

## **Recommendations of the National Human Rights Commission on the Draft Artificial Intelligence Fundamental Act**

1. Artificial intelligence (AI) has become increasingly integral to everyday life, advancing social progress and providing convenience as its types and applications continue to expand. It is now incorporated into a wide range of products and service sectors. However, the use of AI may also infringe upon fundamental rights such as privacy, freedom of expression, and protection from discrimination. In response, many countries have developed recommendations or implementation frameworks for monitoring AI and assessing its impact on human rights. The Office of the UN High Commissioner for Human Rights (OHCHR) has also classified potential human rights risks associated with generative AI and is exploring ways to integrate the UN *Guiding Principles on Business and Human Rights* (UNGPs), along with human rights impact assessments and due diligence practices, across the lifecycle of AI systems.
2. Following the adoption of the European Union's *AI Act*, Taiwan's National Science and Technology Council (NSTC) published the draft Artificial Intelligence (AI) Fundamental Act on July 15<sup>th</sup>, 2024 (hereinafter "the draft"), initiating a policy response to potential human rights concerns arising from AI. Given the nature of the draft, a basic law that serves as a guiding principle, it sets out seven basic principles: sustainable development, human autonomy, privacy protection, cybersecurity and safety, transparency and explainability, fairness and non-discrimination, and accountability. It also outlines four strategic priorities for future implementation: innovation, collaboration, and talent development; responsible risk management and application; rights protection and data utilization; and regulatory adaptation and policy review. These directions encompass the human

rights accountability measures seen in the United States and Singapore. They are also consistent with the Council of Europe’s *Framework Convention on AI, Human Rights, Democracy, and the Rule of Law*, released in May 2024, particularly concerning AI lifecycle principles and risk impact assessments.

3. The NHRC offers the following recommendations regarding the contents of the draft:

(1) Article 3, Subparagraph 6 of the draft stipulates: “Fairness and non-discrimination: During the development and application of AI, efforts shall be made to avoid algorithmic bias and discrimination, and no discriminatory outcomes shall result for specific groups.” However, the phrase “efforts shall be made” constitutes an indeterminate legal concept and may be insufficient to guarantee individuals’ right to non-discrimination effectively. The NHRC recommends replacing this phrasing with more legally binding language to ensure enforceability and effectively mitigate the risks of algorithmic bias and discrimination.

(2) Article 10 stipulates that “Competent authorities may formulate risk classification standards for their respective domains based on the preceding risk classification framework.” Article 12 adds that “The government shall enhance AI trustworthiness based on risk classification through mechanisms such as standards, certification, testing, labeling, disclosure, traceability, and accountability, and shall establish rules for liability, remedies, and compensation to clarify responsibility and the conditions under which it arises.” In other words, the draft requires both the government and competent authorities to establish accountability mechanisms for AI applications. However, it does not specify any oversight framework to ensure that these risk classifications, assessment procedures, and remedial mechanisms are adequately

implemented. The NHRC recommends that this matter needs further consideration.

4. The NHRC recommends integrating the following considerations into future implementation regulations—given the nature of the draft as a basic law and to ensure the effective realization of human rights—in alignment with international human rights developments:

- (1) The EU AI Act provides for the creation of a public EU database to improve transparency concerning high-risk AI systems. In addition to regulating high-risk AI systems providers, it also imposes transparency obligations on system deployers. The NHRC recommends strengthening transparency requirements for both public and private sector entities to bolster the transparency and explainability of AI systems in Taiwan.
- (2) The international human rights organization Article 19 issued a statement on April 3rd, 2024, titled “EU: AI Act fails to set gold standard for human rights,” criticizing several deficiencies in the EU AI Act regarding the protection of human rights—particularly the use of emotion recognition and biometric categorization systems. While the Act prohibits such technologies in workplaces and educational institutions, it permits their use by law enforcement and immigration authorities, raising concerns about privacy violations and potential discrimination against vulnerable populations. The NHRC recommends that human rights impact assessments be conducted throughout policy development and technological implementation to ensure that AI applications uphold human rights standards and avoid causing undue harm to specific groups.
- (3) The rapid development of AI entails significant energy consumption, yet information about its environmental impact remains scarce. The NHRC recommends that energy usage data for AI systems be assessed to better understand their potential

ecological implications.

- (4) To ensure that AI applications do not violate fundamental rights—or at minimum, to reduce potential harm—the NHRC urges the Ministry of Digital Affairs (MODA) and other relevant agencies to incorporate human rights considerations when drafting standards, regulations, and technical tools. Agencies may refer to the risk classification framework under the EU AI Act and the due diligence model outlined in the UNGPs to establish procedures for the identification, assessment, and verification of human rights risks in line with international norms. Where necessary, the NHRC should be invited to participate in these processes.
- (5) Article 13 of the draft states: “The government shall seek to prevent skill gaps and safeguard labor rights to respond to AI developments.” To support enterprises in fulfilling their responsibilities under these policies or regulations, the NHRC recommends that relevant authorities collaborate with businesses to promote human rights education, helping companies internalize the principles of labor rights protection in AI-related practices. Authorities and enterprises should also work toward enhancing vocational training and facilitating reasonable job transitions to ensure that the rights of current workers are effectively protected.