

Artificial Intelligence for Justice: Avoiding Digital Apartheid, Racism, Algorithmic Bias, Arbitrariness and Discrimination

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Artificial Intelligence for Justice: Avoiding Digital Apartheid, Racism, Algorithmic Bias, Arbitrariness and Discrimination

Kariuki Muigua*

Abstract

This paper discusses how AI can be effectively developed and deployed towards fostering justice for people and planet. The paper observes that AI is a powerful tool that can advance justice towards Sustainable Development. However, the paper also notes that risks and challenges in AI can fuel injustices, inequalities and human right violations. In particular, the paper observes that digital apartheid, racism, algorithmic bias, arbitrariness and discrimination are key concerns in the adoption of AI with severe impacts on vulnerable and disadvantaged individuals and populations. Consequently, the paper posits that tackling these risks and challenges is key towards harnessing the power of AI for justice. It discusses how digital apartheid, racism, algorithmic bias, arbitrariness and discrimination can be avoided towards appropriately and ethically harnessing AI for justice.

1.0 Introduction

The transformative power of Artificial Intelligence (AI) provides opportunities to foster justice for people and planet. For example, AI is empowering traditionally marginalized and disadvantaged groups including people of colour, women, the youth and indigenous and local communities to access economic and social opportunities towards justice, equity and fairness¹. By revolutionizing key sectors including healthcare, education, finance and agriculture among others, AI is making these services more accessible, affordable, responsive, inclusive, efficient and appropriate thus fostering social justice².

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¹ United Nations., 'Artificial Intelligence (AI)' Available at <https://www.un.org/en/global-issues/artificial-intelligence> (Accessed on 25/04/2026)

² Ibid

AI is also fostering justice for the planet by strengthening climate action, bolstering biodiversity conservation efforts and providing effective solutions towards tackling pollution³.

In addition, AI is also bolstering access to justice. It has been observed that AI and other modern technologies can support justice systems by enhancing their resilience, efficiency, effectiveness and fairness⁴. AI can strengthen access to justice by streamlining case management, legal research, predictive analytics and administrative support⁵. It has been argued that AI has the capacity to revamp access to justice by making legal processes more efficient, affordable, and accessible⁶.

The growth and adoption of AI therefore provides opportunities to foster justice for people and planet. If well harnessed in line with human rights, AI provides opportunities to create a more equal, just and inclusive world⁷. However, if not appropriately and ethically adopted, AI can fuel injustices, biases, inequalities, and discrimination and human right violations⁸. Tackling these risks and challenges is therefore vital towards effectively adopting AI for justice.

³ United Nations Educational, Scientific and Cultural Organization., 'AI for Environment and Ecosystems Toolkit for Policymakers' Available at <https://www.unesco.org/ethics-ai/en/node/288#:~:text=While%20AI%20can%20support%20climate,dynamics%20is%20no%20longer%20optional> (Accessed on 25/04/2026)

⁴ Organisation for Economic Co-operation and Development., 'Governing with Artificial Intelligence' Available at https://www.oecd.org/en/publications/2025/06/governing-with-artificial-intelligence_398fa287/full-report/ai-in-justice-administration-and-access-to-justice_f0cbe651.html (Accessed on 25/04/2026)

⁵ Judiciary of Kenya., 'Judiciary to Leverage AI to Enhance Justice' Available at <https://judiciary.go.ke/judiciary-to-leverage-ai-to-enhance-justice/> (Accessed on 25/04/2026)

⁶ Okeke. U., 'Enhancing Access to Justice Through Technology in Developing Countries: Technology-Based Initiatives, Challenges and Emerging Technologies' *International Journal for Court Administration.*, Volume 16, Issue 3 (2026)

⁷ Center on International Cooperation., 'AI for Justice and Justice for AI: Why Access to Justice Enables Better AI Governance' Available at <https://cic.nyu.edu/resources/ai-for-justice-and-justice-for-ai-why-access-to-justice-enables-better-ai-governance/> (Accessed on 25/04/2026)

⁸ United Nations Educational, Scientific and Cultural Organization., 'Ethics of Artificial Intelligence' Available at <https://www.unesco.org/en/artificial-intelligence/recommendation-ethics> (Accessed on 25/04/2026)

This paper discusses how AI can be effectively developed and deployed towards fostering justice for people and planet. The paper observes that AI is a powerful tool that can advance justice towards Sustainable Development. However, the paper also notes that risks and challenges in AI can fuel injustices, inequalities and human right violations. In particular, the paper observes that digital apartheid, racism, algorithmic bias, arbitrariness and discrimination are key concerns in the adoption of AI with severe impacts on vulnerable and disadvantaged individuals and populations. Consequently, the paper posits that tackling these risks and challenges is key towards harnessing the power of AI for justice. It discusses how digital apartheid, racism, algorithmic bias, arbitrariness and discrimination can be avoided towards appropriately and ethically harnessing AI for justice.

2.0 Justice Concerns in Artificial Intelligence

Despite its efficacy as a tool of justice, AI fuels several risks and concerns. Among these risks and concerns is digital apartheid. It has been observed that digital apartheid occurs when specific groups are systematically excluded from digital tools on the basis of factors such as race, nationality, geographical origin or religious and political affiliations⁹. Digital apartheid manifests itself in various forms. For example, it has been observed that the Global South is underrepresented in the global digital ecosystem with ownership and innovation concentrated in the Global North¹⁰. As a result, the Global North is deciding the digital future of the Global South without the needs and interests of developing countries being taken into account fuelling digital colonialism and apartheid¹¹. Further, it has been observed big technology companies in the Global North have the power to determine the content available to specific users around the world, sometimes leading to the stifling and censorship of voices standing against dissent leading to digital

⁹ Digital Apartheid and the Use of Social Media Algorithms in Humanitarian Crises., Available at <https://advoc.globalvoices.org/2023/11/14/digital-apartheid-and-the-use-of-social-media-algorithms-in-humanitarian-crises/> (Accessed on 25/04/2026)

¹⁰ Ajeboriogbon. T., 'Digital Colonialism is the New Scramble for Africa' Available at <https://www.e-ir.info/2026/01/12/digital-colonialism-is-the-new-scramble-for-africa/> (Accessed on 25/04/2025)

¹¹ Ibid

apartheid¹². Digital apartheid leads to discrimination on the basis of geographic origin, nationality and political and religious beliefs leading to injustices and human right violations¹³.

Racism and discrimination are also major human right concerns in the development and deployment of AI. It has been observed that the use of AI tools and systems in sectors such as law enforcement, finance, education and hiring can perpetuate racism and discrimination due to deep historical and systematic inequalities in these sectors¹⁴. For instance, predictive policing tools which make assessments about who will commit future crimes often lead to racial profiling and discrimination against people and communities of colour due to the history of over policing and perception of high crime rates against these groups¹⁵. In addition, it has been observed that due to systematic racism and racial discrimination, people have been excluded from loan eligibility and job opportunities on basis of their race or gender¹⁶. Further, technologies such as facial recognition and language modelling have shown prejudice against racial and ethnic minorities, leading to injustices and discrimination through mass surveillance, false arrests and accusations¹⁷. Therefore, without adequate safeguards, AI tools and systems can result in racism and discrimination ultimately violating human rights.

Further, algorithmic bias in AI undermines its efficacy as a tool for justice. It has been correctly noted that AI models are only as good as the data they are trained on¹⁸.

¹² Digital Apartheid and the Use of Social Media Algorithms in Humanitarian Crises., Op Cit

¹³ Ibid

¹⁴ Office of the United Nations High Commissioner for Human Rights., 'Racism and AI: "Bias from the past leads to bias in the future"' Available at <https://www.ohchr.org/en/stories/2024/07/racism-and-ai-bias-past-leads-bias-future> (Accessed on 25/04/2026)

¹⁵ Ibid

¹⁶ Olurunju. N., 'African algorithmic governance: Benefit of a community-based approach' Available at <https://researchictafrica.net/2022/04/03/african-algorithmic-governance-benefit-of-a-community-based-approach/> (Accessed on 25/04/2026)

¹⁷ Key Human Rights Challenges of AI., Available at <https://ennhri.org/ai-resource/key-human-rights-challenges/> (Accessed on 25/04/2026)

¹⁸ Vinciullo. A., 'The Risk of Law Firms Relying on Chat GPT to Perform Contract analysis and Legal Research.' Available at <https://www.linkedin.com/pulse/risk-law-firms-relying-chat-gpt-perform-contract-legal-vinciullo/> (Accessed on 25/04/2026)

Therefore, if the data is biased, incomplete, or inaccurate, the AI model's predictions and decisions will also be biased, incomplete, or inaccurate¹⁹. Consequently, AI systems and tools can produce unfair, unjust or discriminatory outcomes due to biased training data, flawed design or embedded human prejudice²⁰. In particular, it has been correctly noted that since most AI systems are designed in the Global North, they may perpetuate bias and prejudices in the Global South unless they are tuned to fit with local circumstances²¹. Tackling algorithmic bias is therefore vital towards harnessing AI for justice.

Arbitrariness is another fundamental concern that can undermine the efficacy of AI as a tool for justice. Arbitrariness refers to the state or quality of being based on chance rather than being planned or based on reason²². This is particularly notable in algorithmic decision-making through AI where lack of transparency, accountability and explainability raises concerns of arbitrariness²³. When using AI tools and systems, it is difficult to understand how decisions are made, who makes decisions, and the data relied on in decision-making leading to questions and concerns over transparency, accountability and arbitrariness²⁴. Avoiding arbitrariness is therefore vital towards enhancing transparency, accountability and explainability in AI for justice, fairness and human rights.

¹⁹ Ibid

²⁰ Australian Human Rights Commission., 'Thematic report on AI and racial discrimination' Available at <https://humanrights.gov.au/our-work/submissions/workplace-rights/thematic-report-on-ai-and-racial-discrimination> (Accessed on 25/04/2026)

²¹ Orero. L.O., & Kaaniru. J., 'Automated Decision-Making Policies in Africa' Available at <https://cipit.strathmore.edu/wp-content/uploads/2023/08/Policy-Brief-Design-Automated-Decision-Making.pdf> (Accessed on 25/04/2026)

²² Arbitrariness., Available at <https://dictionary.cambridge.org/dictionary/english/arbitrariness> (Accessed on 25/04/2026)

²³ Organisation for Economic Co-operation and Development., 'Governing with Artificial Intelligence' Op Cit

²⁴ Ibid

3.0 Avoiding Digital Apartheid, Racism, Algorithmic Bias, Arbitrariness and Discrimination in AI

AI is a powerful tool that can foster justice for people and planet. However, in light of its risks and ethical challenges, avoiding digital apartheid, racism, algorithmic bias, arbitrariness and discrimination is necessary towards effectively and appropriately harnessing AI for justice. It has been pointed out that bridging the digital divide between the Global North and the Global South is vital towards avoiding digital apartheid²⁵. By bolstering the role of the Global South in AI governance, innovation and ownership, developing countries can chart their own digital landscape thus avoiding discriminatory practices being imposed upon them²⁶. It is also necessary for technology companies to uphold human rights by allowing all individuals to exercise their rights to free speech, assembly, access to information and political participation without discrimination on the basis of political affiliation, nationality or religious beliefs²⁷. Through the foregoing, it is possible to tackle digital apartheid.

Avoiding racism and discrimination in AI is also vital for justice, equality and human rights. It has been observed that without adequate safeguards, AI can perpetuate historical biases that lead to racism and racial discrimination²⁸. This has been evidenced in sectors such as law enforcement, finance, hiring and education, where historically biased data sets have led to racism and discrimination against people of colour and women among other marginalized and disadvantaged groups²⁹. Consequently, there is need to ground the development, deployment and regulation of AI in human rights in order to tackle racism and discrimination³⁰. Further, it has been observed that training AI

²⁵ Ajeboriogbon. T., 'Digital Colonialism is the New Scramble for Africa' Op Cit

²⁶ Ibid

²⁷ Digital Apartheid and the Use of Social Media Algorithms in Humanitarian Crises., Op Cit

²⁸ Office of the United Nations High Commissioner for Human Rights., 'Racism and AI: "Bias from the past leads to bias in the future"' Op Cit

²⁹ Ibid

³⁰ Ibid

models on accurate, non-biased, gender-neutral and transparent data sets, is key towards ensuring that AI outcomes are fair and just for all³¹.

It is also imperative to avoid algorithmic bias. It has been correctly noted that if the data used to train AI algorithms is flawed or biased, either through narrow representation, stereotypes, measurement inaccuracies, or omission, the resulting outcomes can reflect these biases, perpetuating stereotypes and discrimination³². Algorithmic bias often fuels discrimination on the basis of gender, race, ethnicity, religion and nationality with negative societal implications³³. It is therefore necessary to avoid algorithmic bias by training AI models on accurate, non-biased and inclusive data sets that uphold racial, cultural and gender diversity³⁴.

In addition, there is need to avoid arbitrariness by fostering transparency, accountability and explainability³⁵. It has been observed that by fostering transparency and explainability, it is possible to understand how decisions are made and the data used in decision-making thus avoiding concerns over arbitrariness³⁶. Further, human oversight in algorithmic decision-making especially in critical areas such as healthcare and law enforcement is key towards fostering accountability, human rights and dignity³⁷.

³¹ Australian Human Rights Commission., 'Thematic report on AI and racial discrimination' Op Cit

³² Algorithmic Bias., Available at <https://www.ebsco.com/research-starters/computer-science/algorithmic-bias> (Accessed on 27/04/2026)

³³ Ibid

³⁴ United Nations Educational, Scientific and Cultural Organization., 'Ethics of Artificial Intelligence' Op Cit

³⁵ Organisation for Economic Co-operation and Development., 'Governing with Artificial Intelligence' Op Cit

³⁶ World Economic Forum., 'Why transparency is key to unlocking AI's full potential' Available at <https://www.weforum.org/stories/2025/01/why-transparency-key-to-unlocking-ai-full-potential/> (Accessed on 27/04/2026)

³⁷ United Nations Educational, Scientific and Cultural Organization., 'Ethics of Artificial Intelligence' Op Cit

4.0 Conclusion

With AI being widely deployed all over the world, it is necessary to adopt it in an ethical, appropriate and responsive manner in order to foster justice for people and planet. This involves harnessing its positive attributes while tackling underlying risks and ethical concerns. In particular, avoiding digital apartheid, racism, algorithmic bias, arbitrariness and discrimination is vital towards harnessing AI for justice.

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