



Rashad Robinson
President

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Good day, thank you to Leader Schumer and Senators Rounds, Heinrich, and Young for the opportunity to meet with you all today.

I am Rashad Robinson, President of Color Of Change (COC), the nation's largest online racial justice organization, driven by millions of members—Black folks and allies of all races. We were founded in the aftermath of Hurricane Katrina, a disaster exacerbated by poor decision-making that morphed into a life-altering catastrophe for Black people. As Black individuals stood on their roofs pleading for government intervention, many were tragically left to die. That pivotal moment ignited our mission to harness technology as a potent vehicle for change. Since our inception, our 21st-century infrastructure has adeptly utilized technology and digital tools, striving tirelessly to foster a more human and less hostile world for Black people and communities across America.

Our journey has ingrained in us a nuanced understanding of the possibilities and perils in emerging technologies, including Artificial Intelligence (AI). While we ardently advocate for digital protections to ensure the safety and equity of Black communities online, our stance is not devoid of optimism. We recognize AI's potential as a tool for positive change, provided it is harnessed within a well-structured framework that prioritizes protection against the frequent targeting, attacks, and exploitation perpetuated by new technology. This outlook aligns with our core ethos as a digitally native, forward-thinking group. Our advocacy for robust AI frameworks aims to unlock the transformative possibilities of AI, ensuring it serves as a catalyst for racial justice, rather than a conduit for discrimination.

In this vein, we recognize the profound impact that this technology can have on racial justice and the Black community. AI harbors the potential to either advance or hinder the progress towards racial equity. On one hand, it can serve as a powerful tool for identifying and addressing systemic biases, improving access to essential services, and fostering community engagement. On the other hand, if left unchecked, AI perpetuates and exacerbates existing racial biases and disparities in areas such as housing, employment, healthcare, and criminal justice.

A proposed AI framework must rectify deeply entrenched biases in these areas. While there might be a temptation to leverage AI tools for enhancing efficiency within institutions of power, such an approach could embed the prevailing biases even deeper in our society.

Criminal Justice

The deployment of AI tools like predictive policing, if not critically examined, could merely echo the actions of police rather than providing an accurate forecast of criminal behavior. For instance, since policing has historically been biased towards the Black community, past information or data about that policing can and has been used for algorithms to make biased predictions about future crimes.¹ The consequence is not just an amplification of existing biases but a technologically sanctioned continuation of systemic discrimination.

Therefore, the focus should shift from merely deploying AI for operational efficiency to utilizing AI as a way to unearth these biases, providing a basis for substantive reform. For example, AI can be employed to analyze policing patterns² and language to reduce instances of police brutality and other civil rights violations. Once these biases are recognized, measures can be instituted to mitigate them.

Lending

Recent investigations and studies have also shed light on the racial bias present in the lending sector. For instance, an analysis between 2018 to 2020 revealed that nearly 10% of banks would score a “needs to improve” rating on a new retail-lending test, showcasing a significant racial homeownership gap.³ A more detailed investigation in 2019 found that lenders were more likely to deny home loans to people of color than to white people with similar financial characteristics.⁴ Additionally, an AI-based mortgage lending system was found to charge Black and Hispanic borrowers higher rates than white people, and similar biases were observed in both online and in-person lending practices, emphasizing the racial bias in algorithmic lending systems.⁵

Housing

The housing sector harbors racial biases that are exacerbated by unregulated AI. A report released in New York detailed deep racial disparities in homeownership and access to home financing across the state, with significantly lower homeownership rates among households of color compared to white households.⁶ This racial gap in homeownership was not unique to New York but reflected nationwide, further emphasizing the systemic racial biases present in the housing sector.⁷ For example, in addition to lending

¹ <https://daily.jstor.org/what-happens-when-police-use-ai-to-predict-and-prevent-crime/>

² <https://www.levelman.com/can-artificial-intelligence-help-reduce-police-brutality/>

³ <https://www.politico.com/news/2023/10/24/lending-discrimination-anti-redlining-rule-00123150>

⁴ <https://apnews.com/article/lifestyle-technology-business-race-and-ethnicity-mortgages-2d3d40d5751f933a88c1e17063657586>

⁵ <https://www.technologyreview.com/2020/10/20/1009452/ai-has-exacerbated-racial-bias-in-housing-could-it-help-eliminate-it-instead/>;
<https://blogs.ischool.berkeley.edu/w231/2021/09/21/the-unequal-american-dream-hidden-bias-in-mortgage-lending-ai-ml-algorithms/>

⁶ <https://ag.ny.gov/press-release/2023/attorney-general-james-highlights-deep-racial-gaps-homeownership-across-new-york>;
<https://www.allsides.com/news/2023-11-02-0524/politics-attorney-generals-report-finds-racial-disparities-home-ownership-new>

⁷ <https://home.treasury.gov/news/featured-stories/racial-differences-in-economic-security-housing>

there is also evidence that algorithms exacerbate biases in housing appraisals. Unregulated AI negatively impacting housing outcomes has also been seen in rental markets, with some algorithms artificially inflating rental prices thereby exacerbating the housing crisis and disproportionately impacting low-income people and people of color.⁸ The use of algorithms in tenant evaluation systems has led to people being unfairly denied housing because of opaque past information that deems them unworthy or ineligible, despite being able to pay rent.⁹

Healthcare

The healthcare sector is also not immune to racial biases, which could be further entrenched with improper AI utilization. A study in 2019 revealed that a clinical algorithm used by many hospitals to decide which patients needed care showed racial bias, where Black patients had to be deemed much sicker than white patients to be recommended for the same care.¹⁰ Another study showed that an algorithm assigned only a small percentage of Black patients to receive extra care, a proportion that would have been bigger if the algorithm were unbiased.¹¹

COC's Values with Artificial Intelligence

Color Of Change firmly believes that an AI framework should be grounded in the principle of advancing racial justice and equity. We must delineate what real solutions will bring meaningful impact to the communities we represent. Central to our envisioned AI framework is the notion of explainability. AI should not be a black box; its workings should be understandable to ensure that any inherent bias is detectable. The framework should enforce the adherence to established ethical guidelines in AI development and encourage engagement by public stakeholders, thus ensuring a democratic approach to AI governance. Without a system of checks and balances, there's a risk of exacerbating existing societal biases and inequities.

President Biden's Executive Order on Safe, Secure, and Trustworthy Artificial Intelligence is a positive step towards curbing AI-driven racial biases, and takes concrete steps to put the Administration's AI Bill of Rights into practice. At the same time, we urge Congress to take this Executive Order as a legislative prescription to provide clear enforcement mechanisms and dedicated resources to effectively combat racial discrimination in AI technologies. Legislative mechanisms addressing racial discrimination in AI are vital as they provide a structured way to monitor, identify, and rectify biased algorithms. These mechanisms can ensure accountability, deter discriminatory practices, and foster a fair and equitable digital environment. Without such enforcement, AI systems will no doubt perpetuate and worsen existing racial biases, leading to adverse impacts on Black communities and our society overall.

It is imperative that the discussion encompasses not only the technology but also the technologists behind it. A shift in the incentive structure is needed to foster accountability, much like the automotive industry where safety isn't a result of benevolence but of robust legal and regulatory infrastructure allowing for

⁸ <https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent>

⁹ <https://www.aclu.org/news/privacy-technology/how-artificial-intelligence-can-deepen-racial-and-economic-inequities>

¹⁰ <https://www.aclu.org/news/privacy-technology/algorithms-in-health-care-may-worsen-medical-racism>

¹¹ <https://www.nature.com/articles/d41586-019-03228-6/>

accountability. Moreover, a critical stride towards transparency is empowering individuals to demand insight into the AI systems that impact them, akin to how the contents of food are always labeled for consumers or emissions from cars are always listed along the sticker price. This necessitates a digitally literate populace and supportive legislation promoting transparency. The power of consumers—your constituents—is a potent force that, when unlocked, can significantly contribute to shaping the regulations governing technology. As it stands, rules governing our technology are often non-existent or inadequate. By granting people greater access to the workings of AI, and orchestrating a collaborative effort among civil rights groups, civil society, and elected officials, the potential to steer AI towards a more equitable and just direction is vastly amplified. This collective endeavor could significantly influence how AI is developed and deployed, ensuring it aligns with the broader societal values and principles we uphold.

Lastly, the environmental ramifications of evolving technology, especially AI innovations that don't require regular human oversight or intervention, beckon contemplation. In regions where clean water and air remain elusive, the prerogative should be to fulfill these fundamental needs while preserving our life-sustaining natural resources.¹² AI should evolve within our planet's sustainable means, not at its expense. We staunchly advocate for environmental regulations governing the training and development of extensive AI tools by corporations, aligning technological advancement with the imperative of a healthy, sustainable planet. This consideration is not only ethically sound but crucial for the longevity and well-being of our communities and the ecosystems that envelop them.

Conclusion

In areas already marred by racial bias such as our criminal legal system, housing, and health care, AI tools should only be employed when stringent anti-discrimination safeguards are firmly established. It's vital we continue advocating for stricter safeguards in government agencies until solid racial bias mitigation measures are in place. Color Of Change will continue to demand safety measures that ensure AI is used in a fair, equitable and just manner. We call on Congress to enact proposed legislation for online safety such as the Algorithmic Accountability Act, the American Data Privacy and Protection Act, the Fourth Amendment is Not for Sale Act, and the Digital Consumer Protection Commission Act.

AI could potentially serve as a catalyst for systemic change, aiding in the transition from merely acknowledging bias to actively working towards a more equitable and just society. The goal should be to foster a symbiotic relationship between AI and societal institutions, where AI aids in unmasking and rectifying biases, and societal institutions, in turn, ensure that AI is employed in a manner that upholds the principles of dignity, equity, opportunity, and justice. Reaching that goal will require us all to not just talk about harm, but deal with power imbalances and incentive structures that drive them. Thank you for your time.

¹² <https://www.theverge.com/2023/10/10/23911059/ai-climate-impact-google-openai-chatgpt-energy>