for Public Sector AI**
   - Create AI-specific public procurement standards.
   - Require open-source and transparent algorithm use in government systems.

Effective access to justice

12. **Strengthen Contextual Liability for Non-Discrimination**
    - Update liability frameworks to reflect AI's complexity.
    - Clearly define responsibilities of developers, deployers, and operators.
13. **Empower Equality Bodies to Initiate Action**
    - Allow public bodies to bring forward AI-related complaints.
    - Remove the requirement for individual plaintiffs.
14. **Ease the Burden of Proof for Claimants**
    - Shift evidentiary burden to AI system providers in discrimination cases.
    - Support victims' access to remedy, legal aid, and compensation.



Discussion questions

Substantive equality in AI policy

What does substantive equality mean in the African AI context, and how can it be embedded in AI policies to deliver equitable outcomes?

Discussion points

- How do we move beyond access to address systemic disadvantage?
- What would “fair outcomes” look like for marginalised groups?

Enabling meaningful participation

How can we ensure the meaningful, sustained participation of marginalised communities in AI governance processes?

Discussion points

- What forms of engagement (e.g. community consultations, public hearings) are most effective?
- How do we move from tokenism to influence?

Inclusive design and innovation

What are the key barriers to inclusive AI design in Africa, and how can we support feminist, Indigenous, and locally led innovation?

Discussion points

- Who is currently excluded from AI development?
- What investments, networks, or policy shifts are needed to support inclusive AI ecosystems?

Addressing extractive and colonial AI practices

How do we counter extractive AI practices and promote ethical, decolonised ecosystems that reflect Africa's cultural and epistemic diversity?

Discussion points

- What does data and digital sovereignty mean in practice?
- How can African countries protect their value chains and local knowledge systems?

Government capacity and regulatory readiness

What capacities, legal frameworks, and collaborations are needed to strengthen African governments' ability to govern AI effectively?

Discussion points

- What roles should academia, civil society, and the private sector play?
- How do we support regional cooperation and knowledge exchange?

Transparency, accountability and access to justice

How can we ensure AI systems in Africa are transparent, rights-respecting, and accountable — and how do we enable redress when harm occurs?

Discussion points

- What tools (e.g. HRIA, audits, ombuds bodies) are most relevant?
- How can legal and institutional systems be made more accessible?

Actionable steps and measuring progress

What concrete actions and measurable indicators are needed to implement and track inclusive AI governance across Africa?

Discussion points

- What does success look like?
- Which tools (dashboards, audits, scorecards) can help monitor impact?

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