

# Impact of Artificial Intelligence on Racialized Groups

Focus: AI in Law & Tech

Jake Okechukwu Effoduh

[Incoming] Assistant Professor, Lincoln Alexander School of Law, Toronto Metropolitan University

Thursday, 21<sup>st</sup> September 2023

Presentation at The Visible Minorities Network, Agriculture and Agri-Food Canada, Canada

# Introduction

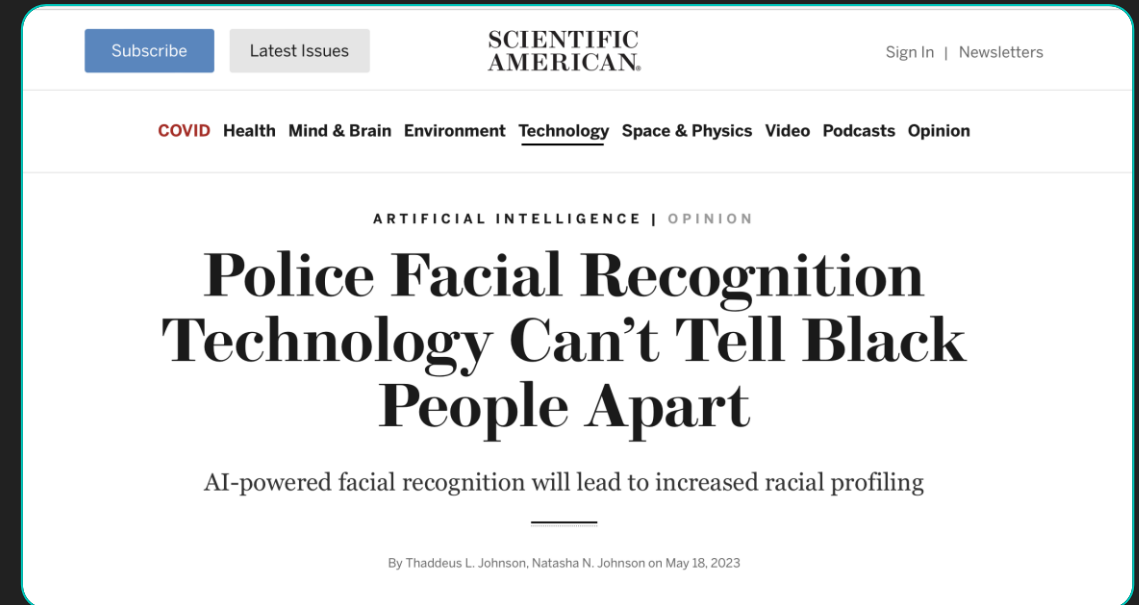
“Something has happened. Something very big indeed, yet something that we have still not integrated fully and comfortably into the broader fabric of our lives, including the dimensions-humanistic, aesthetic, ethical and theological-that science cannot resolve, but that science has also (and without contradiction) intimately contacted in every corner of its discourse and being.”

*Stephen Jay Gould, “The Hedgehog, the Fox and the Magister's Pox: Minding the Gap Between Science and the Humanities”*



# Introduction

- It is now abundantly clear that the impact of AI on the lives and rights of racialized individuals is far more complex and nuanced than anybody ever anticipated!
- The ways in which AI is being utilized in law enforcement, criminal justice, employment, and other critical areas, and how these applications intersect with the experiences of racialized people sheds light on the potential pitfalls and the profound implications that they can have on individuals who have long faced systemic discrimination, and now an algorithmic one.
- The question today is not just about the evolution of AI and how it affects the workings of the law; it is about the very nature of justice today and how we choose to shape it in the era of Artificial Intelligence.

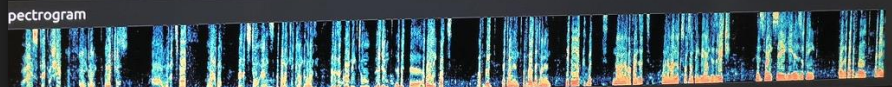


A wise person may be deceived by a clever device, but they won't be fooled by it for long



When the sunlight strikes raindrops in the air, they act as a prism and form a rainbow. The rainbow is a division of white light into many beautiful colors. These take the shape of a long round arch, with its path high above, and its two ends apparently beyond the horizon. There is according to legend, a boiling pot of gold at one end. People look, but no one ever finds it. When a man looks for something beyond his reach, his friends say he is looking for the pot of gold at the end of the rainbow.

阳光温柔地照射在空气中的雨滴上，水滴宛如棱镜般折射出绚烂的彩虹。白色的光经过折射后分解成五彩斑斓的颜色，形成了彩虹。五彩虹光轻柔地弯曲成成长的拱桥，高高地架在地平线两端。古时的欧洲人传说，彩虹的尽头是吉祥之地，那里藏有一坛黄金泉水。汨汨泉水，熠熠灿灿。人们对黄金泉水趋之若鹜，却曾未有人寻得珍宝。所以，当一个人在苦苦寻觅其无法触及的财富时，他的朋友便会说，他正在寻找“彩虹尽头的那坛黄金泉水”。



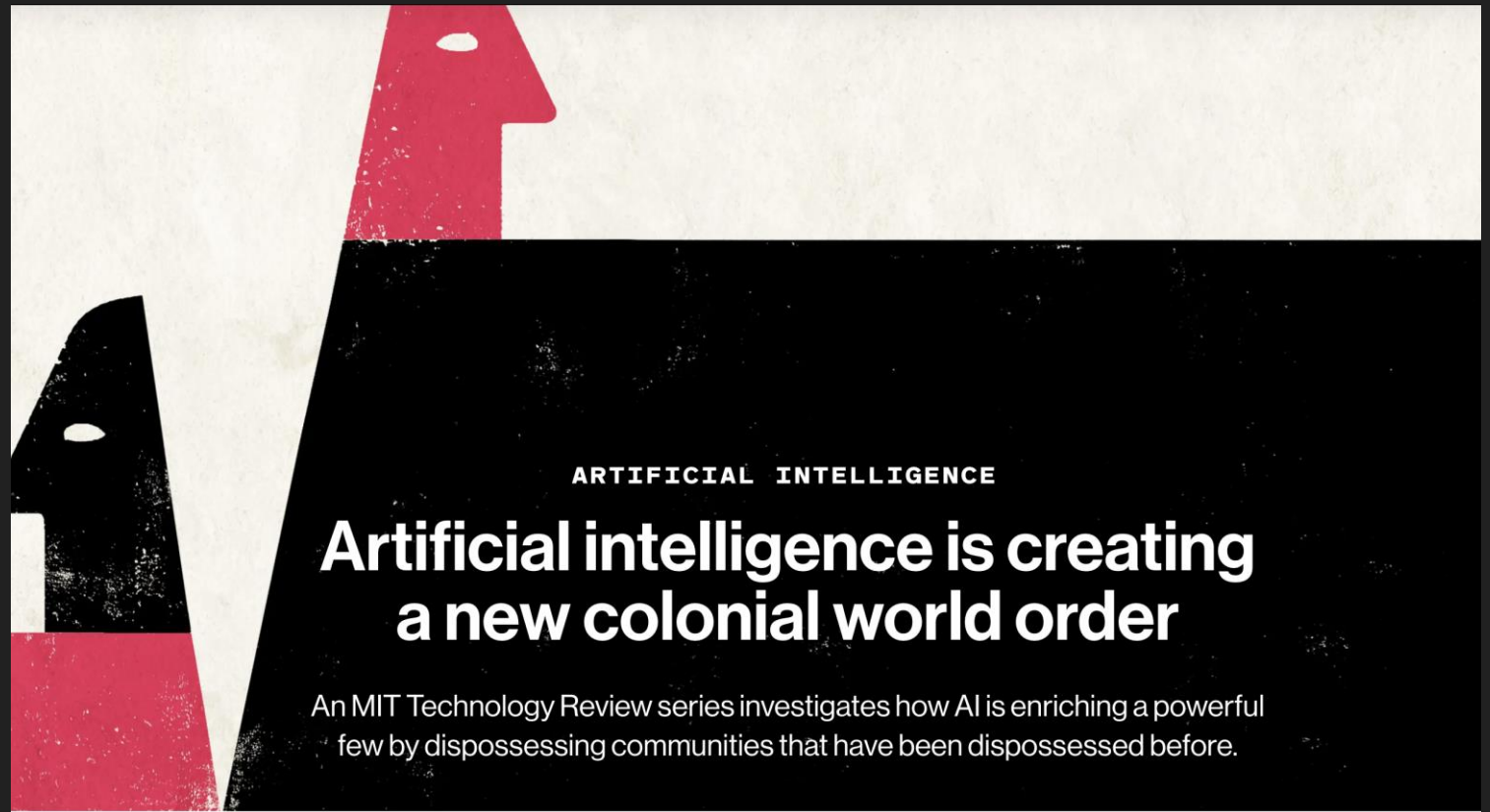
# CONCEPTUAL CLARIFICATIONS

- Definitions  
*of Artificial Intelligence within law praxis*
- Deconstructions  
*of racialization and racialized communities*
- Demarcations  
*of AI in Law // AI and Law // AI on Law // AI for Law.*



# If you understand the old quite well, can the new really trouble you?

- All 4 industrial revolutions have had a similar trend in their impact on racialized people and communities.
- Be it land, cars, the internet or quantum computing



# Is AI seeing the law, or is it seeing you?

- Law as hegemony
- Data as extraction
- Tech as weapon
- Race as error

Facial recognition errors among racial minorities

Racial bias in AI-generated content suggestions



The New York Times

## ***Eight Months Pregnant and Arrested After False Facial Recognition Match***

Porcha Woodruff thought the police who showed up at her door to arrest her for carjacking were joking. She is the first woman known to be wrongfully accused as a result of facial recognition technology.

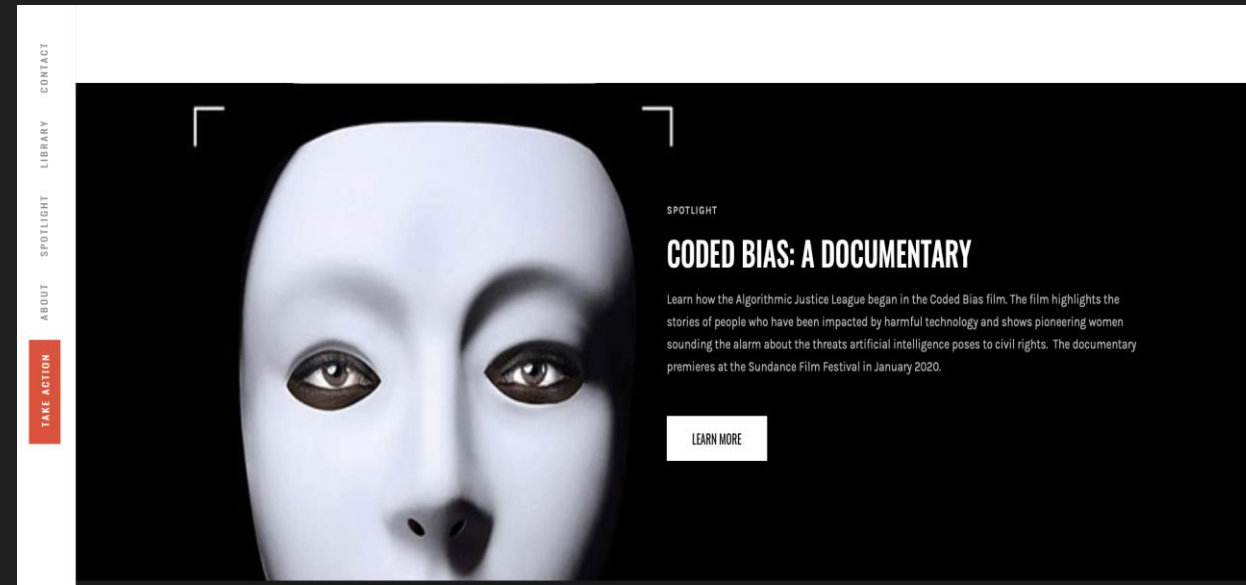
# Black Skin, White Masks

Occurs when an AI algorithm produces results that are systemically prejudiced due to erroneous assumptions in the machine learning process.

...the application of an algorithm compounds existing inequities... to amplify them and adversely impact inequities in legal systems.

“The [extracted] is a toy in the white man’s hands - and white is the name of a certain species of mankind which is characterized by a particular type of pigmentation.”

- Frantz Fanon



# From predictive policing to parole recommendations, racialized folks are having it.

- Concerns about non-transparency and due process in law.
- Concerns about the lack of clear standards of fairness
- Lack of contextual specificity
- The black-box nature of deep learning



Obiter

[ABOUT](#) [EDITORIAL](#) [ARTS & CULTURE](#) [NEWS](#) [OPINION](#) [SATIRE](#) [SPORTS](#) [CONTACT](#) [🔍](#) [☰](#)

## S Should a Court Rely on the Proprietary Algorithm of an Artificial Intelligence System to Make a Sentencing Decision?

By Jake Okechukwu Effoduh / February 25, 2020 / 9 Min read / In Opinion

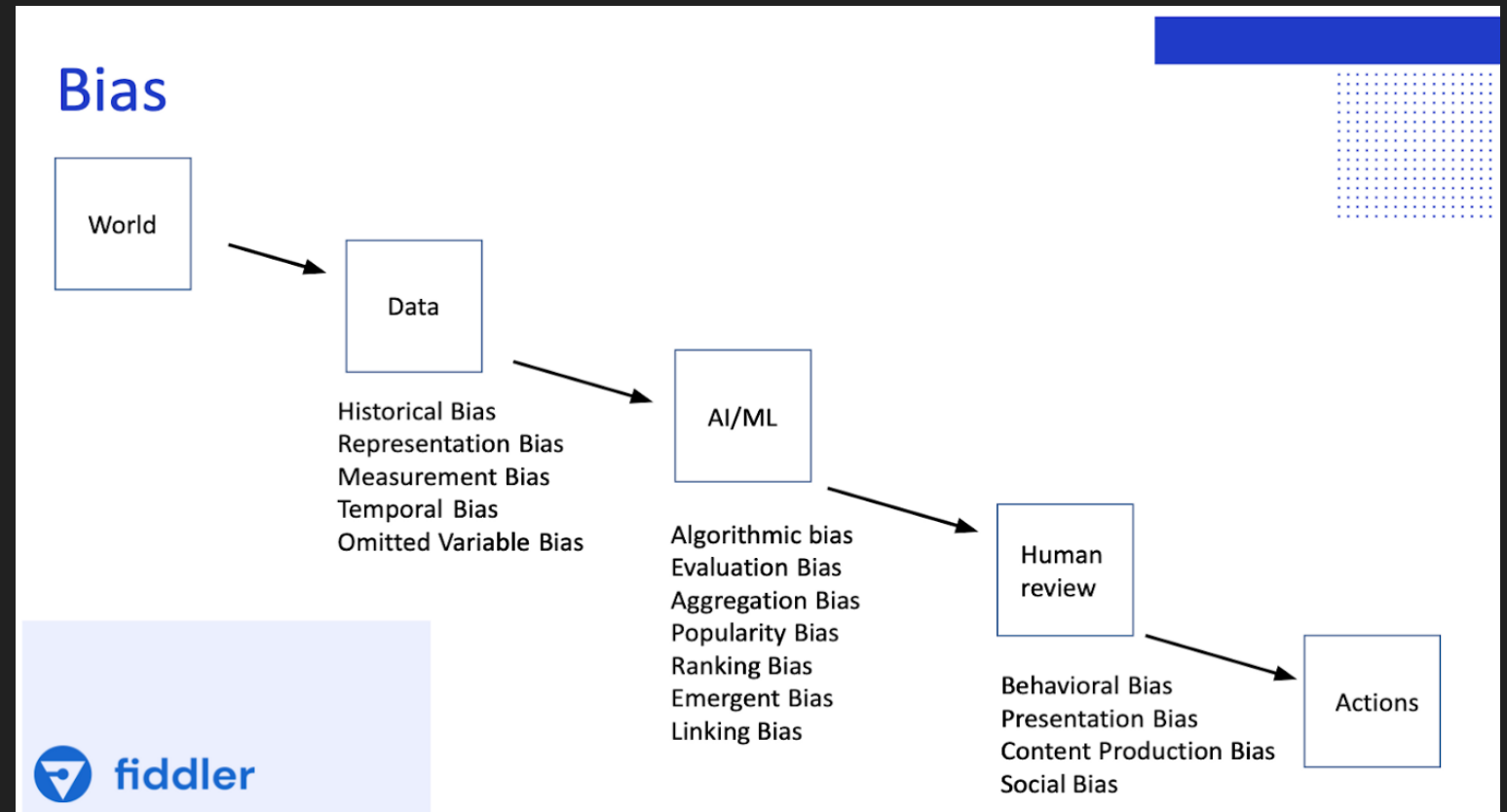
A Comment on *Wisconsin v Loomis*

# But where do these racial biases come from?

Psychologists claim there're about 180 cognitive biases, some of which may find their way into hypotheses and influence how AI algorithms are designed and function.

"A lot of times, the failings are not in AI. They're human failings... if you're not thinking about the human problem, then AI isn't going to solve it for you."

– Vivienne Ming



# Are we seeing more pros, cons, or yams?

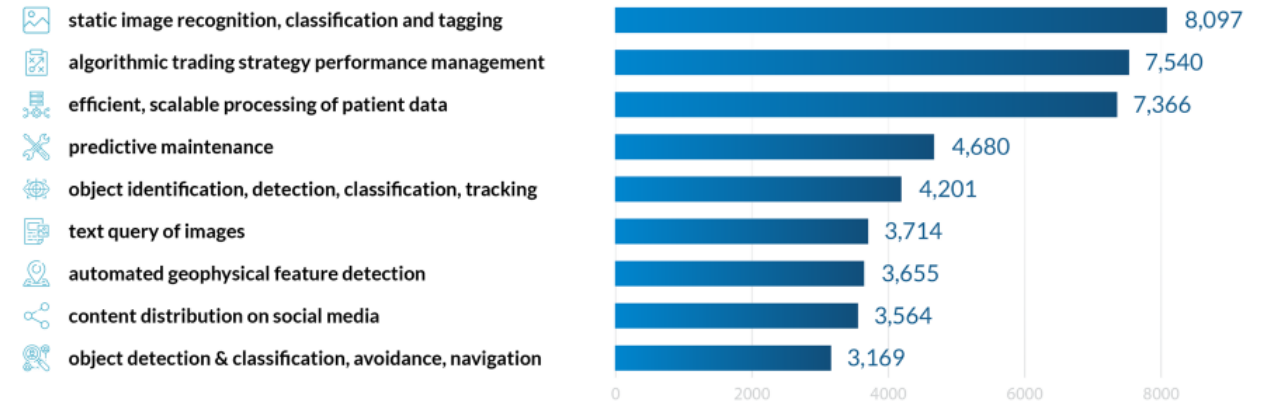
Jobs		Housing	Education		Health
<ul style="list-style-type: none"><li>○ Automated displacement</li><li>○ Bias in Hiring</li><li>○ Skills Mismatch</li><li>○ Algorithmic Bias</li><li>○ Exacerbating Inequalities</li><li>○ Lack of Representation in AI Development</li><li>○ EDI progression</li><li>○ Affirmative action</li></ul>		<ul style="list-style-type: none"><li>○ Housing Disparities</li><li>○ Gentrification and Displacement</li><li>○ Credit and Loan Bias</li><li>○ Bias in Rental Applications</li><li>○ Unequal Access to Information</li></ul>	<ul style="list-style-type: none"><li>○ Personalized and adaptive learning.</li><li>○ Tech enablement</li><li>○ Biased Learning Algorithms</li><li>○ Underrepresentation in AI Development</li><li>○ Automated Bias in Assessments.</li></ul>		<ul style="list-style-type: none"><li>• Enhanced Medical Practices</li><li>• Diagnostic Accuracy</li><li>• Patient Engagement</li><li>• Collaborative Solutions</li><li>• Ethical Guidelines</li><li>• Health Disparities</li><li>• Diagnostic errors</li><li>• Inequitable access</li><li>• Health discrimination</li><li>• Ostracism</li><li>• Death</li></ul>
Criminal justice					
<ul style="list-style-type: none"><li>○ Predictive Policing Bias</li><li>○ Racial Profiling</li><li>○ Unequal Resource Allocation</li><li>○ Discriminatory Sentencing</li><li>○ Data Privacy Concerns</li><li>○ Diminished Accountability</li></ul>					

How are the top AI countries, organizations and sectors engaging with racialized people and communities?

## 3 Key AI Trends You Should Know

### 1 Global AI revenue forecast by 2025, ranked by use case in millions US dollar

Source: Statista



### 2 Penetration of artificial intelligence skills, by country

Source: Dun & Bradstreet



### 3 Organizations deploying AI, by functional areas

Source: Medium



# Rain does not fall on one roof alone.

- Legal automation:  
Efficiency **vs** job displacement
- Predictive analytics:  
Accuracy **vs** comprehensiveness
- Access to justice  
Speedy dispensation **vs** anti-poor



# Potions, solutions, motions...

## Ethical principles:

1. Protecting race as a category
2. Ensuring transparency, explainability and intelligibility.
3. Fostering responsibility and accountability.
4. Privacy, consent, and protection from biased AI.
5. Human-centered design: Ensuring inclusiveness and equity.
6. Community participation and education.

# Potions, solutions, motions...

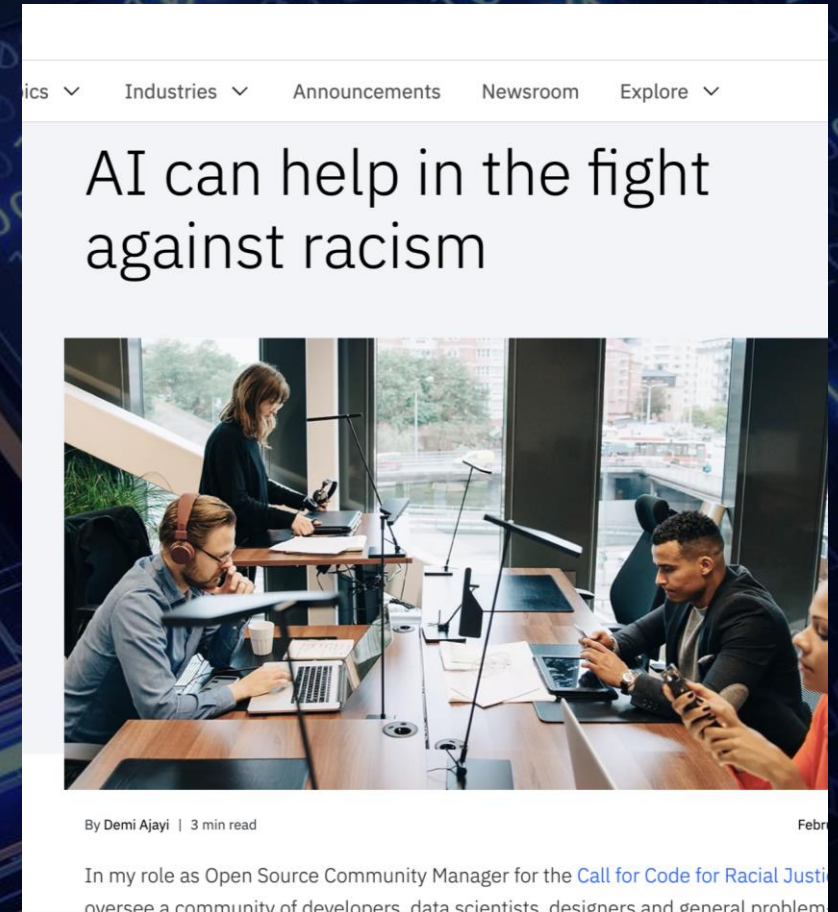
## Law and regulation:

- Damages
- Strict liability and product liability considerations
- No fault, no liability compensation funds
- Pre-emption laws
- Data protection laws on indigenous and racialized people's data
- Co-regulation
- Collaboration on international standards
- Bill C-27-Artificial Intelligence and Data Act (AIDA).

# Potions, solutions, motions...

## Technological intervention:

1. Counteraction: e.g., legal decision support systems
2. Control mechanisms: e.g., “human-in-the-loop” systems
3. Affirmative data and Reverse engineering
4. Bias prediction models and sensitivity checks



# Potions, solutions, motions...

## More racialized focus:

1. Moratorium on AI systems that are high-human risk for racialized people
2. Right to contest bias (and right to meaningful explanation)
3. "Human-rights-in-the-loop" to adhere to obligations of accountability and explainability
4. Debiasing orders
5. Human Rights Algorithmic Impact Assessment
6. Right to be Forgotten from AI Systems
7. A decolonized approach to regulating AI that is pro-poor.
8. Upskilling, R&D, non-techno-solutionist interventions
9. Incentives: to encourage developers to be more inclusive

“Not everything that is faced can be changed, but nothing can be changed until it is faced.”

James Baldwin.

