SUPREMACY POLITICS: THE CODING OF POWER IN ARTIFICIAL INTELLIGENCE (AI) Health Equity and the Politics of Algorithmic Decision Making in U.S. Healthcare*

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Supremacy politics within the realm of healthcare artificial intelligence (AI) transcends being a mere theoretical notion; it is a self-reinforcing system in which policy rollbacks, deregulation, and administrative rulemaking that authorize or incentivize algorithmic bias create conditions harmful to marginalized patients. The algorithm that denied your grandmother a ventilator during the COVID-19 pandemic exemplifies how embedded supremacy within technological systems can produce outcomes that are neither neutral nor objective. Likewise, the AI system that flagged your neighbor for insurance fraud and the predictive model that decided which patients received priority access to specialist care are biased. As artificial intelligence increasingly dictates life-and-death decisions in American healthcare, a concerning trend has become apparent: these seemingly objective systems systematically reinforce and magnify racial, economic, and social disparities under the guise of mathematical accuracy, resulting in a

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coded supremacy. Rather than functioning as impartial decision makers, such algorithms often reflect and perpetuate social biases and inequalities. These biases may be encoded in design unintentionally through flawed data sets, discriminatory criteria, or denials rooted in historic inequities. Recent executive orders mandating the development of artificial intelligence systems without consideration for diversity, equity, and inclusion (DEI) or the incorporation of wokeness[1] ideology have raised significant concerns. DEI and critical race theory ideology are viewed as the existential threat to reliable AI [2] despite systemic bias and historic racial inequality. Policies that deliberately overlook differences in race, gender, age, and societal factors fail to address the needs of society's most vulnerable groups, thereby exacerbating the strain on an already fragile healthcare system.

This article describes the development and implementation of these policies injected into AI-initiatives as supremacy politics. The term "supremacy politics", as introduced in this article, refers to the deliberate preservation and exercise of power by dominant social, political, and economic groups, typically those who are wealthy and connected, through policies, technologies, and institutional decisions that disproportionately burden populations with diminished access to protection, advocacy, and influence.[3] While rooted in systems of racial hierarchy,

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1. This article will not explore an in-depth examination of "wokeness ideology," it will attempt to discuss it through the lens of "supremacy-politics," as conceptualized by the author. The author relies ultimately on an underlying explanation of "wokeness" in the United States, as a critique manifested in several ways. Radical feminists contended that the legal system served as a medium for making male dominance both invisible and legitimate. *See generally* CATHERINE MACKINNON, TOWARD A FEMINIST THEORY OF THE STATE (1989). Critical race theorists argued that racism is the usual way American society does business. *See generally* RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: AN INTRODUCTION (2001). These perspectives eventually became part of public discourse, often used as default explanations for the inequalities present in American society, leading to a perception of American institutions as mere instruments of oppression.

2. Exec. Order No. 14,319, 90 Fed. Reg. 35389 (July 28, 2025).

3. Sandeep Dhaliwal, *The Criminal System Under Racial Capitalism*, 58 U.C. DAVIS L. REV. 1589, 1600-1602 (2025) for a description on unequal social relations and capitalism involving unequal divisions of power over the production and distribution of social wealth, with more power residing with owners, financers and less with workers and the poor. This unequal sharing of power arises, creates and sustains political inequality which is why capitalism sits in persistent tension with democracy. Racial categories serve the instrumental purpose of distributing access to

supremacy politics operates across multiple axis of marginalization, including age, socioeconomic status, disability, and gender nonconformity.[4] It operates by shifting risk onto vulnerable groups, and diminishing the ability of those most impacted to engage in decision-making processes that affect their lives.[5] In exploring the application of artificial intelligence and algorithmic usage, this definition includes the intentional preservation and exercise of power by dominant social, political, and economic entities, thus making governance less democratic.[6] These policies, technologies, and institutional choices place an undue burden on communities with limited access to protection, advocacy, and influence to hold governments accountable and transparent.[7] Supremacy politics suppresses the democratic participation of historically oppressed groups by reinforcing structural marginalization.[8] It operates obscuring accountability, transferring risk to vulnerable populations, and undermining the democratic ability of those most affected to participate in shaping the decisions that govern their lives.[9] Given the significant power disparities, supremacy politics serves to reinforce existing inequities and structural barriers that hinder the efforts of oppressed groups to meaningfully engage in governance.[10] The entrenchment of supremacy politics through algorithms and AI arises from the unequal distribution of power within government and society, resulting in democratic inequality.

When federal agencies discontinue testing for programmatic bias, withdraw funding from civil rights offices, and limit the collection of health data, they are not simply dismantling bureaucratic initiatives.

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wealth, power and information onto the unequal division of power over production and distribution of wealth. *Id.* at 1598.

4. *See* Eric V. Hull, *Environmental Injustice and Covid-19: Addressing the Link between Pandemics and Pollution in Racial and Ethnic Minority Communities Under the Clean Air Act*, 35 GEO. ENV'T L. REV. 113, 136, 141 (2024).

5. Danyelle Solomon, Connor Maxwell & Abril Castro, *Systemic Inequality and America Democracy*, CTR. FOR AM. PROGRESS (Aug. 7, 2019), https://www.americanprogress.org/article/systematic-inequality-american-democracy/#:~:text=The%20United%20States%20is%20a,the%20fabric%20of%20American%20policymaking.

6. Ngozi Okidegbe, *To Democratize Algorithms*, 69 UCLA L. REV. 1688, 1693.

7. *Id*. at 1697.

8. *Id.*

9. *Id.*

10. *See id.*

Instead, they lay the groundwork for a new form of segregation: one that is encoded in algorithms, deployed on a large scale, and shielded from the scrutiny of traditional civil rights.[11] *Drawing on critical race theory and employing a socio-legal methodology, this article demonstrates how existing legal frameworks, including Title VI of the Civil Rights Act, the Americans with Disabilities Act, and Section 1557 of the Affordable Care Act, prove inadequate to address the systemic nature of algorithmic bias in healthcare. The analysis highlights a disconcerting paradox: as healthcare artificial intelligence systems grow in complexity, they simultaneously enhance their capacity to perpetuate discrimination, exacerbate structural racism*[12]*, and lead to a shortfall in legal accountability reinforced by the supremacy of politics.*

INTRODUCTION……5
I. DEFINING SUPREMACY POLITICS……8
A. *White Supremacy a Historical Baseline*……8
B. *Operationalizing "Supremacy Politics"*……10
C. *Supremacy Made Systemic: How Policy Becomes Pre-Text for Exclusion*……16
II. THE CONVERGENCE OF SUPREMACY POLITICS AND ALGORITHMIC GOVERNANCE……19
A. *Dismantling Diversity, Equity and Inclusion (DEI)*……25

11. This concept captures how legislative and administrative rollbacks, such as the rescission of Executive Order 13,985 strip public-facing technologies, including AI systems, of the normative infrastructure required to mitigate systemic bias and advance equity. *See* Exec. Order No. 13,985, 86 Fed. Reg. 7009 (Jan. 25, 2021) *revoked by* Exec. Order No. 14,148, 90 Fed. Reg. 8237 (Jan. 20, 2025); *see* Exec. Order No. 14,319, 90 Fed. Reg. 35389 (July 28, 2025). The term is introduced here to describe a distinct pattern of political and legal rollback in U.S. administrative law that intersects with emerging algorithmic systems in public health governance. The author defines "supremacy politics" as the deliberate dismantling of equity-promoting legal and administrative structures, particularly those addressing racial and social justice, through formal legal tools that embed exclusion into governance under the guise of neutrality.

12. Structural racism is defined as the macrolevel systems, social forces, institutions, ideologies, and processes that interact with one another to generate and reinforce inequities among racial and ethnic groups. *See* Gilbert C. Gee & Chandra L. Ford, *Structural Racism and Health Inequities: Old Issues, New Directions*, 8 DU BOIS REV. 115 (2011).

B. *From ideology to Infrastructure*……..28
III. THEORETICAL FOUNDATIONS: CRITICAL RACE THEORY AND WOKENESS MEET DIGITAL GOVERNANCE……..30
A. *Explaining Systemic Injustice: Anti-Subordination and Distributive Justice Approaches*……..34
B. *Weaponization in Health Care Programs*…….37
1. Case Examples: Algoritmic Denials in Medicare Advantage……..37
IV. SDG-16 FRAMEWORK: PEACE, JUSTICE AND STRONG INSTITUTIONS IN AI GOVERNANCE……..41
A. *SDG-16 As a Normative Framework*…….42
B. *Target 16.3: Rule of Law and Equal Access to Justice in Algorithmic Context*……..43
C. *Target 16.6: Accountable and Transparent Institution in AI-Driven Policy AI-Deployment*……..44
D. *Target 16.7 Inclusive Decision-Making in Healthcare Technology...*……...45
V. REFORMS……..48
CONCLUSION……..50
APPENDIX A:……..51

INTRODUCTION

"We cannot play ostrich. Democracy just cannot flourish amid fear. Liberty cannot bloom amid hate. Justice cannot take root amid rage. America must get to work. In the chill climate in which we live, we must go against the prevailing wind. We must dissent from the indifference. We must dissent from the apathy. We must dissent from the fear, the hatred and the mistrust. We must dissent from a nation that has buried its head in the sand, waiting in vain for the needs of its poor, its elderly, and it's sick to disappear and just blow away. We must dissent from a government that has left its young without jobs, education or hope. We must dissent from the poverty of vision and the absence of moral leadership. We must dissent because America can do better, because America has no choice but to do better**"** [13]

— Justice Thurgood Marshall

13. Robert Post, *Marshall as a Judge*, 88 FORDHAM L. REV. 13 (2019).

As Justice Marshall reminds us, intent is never truly concealed in public forums. It permeates our laws, institutions, and increasingly, in our algorithms as well. In healthcare policy, artificial intelligence (AI) is marketed as a neutral instrument capable of increasing efficiency, reducing fraud, waste, and abuse, and streamlining decision-making.[14] However, beneath these technical promises lies an ideological framework shaped by racial hierarchies, economic incentives, and political resistance to addressing historical injustices. This article introduces the concept of supremacy politics to describe how regulatory and political actors deliberately dismantle equity-focused protections while embedding discriminatory logics into automated systems. As diversity, equity, and inclusion (DEI) frameworks are rolled back and civil rights safeguards are weakened, algorithmic governance is transformed from a shield against injustice into a sophisticated tool for its perpetuation. This is a restructuring of healthcare governance in ways that reproduce and legitimize inequalities.

In the United States, the integration of AI into healthcare programs, such as Medicaid and Medicare Advantage, is occurring alongside the removal of equity mandates, civil rights oversight, and health-justice commitments.[15] These developments are not parallel, they are deeply intertwined. AI systems now make critical determinations about patient eligibility, treatment approvals, and discharge timelines, while the United States government works to dismantle the institutional capacity that ensures that these systems do not discriminate.[16] This intersection of AI adoption amid the deliberate erosion of equity safeguards represents a new paradigm of exclusionary governance. This article employs the United Nations Sustainable Development Goals (SDGs), particularly 16 (inclusive institutions), as a normative framework for understanding how these shifts compromise health equity and democratic accountability. AI tools are not politically neutral; they are coded reflections of the legal and administrative priorities of

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14. *See* Margaret Chustecki, *Benefits and Risks of AI in Health Care: Narrative Review*, 13 INTERACTIVE J. OF MED. RSCH., Nov. 2024, at 1.

15. *See Leveraging the Power of AI to Serve America's Healthcare Needs*, CTR. FOR MEDICARE & MEDICAID SERVS., https://ai.cms.gov/ (last visited May 13, 2026); Exec. Order No. 14,398, 91 Fed. Reg. 16147 (Mar. 26, 2026).

16. *See* Delaram Rezaeikhonakdar, *Artificial Intelligence in Healthcare: Governance, Compliance, and Data Privacy Beyond HIPPA,* 29 QUINNIPIAC HEALTH L.J. 177, 181 (2026) ("These LLM-based tools are increasingly integrated into healthcare workflows, assisting with patient triage, clinical scheduling, drafting discharge notes, assigning hospital beds, and responding to procedural inquiries.")

the actors who commission, design, and deploy them. When supremacy politics shapes these priorities, algorithmic governance reflects and reinforces discriminatory commitments, deepening structural inequities in access to care. The SDG framework considers whether an AI system will reduce inequalities and pushes developers and governments to consider long-term societal impacts, prioritizing human dignity, and considering fairness, accountability, transparency, and inclusion without resorting to supremacy thinking, politics, or governance.

Although this article outlines the structural harms resulting from the intersection of supremacy politics and algorithmic governance in healthcare, it does not aim to comprehensively address the complex regulatory questions these issues pose. A companion piece, *Supremacy Politics II: Coding Injustice; How Anti-Woke Governance and AI Reshape Inequality in American Healthcare*[17], develops a comprehensive framework of legal and policy interventions aimed at restoring transparency, accountability, and equity in the use of artificial intelligence across federally subsidized healthcare programs and the development of regulations around AI usage.

Section I defines supremacy politics in the digital era, examining how the rollback of DEI protections intersects with AI deployment to reinforce structural inequality. Section II analyzes the convergence of supremacy politics and algorithmic governance, and their influence on healthcare delivery, situating these developments within the broader patterns of political retrenchment. Section III explores the relationship between anti-DEI political campaigns, critical race theory discourse, and the design of AI systems, including examples from Medicare Advantage programs that reveal the human cost of algorithmic bias in healthcare settings. While this discussion is high-level, a more detailed examination of Medicare Advantage litigation and patient outcomes is developed in a companion work, *Artificial Intelligence Can Kill You*.[18] Section IV introduces SDG 16 as a framework for reimagining AI governance in healthcare, offering preliminary interventions while signaling that comprehensive solutions will be addressed in *Supremacy Politics II*. The article concludes by urging a deliberate choice: either permit supremacy politics to entrench

17. Dana G. Jones, *Coding Injustice; How Anti-Woke Governance and AI Reshape Inequality in American Healthcare*, (forthcoming June 2026) (on file with author).

18. Dana G. Jones, *Artificial Intelligence Can Kill You*, 33 U. OF ILL. ELDER L. J. 401 (forthcoming 2026).

discriminatory practices in our technological infrastructure or commit to laws and institutions that ensure AI serves justice rather than undermining it. This essay provides a set of operational indicators which appear in Appendix A (Abbreviated Operational Criteria), with the expanded framework developed in *Supremacy Politics II: The Architecture of Repair (manuscript in progress)*.

I. DEFINING SUPREMACY POLITICS

A. *White Supremacy a Historical Baseline*

White supremacy[19] is a political, economic, and cultural system in which whites overwhelmingly control power and material resources, and in which white dominance and non-white subordination exist across a broad array of institutions and settings.[20] This definition of white supremacy primarily addresses the institutional structures that form its foundation.[21] It highlights how white supremacy is intertwined with societal frameworks that sustain racial dominance by unequally distributing power, resources, and authority.[22] These systems establish whiteness as the standard by which other races are evaluated. While the term white supremacy captures a historically specific arrangement of racial dominance, contemporary systems of control operate through a wider array of political, economic, and technological levers. Just as the Reconstruction Amendments[23] were succeeded by

19. *See* JEROME DOWD, NEGRO IN AMERICAN LIFE 493-97 (1926) (examining white supremacy and politics).

20. Erika K. Wilson, *The Legal Foundations of White Supremacy*, 11 DEPAUL J. SOC. JUST. 1, 3 (2018) (quoting Frances Lee Ansley, *Stirring the Ashes: Race, Class, and the Future of Civil Rights Scholarship*, 74 CORNELL L. REV. 993, 1024 n. 129 (1989)).

21. *Id.*

22. *Id.*

23. The Reconstruction Amendments, comprising the 13th, 14th, and 15th Amendments (1865-1870), were designed to secure rights for formerly enslaved individuals. The 13th Amendment (1865) abolished slavery and involuntary servitude. The 14th Amendment (1868) granted citizenship to all persons born or naturalized in the U.S., including formerly enslaved individuals, and guaranteed equal protection under the law. The 15th Amendment (1870) prohibited the denial of the right to vote based on race, color, or previous condition of servitude. *See* U.S. CONST. amend. XIII; U.S. CONST. amend. XIV, § 1; U.S. CONST. amend. XV, § 2.

decades of Jim Crow laws[24] that undermined their promise, today's civil rights and equity advancements are encountering a new era of regressive policies. Legislative and administrative rollbacks of diversity, equity, and inclusion (DEI) initiatives, often framed as "neutral" or "color-blind" reforms, echo the same structural logic, dismantling the very mechanisms intended to remedy systemic inequities.[25] These modern campaigns do not simply resist racial equity; they also target protections based on gender, age, disability, economic status, and other identity markers, reinforcing a hierarchy in which the most powerful consolidate their control over public institutions, policy agendas, and algorithmic decision-making systems. This broader and more adaptive configuration of power, intentionally designed to weaken inclusive structures and redistribute authority upward, is what this article terms "supremacy politics."[26]

Building on this foundation, supremacy politics describes the deliberate restructuring of power to undermine equity-promoting systems and concentrate authority in the hands of those who are politically, economically, and socially dominant. In contrast to the historically confined framework of white supremacy, which focuses on racial hierarchy, supremacy politics encompasses a broader, more adaptable system that operates across various axes of identity and vulnerability, including race, gender, age, disability, and economic status. It is not merely the passive residue of bias; it constitutes an intentional political project executed through legislation, administrative rulemaking, judicial interpretation, and, increasingly, through algorithmic design choices that, while seemingly neutral, perpetuate systemic inequity. In

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24. Jim Crow laws, enacted after Reconstruction, were state and local regulations primarily implemented in the Southern and some border states. These laws enforced racial segregation in public facilities, transportation, and voting rights, effectively circumventing the rights established by the Reconstruction Amendments. *See Jim Crow Laws and Racial Segregation*, VCU LIBRS., https://socialwelfare.library.vcu.edu/eras/civil-war-reconstruction/jim-crow-laws-andracial-segregation/ (last visited Mar. 31, 2026); U.S. CONST. amend. XIII; U.S. CONST. amend. XIV, § 1; U.S. CONST. amend. XV, § 2.

25. Vianca T. Malick, *DEI—The Newest "Dirty Words*," 35 CONN. BAR ASS'N 34 (2025), https://www.ctbar.org/docs/default-source/publications/connecticut-lawyer/volume-35/5-mayjune-25/ctl_mayjune25; *see also* Suzanna Shery, *DEI and Antisemitism: Bred in the Bone,* 19 FIU L. REV. 901, 918 (2025) (arguing for the dismantling of "DEI bureaucracy").

26. For a condensed indicator set used here, *see infra* Appendix A (Abbreviated Operational Criteria).

this regard, supremacy politics functions as both a successor and an evolution of historical systems of dominance, employing contemporary tools such as technology, privatization, and deregulation to maintain hierarchies and restrict the scope of inclusive governance**.**

B. *Operationalizing "Supremacy Politics"*

Supremacy politics is not merely rhetorical; it manifests through concrete government actions such as the elimination of DEI offices and positions, executive orders banning race-conscious training or data collection, funding cuts to civil rights enforcement agencies, and legislative efforts to reframe anti-discrimination initiatives as ideological overreach.[27] This conceptualization extends beyond individual prejudice to encompass what critical race theorists have long recognized: that racial biases originate from a perceived objectivity, a belief that individuals can be fair and rational.[28] However, unconscious biases may function in ways that contradict explicit beliefs.[29] These implicit biases can be particularly detrimental because they sometimes contravene explicitly held commitments.[30] Furthermore, such costs may arise in contexts involving economically and socially significant decisions.[31]

Supremacy politics involves strategically using governmental power to dismantle institutional protections, furthering the subordination of the most vulnerable.[32] Implicit biases and supremacy politics interact to perpetuate systemic inequalities, both by covertly influencing decision-making and by overtly removing safeguards intended to prevent discrimination and marginalization.

In healthcare, supremacy politics do not simply influence artificial intelligence, they weaponize it. By embedding discriminatory priorities into automated systems, these politics transform AI from a tool of innovation into an instrument of exclusion, operating beyond

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27. *See, e.g.*, Exec. Order No. 13,950, 85 Fed. Reg. 60683, 60685-86 (Sept. 22, 2020) (*revoked* 2021); S.B. 266, 125th Gen. Assembly, Reg. Sess. (Fla. 2023) (eliminating DEI programs in state universities).

28. Moran, Rachel F., *Whatever Happened to Racism?*, 79 SAINT JOHNS L. REV. 899, 907 (2005).

29. *Id.*

30. *Id.*

31. *Id.*

32. *See* Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1750-51, 1767, 1789 (1993).

the reach of traditional oversight and shielding it from public accountability.[33] According to a growing body of evidence, healthcare algorithms that power Al may include bias against underrepresented communities, thus amplifying existing inequalities in medicine.[34] Recent developments in generative artificial intelligence and its applications have allowed Al to perpetuate racial discrimination.[35] It is increasingly clear that the concentrated impact of algorithmic harm on marginalized communities threatens to erode essential democratic values and norms by reinforcing historic patterns of racial hierarchy through systemic civil and human rights violations.[36] The Al algorithms increasingly used to treat and diagnose patients can have biases and blind spots that could impede healthcare for Black and Latinx patients.[37] These systems do not merely reflect existing inequalities, they actively reproduce and amplify them through automated decision-making processes that operate at unprecedented scales and speeds. Through this, AI algorithms create "spirit murder," the daily assault on human dignity experienced by members of subordinated groups.[38]

The translation of supremacy politics into algorithmic systems is facilitated by several distinct pathways that connect political decisions to technological outcomes. The rollback of regulations and elimination of oversight contribute to this process. The potential for AI and algorithmic tools to amplify racial biases in healthcare is heightened by unclear regulations and a lack of

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33. *See* Clarence Okoh, *The Dilemma of Black Coding: Assessing Algorithmic Discrimination Legislation in the United States,* 59 CT. L. REV. 10, 10 (2023).

34. Isabella Backman, *Eliminating Racial Bias in Health Care AI: Expert Panel Offers Guidelines,* YALE SCH. OF MED. (Dec. 21, 2023), https://medicine.yale.edu/news-article/eliminating-racial-bias-in-health-care-ai-expert-panel-offers-guidelines/.

35. Ashwini K.P. (Special Rapporteur on the Human Rts. Council), *Racism and Al: "Bias from the Past Leads to Bias in the Future,"* U.N. Doc. A/HRC/56/68 (July 30, 2024).

36. *See e.g.*, Okah, *supra* note 33, at 12; SAFIYA UMOJA NOBLE, ALGORITHMS OF OPPRESSION (2018); RUHA BENJAMIN, RACE AFTER TECHNOLOGY (2019).

37. Carrie Stetler, *AI Algorithms Used in Healthcare Can Perpetuate Bias*, RUTGERS U. NEWARK (Nov. 14, 2024), https://www.newark.rutgers.edu/news/ai-algorithms-used-healthcare-can-perpetuate-bias#:~:text=The%20AI%20algorithms%20increasingly%20used,a%20Rutgers%2DNewark%20data%20scientist..

38. PATRICIA J. WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS 73 (1991) (defining "spirit murder" as "disregard for others whose lives qualitatively depend on our regard").

transparency.[39] When federal agencies dismantle civil rights offices or reduce the requirements for algorithmic auditing, AI systems are deployed without sufficient bias testing or community oversight.[40] Data restrictions and collection limitations often restrict the collection of racial and ethnic health data under the guise of promoting color-blind policies.[41] The phenomenon, described as "epistemic violence"[42], refers to the systematic exclusion of knowledge regarding racial health disparities, which is essential for identifying and rectifying algorithmic bias. In the absence of disaggregated data, AI systems cannot be assessed for discriminatory outcomes, thus creating a feedback loop that perpetuates existing inequities.[43] "Algorithmic bias is neither inevitable nor merely a mechanical or technical issue. Conscious decisions by algorithm developers, algorithm users, health care industry leaders, and regulators can mitigate and prevent bias and proactively advance health equity."[44] Nonetheless, addressing such bias requires not only technical solutions but also institutional efforts.[45]

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39. Crystal Grant, *Algorithms Are Making Decisions about Health Care, Which May Only Worsen Medical Racism*, AM. C.L. UNION (Oct. 3, 2022), https://www.aclu.org/news/privacy- technology/algorithms-in-health-care-may-worsen-medical-racism.

40. Okoh, *supra* note 33, at 12.

41. *See* Brooke A. Cunningham & Andre S. M. Scarlato, *Ensnared by Color-blindness: Discourse on Health Care Disparities*, 28 ETHNICITY & DISEASE 235, 236 (2018).

42. This paper discusses how social justice is considered in the human computer interaction research and defines epistemic violence. This article will not engage in a full examination of this valuable concept. For a more comprehensive overview of epistemic violence, *see* Ishita Chordia et al., *Social Justice in HCI: A Systematic Literature Review*, PROC. OF THE 2024 CHI CONF. ON HUM. FACTORS IN COMPUTING SYS., https://doi.org/10.1145/3613904.3642704.

43. *See id.*

44. Marshall H. Chin et al., *Guiding Principles to Address the Impact of Algorithm Bias on Racial and Ethnic Disparities in Health and Health Care*, *in* 6 JAMA NETWORK OPEN, Dec. 15, 2023, at 2, https://doi.org/10.1001/jamanetworkopen.2023.45050.

45. For competing perspectives highlighting the potential of AI to reduce disparities and improve equity in healthcare settings, *see id.* at 4-8 (proposing human-centered AI frameworks to reduce inequities); Ziad Obermeyer et al., *Dissecting Racial Bias in an Algorithm Used to Manage the Health of Populations*, 366 SCI. 447, 447 (2019), https://doi.org/10.1126/science.aax2342 (finding that algorithmic adjustments can mitigate racial inequities in predictive risk scoring); Glenn Cohen et al., *The Legal and Ethical Concerns That Arise from Using Complex Predictive Analytics in Health Care*, 33 HEALTH AFF. 1139, 1142–44 (2014),

The capacity to mount these institutional efforts is not diminished by inadvertence; it is systematically stripped away through supremacy politics. By dismantling DEI offices and eliminating diversity personnel, those in power erode the infrastructure necessary to detect, challenge, and remedy algorithmic harm, ensuring that inequities remain embedded and unchallenged.[46] In the absence of these equity-centered actors, AI systems are developed and deployed without substantial challenges to their underlying assumptions or ethical considerations.[47] Employment practices play a crucial role in determining access to opportunities and reveal the unequal distribution of advantages among different racial and gender groups in the United States.[48] This underscores the importance for employers to tackle systemic issues related to the under-hiring and promotion of minorities and genders that are underrepresented as part of their DEI initiatives.[49] Incorporating diversity and inclusion principles into AI can help address issues related to fairness and bias.[50] Studies indicate that diverse teams are more likely to identify and tackle biases within AI systems.[51] From a design standpoint, such teams offer varied perspectives on fairness and can pinpoint additional bias sources in data or algorithms.[52] From the perspective of users, engaging marginalized communities in AI development can enhance the technology's fairness

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https://doi.org/10.1377/hlthaff.2014.0048 (discussing how predictive models may improve resource allocation and outcomes when responsibly deployed). Although these frameworks underscore AI's constructive potential, this article instead brings to light the structural risks posed by algorithmic opacity, the political erosion of equity safeguards, and the operational entrenchment of supremacy politics within healthcare decision-making.

46. *See* Oni J. Blackstock et al., *Health Care is the New Battlefront for Anti-DEI Attacks*, *in* PLOS GLOB. PUB. HEALTH (Ijeoma Nnodim Opara ed., 2024), https://doi.org/10.1371/journal.pgph.0003131.

47. *See* Jana Fehr et al., *A Trustworthy AI Reality-Check: The Lack of Transparency of Artificial Intelligence Products in Healthcare*, 6 FRONTIERS DIGIT. HEALTH, Feb. 2024, at 2. ("Despite the available guidance, experts have raised concerns that principles and guidelines may not be enough to guarantee ethical AI because they lack specific requirements to translate principles into practice.")

48. Deven R. Desai et al., *Using Algorithms to Tame Discrimination: A Path to Diversity, Equity and Inclusion*, 56 U.C. DAVIS 1703, 1705-06 (2023).

49. *Id.*

50. Rifat A. Shams, Didar Zowghi & Muneera Bano, *AI and the Quest for Diversity and Inclusion: A Systematic Literature Review*, 5 AI ETHICS 411, 411 (2025).

51. *Id.*

52. *Id.*

and trustworthiness for these groups, thereby increasing its acceptance among them.[53] Supremacy politics recognizes that funding cuts and resource reallocation divert resources from equity-focused AI research and bias mitigation efforts. This economic dimension of program and position cuts creates a systematic misallocation of resources necessary to address algorithmic discrimination.

As previously stated, supremacy politics operates intersectionally, affecting multiple marginalized communities. Healthcare Al systems shaped by supremacy politics disproportionately harm racial minorities, women, individuals with disabilities, LGBTQ+ patients and economically disadvantaged populations.[54] For Indigenous communities, these harms violate the principles of data sovereignty, the right of Indigenous peoples to control data about their communities, cultures, and territories.[55] It also creates gender-based discrimination, creating particular vulnerabilities for women of color in healthcare settings.[56] Al systems trained on datasets that historically underrepresent women's health conditions may systematically misdiagnose or undertreat conditions that disproportionately affect women while simultaneously applying racialized assumptions about pain tolerance and treatment compliance.[57]

Empirical evidence supports the connection between supremacy politics and algorithmic discrimination in healthcare.[58] A pivotal study from 2019, featured in the journal *Science*, revealed that an algorithm designed to forecast healthcare requirements for over 100 million individuals exhibited bias against Black patients.[59] The algorithm relies on healthcare spending to predict future health needs. However, with less access to care, Black patients appeared to have lower health needs in the algorithmic model

53. *Id.*

54. *See* SAFIYA UMOJA NOBLE, ALGORITHMS OF OPPRESSION: HOW SEARCH ENGINES REINFORCE RACISM 1–2 (2018).

55. Maggie Walter & Stephanie R. Carroll, *Indigenous Data Sovereignty, Governance, and the Link to Indigenous Policy*, *in* INDIGENOUS DATA SOVEREIGNTY AND POL'Y 1, 1–2 (Tahu Kukutai & Stephanie R. Carroll eds., 2022).

56. *See* DOROTHY ROBERTS, KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY 263–264 (1997).

57. *See id.*

58. *See* Micharl P. Cary, Jr. et al., *Mitigating Racial and Ethnic Bias and Advancing Health Equity in Clinical Algorithms: A Scoping Review*, 42 HEALTH AFFS. 1359, 1365 (2023).

59. Obermeyer et al., *supra* note 45, at 447.

despite having more severe health conditions.[60] When civil rights enforcement is weakened and healthcare access is restricted for marginalized communities, these policy decisions become encoded in the data used to train Al systems, creating technological systems that perpetuate discrimination while appearing mathematically neutral.[61]

Datasets driving healthcare AI function as repositories of policy-engineered inequities, embedding the consequences of political choices into systems that appear objective.[62] This entrenchment necessitates an expanded understanding of supremacy politics, one that captures not only overt racial hostility, but also the structural and systemic modalities. Power is exercised via ostensibly neutral medical and technological systems that impose disproportionate burdens on women and the economically disadvantaged.[63] Scholars of critical race theory have long understood that racism functions not only through personal bias but also via systemic structures that consistently favor white individuals while marginalizing people of color.[64] A common viewpoint suggests that DEI programs are perceived as a modern corporate strategy aimed at presenting a socially responsible image while simultaneously avoiding meaningful engagement with genuine social injustices.[65] As anticipated, similar to how affirmative action often predominantly benefits white women, those individuals frequently lead DEI departments.[66] White women are often advanced in professional settings under the guise of "equity," thereby reaping the economic benefits that these initiatives purport to extend to marginalized groups. If DEI were assessed based on outcomes rather than intentions, it

60. Ryan Levi & Dan Gorenstein, *AI in Medicine Needs to Counter Bias – and Not Entrench it,* NAT'L PUB. RADIO (June 6, 2023), https://www.npr.org/sections/health-shots/2023/06/06/1180314219/artificial-intelligence-racial-bias-health-care.

61. Obermeyer et al., *supra* note 45, at 453.

62. *See* Uwe Peters, *Algorithmic Political Bias in Artificial Intelligence Systems*, 35 PHIL. & TECH., Mar. 2022, at 2.

63. *See* Erika Bachiochi & Rachel N. Morrison, *Dobbs, Equality, and the Contested Meaning of Women's Rights*, 29 TEX. REV. L. AND POL. 11, 60 (2024).

64. Cheryl Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1713–14 (1993).

65. Damon Jones, *The Universal Fraud: How Policies for Black Americans Became Programs for Everyone Else*, BLACK WESTCHESTER, (July 27, 2025), https://blackwestchester.com/the-universal-fraud-how-policies-for-black-americans-became-programs-for-everyone-else/.

66. *Id.*

would show more advancement for privileged women than for those it claims to support.[67]

C. *Supremacy Made Systemic: How Policy Becomes Pre-Text for Exclusion*

As stated, in the context of AI-driven healthcare policy, supremacy politics manifests through algorithmic systems that embed and perpetuate racial, socioeconomic, and systemic inequalities.[68] It is notable that AI is predominantly portrayed as white.[69] The architecture of supremacy in algorithmic systems operates through multiple mechanisms: biased training data that reflect historical discrimination, exclusionary design processes that center on dominant group perspectives, and deployment strategies that prioritize efficiency over equity.[70] The U.S. legal landscape reveals both opportunities and obstacles in addressing algorithmic bias in healthcare. Title VI of the Civil Rights Act of 1964 prohibits discrimination in federally funded programs; however, its application to algorithmic systems remains controversial.[71] Disparate-impact laws enable individuals to file lawsuits for discrimination based on race, gender, or other protected characteristics without needing to demonstrate that the decision-maker had discriminatory intent.[72] This type of liability is essential for preventing discrimination in a world where complex algorithms increasingly make important decisions.[73] However, the current protections against algorithmic disparate impacts are inadequate.[74] They exist within a fragmented collection of federal statutes, many of which have been weakened by court decisions.[75] Stronger protections are necessary to safeguard Americans from algorithmic discrimination in healthcare.

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67. *Id.*

68. *See* Stephen Cave & Kanta Dihal, *The Whiteness of AI*, 33 PHIL. & TECH. 685, 686 (2020).

69. *Id.* at 699-700.

70. *See* VIRGINIA EUBANKS, AUTOMATING INEQUALITY: HOW HIGH-TECH TOOLS PROFILE, POLICE, AND PUNISH THE POOR (2018).

71. Civil Rights Act of 1964, 42 U.S.C. §§ 2000d–2000d-7.

72. Chirag Bains, *The Legal Doctrine that Will Be Key to Preventing AI Discrimination*, BROOKINGS (Sept. 13, 2024), https://www.brookings.edu/articles/the-legal-doctrine-that-will-be-key-to-preventing-ai-discrimination/.

73. *Id.*

74. *Id.*

75. *Id.*

Researchers and technologists have consistently demonstrated that algorithmic systems can produce biased results.[76] This bias can arise when the training data lack representativeness or when algorithms identify and perpetuate subtle patterns of human bias that are embedded within the training data.[77]

Historically, healthcare systems have supported DEI initiatives, acknowledging their significance in improving patient care, enhancing employee retention, and ensuring workforce representation.[78] Recent executive orders may impede recruitment initiatives designed to develop a healthcare workforce that reflects the demographics of the communities it serves.[79] Will hospitals and other healthcare entities be designated as federal contractors and be subject to this mandate? The federal government allocates significant financial resources to hospitals and other healthcare provider networks through Medicare and Medicaid reimbursements.[80] Several of President Donald Trump's executive orders apply only to the federal government, but some impact the private sector. Executive Order 14173, for example, applies to all private sector companies, as well as having additional implications and requirements for federal contractors and other grantees. Federal contractors are no longer required to create affirmative action plans for women and minorities in the workforce.[81] Additionally, it requires all agencies to include the following language in every federal contract and grant:

- A requirement for contractors and grantees to certify that they do not "operate any programs promoting DEI that violate any applicable Federal anti-discrimination laws."[82]
- A requirement for contractors and grantees to agree that their "compliance in all respects with all applicable Federal anti-

76. *Id.*

77. *Id.*

78. Lisa English Hinkle & Valerie Michael, *The Future of DEI in Healthcare: Navigating Compliance and Risk Under Federal Policies*, MCBRAYER BLOG, (Mar. 11, 2025), https://www.mcbrayerfirm.com/blogs-Healthcare-Law-Blog,the-future-of-dei-in-healthcare-navigating-compliance-and-risk-under-new-federal-policies.

79. *Id.*

80. *See generally* ELAYNE J. HEISLER ET AL., CONG. RSCH. SEV. R48081, SOURCES OF FEDERAL FUNDING FOR HEALTH CARE FACILITIES: FREQUENTLY ASKED QUESTIONS 5 (2024).

81. Exec. Order No. 14173, 90 Fed. Reg. 8633, 8634 (Jan. 31, 2025).

82. *Id.*

> discrimination laws is material to the government's payment decisions" for purposes of the False Claims Act ("FCA").[83]

These provisions raise concerns that private hospitals may feel obligated to adhere to the executive order mandates. [84] Executive Order 14173 explicitly designates the medical industry as one that has "adopted and actively used dangerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called 'diversity, equity, and inclusion'".[85] Several prominent medical organizations have challenged this viewpoint, arguing that DEI initiatives are essential for addressing systemic healthcare disparities and enhancing patient outcomes in the medical field.[86] Against this backdrop, the practical question arises as to what legal constraints remain on hospitals' use of automated tools if the DEI is chilled. Existing federal policy like the Americans with Disabilities Act (ADA) provides potential avenues for challenging discriminatory AI systems. That being said, its enforcement mechanisms are limited in scope.[87] Section 1557 of the Affordable Care Act explicitly prohibits discrimination in healthcare programs.[88] However, its scope and enforcement in the context of AI remain ambiguous and unclear.[89] The Office for Civil Rights (ORC) within the Department of Health and Human Services (HHS) released a final rule on May 6, 2024, in accordance with Section 1557 of the Affordable Care Act. This rule prohibits discrimination based on race, color, national origin, sex, age, or disability in health programs that receive federal funding. This aligns with the Supreme Court's 2020 ruling in *Bostock v. Clayton County*, specifying that discrimination "on the basis of sex" under Section 1557 also encompasses sexual orientation and gender identity.[90] Additionally, the rule clarified that Section 1557's protections apply to the use of artificial intelligence by providers, particularly in "patient care decision support tools," and established a continuous obligation for providers to identify and address

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83. *Id.*
84. *Id*
85. *Id.* at 8633.
86. Hinkle & Michael, *supra* note 78.
87. 42 U.S.C. § 12101.
88. 42 USC 18116.
89. 42 U.S.C. § 18116.
90. Tammy Cahill & Ashley Durner, *New Affordable Care Act Final Rule Prohibits Discriminatory Use of AI*, DINSMORE (May 8, 2024), https://www.dinsmore.com/publications/new-affordable-care-act-final-rule-prohibits-discriminatory-use-of-ai/.

the risks of any tools that might be discriminatory.[91] Under the rule, a "patient care decision support tool" is "an automated or non-automated tool, mechanism, method, technology or combination thereof used by a covered entity to support clinical decision-making in its health programs or activities."[92] Examples of tools designed to support patient care decisions include predictive algorithms that evaluate the likelihood of patients experiencing serious health issues and systems that conduct medical necessity assessments to approve or reject medical claims.[93] The OCR emphasized that when utilizing these tools, it is crucial to consider the specific details and context of each patient, referencing studies that have shown how reliance on certain algorithms can lead to racial and ethnic disparities in health care.[94]

Understanding supremacy politics in the digital age requires recognizing that technological systems are not neutral tools but rather infrastructures that can either perpetuate or challenge existing relations of power and subordination.[95] The design, deployment, and governance of Al systems in healthcare policy thus become sites of political struggle over the fundamental question of whether technology will serve to democratize healthcare access or further entrench existing inequalities.

II. THE CONVERGENCE OF SUPREMACY POLITICS AND ALGORITHMIC GOVERNANCE

As AI continues to transform healthcare delivery in the United States, it is crucial to address the intersection of legal systems, policy issues, technological progress, and structural disparities. AI has revolutionized the way clinicians make decisions regarding patient care and treatment planning.[96] Machine learning algorithms, natural language processing, and computer vision techniques have enabled AI systems to analyze vast amounts of medical data and support clinical decision-making and personalized treatment.[97] They also learn,

91. *Id.*

92. 45 C.F.R. pt. 92 (2024).

93. Bains, *supra* note 72.

94. *Id.*

95. *See* Langdon Winner, *Do Artifacts Have Politics?*, 109 DAEDALUS 121, 121 (1980).

96. Backman, *supra* note 34.

97. Dhruvitkumar Talati, *AI in Healthcare Domain*, 2 J. KNOWLEDGE LEARNING & SCI. TECH. 256, 256 (2023).

systematize, and deploy inequities that have long plagued American healthcare.[98] Predictive analytics, powered by AI, plays a crucial role in early disease prevention and diagnosis by identifying patterns and risk factors, contributing to improved patient outcomes and cost-effective health care.[99] AI-driven algorithms in medical imaging improve diagnostic accuracy by, whereas decision-support systems "streamline healthcare workflows by offering real-time insights based on patient data and clinical guidelines."[100] From the outset, supremacy politics has shaped this process. Political decisions that dismantle equity protections, suppress critical data, and weaken oversight structures directly influence the design, deployment, and accountability of AI tools in healthcare.[101] The result is a feedback system in which policy choices produce discriminatory AI outcomes that, in turn, reinforce the political and institutional structures that enabled them.

The interplay between supremacy politics and algorithmic governance in healthcare creates a self-reinforcing cycle. In the healthcare sector, where AI systems are increasingly mediating access to care, benefits, and essential resources, the decline of equity-focused governance signals a revival of supremacy politics that safeguard dominant interests by concealing structural harm.[102] When political actors dismantle DEI infrastructure, limit demographic data, or weaken civil rights enforcement, they reshape the legal and institutional landscape in which healthcare AI is developed. This effectively shields biased systems from scrutiny while disproportionately disadvantaging marginalized groups.[103] Supremacy politics thus manifests

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98. *AI Implications for Health Equity: Shaping the Future of Health Care Quality and Safety*, HARV. MED. SCH. (Apr. 7, 2025), https://learn.hms.harvard.edu/insights/all-insights/ai-implications-health-equity-shaping-future-health-care-quality-and-safety

99. José Gabriel Carrasco Ramírez, *AI in Healthcare: Revolutionizing Patient Care with Predictive Analytics and Decision Support Systems*, 1 J. A.I. GEN. SCI. 31, 31 (2024).

100. *Id*. at 34.

101. *See* Darius Tahir, *Trump and Kennedy Seek to Relax Safeguards for AI Healthcare Tools*, KAISER FAM. FOUND. HEALTH NEWS (May 13, 2026), https://kffhealthnews.org/health-industry/ai-artificial-intelligence-ambient-scribes-ehr-electronic-health-records-hhs-deregulation/

102. Khiara M. Bridges, *Race in the Machine: Racial Disparities in Health and Medical AI,* 110 VA. L. REV. 243 (2024).

103. Re'Nika Moore, *Trump's Executive Orders Roling Back DEI and Accessibility Efforts, Explained*, AM. C.L. UNION (Jan. 24, 2025), https://www.aclu.

through algorithmic governance that seems race-neutral yet operates within policy frameworks intentionally stripped of the tools needed to identify and address injustice.

Political actions that dismantle DEI protections shape the conditions under which AI tools are developed in the US.[104] These AI systems, trained and deployed in inequitable contexts, generate discriminatory outcomes and create accountability barriers that shield biases from being scrutinized.[105] These harms reinforce the ideological and institutional drivers of supremacy politics in the United States.

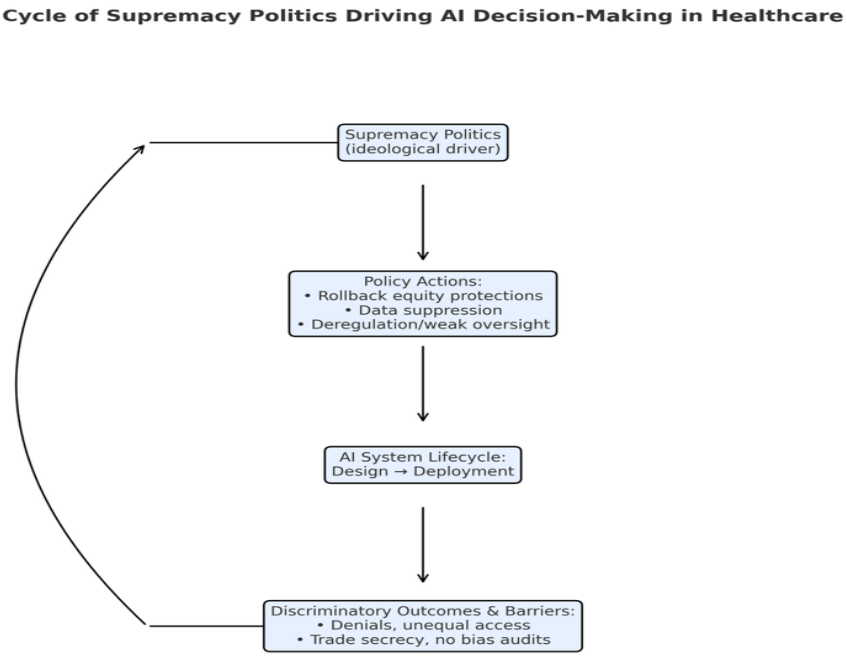

Figure 1. Cycle of Supremacy Politics Driving AI Decision-Making In Healthcare [106]

org/news/racial-justice/trumps-executive-orders-rolling-back-dei-and-accessibility-efforts-explained?utm_source=chatgpt.com

104. *Id.*

105. *Id.*

106. *Figure 1:* This diagram illustrates the feedback loop in which supremacy politics drives policy actions—such as rollbacks of equity protections, data suppression, and deregulation—that shape AI system design and deployment. These systems generate discriminatory outcomes and barriers to accountability, which in turn reinforce the ideological and institutional drivers of supremacy politics.

Structural reforms are needed to address the political and regulatory conditions that feed the cycle to reduce inequities. As the Yale School of Medicine notes, "[e]xperts have identified numerous biased algorithms that require racial or ethnic minorities to be considerably more ill than their white counterparts to receive the same diagnosis, treatment, or resources."[107] Moreover, "[t]hese include models developed across a wide range of specialties, such as cardiac surgery and kidney transplantation.[108] AI visualization and imaging tools consistently discriminate between individuals with darker skin tones.[109] Studies have shown that standard AI models, such as Dall-E and Midjourney, tend to overrepresent lighter skin tones in generated medical images, thereby failing to accurately reflect the diverse demographic makeup of the population.[110]

In addition to clinical bias, AI has been shown to exhibit administrative bias.[111] A study revealed that an algorithm commonly used by health systems to identify patients for high-risk care management showed a substantial racial bias.[112] The algorithm, which affected up to 200 million Americans, systematically underestimated the health needs of Black patients compared with White patients sharing similar health conditions.[113] This occurred because the algorithm used past healthcare costs as a proxy for medical needs, failing to account for the systemic barriers that led to lower healthcare utilization among minority groups.[114] These instances of AI discrimination highlight a larger issue: AI learns these biases because these biases exist in real life. The larger challenge is to establish an overarching ethos in which the training of AI tools acknowledges and aggressively aims to mitigate these discriminatory tendencies in the first place.

Recent United States executive actions and proposed policies have further obfuscated this task. In the United States, there is neither a comprehensive statutory AI policy nor a clearly defined set of

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107. *See* Backman, *supra* note 34.

108. *Id*.

109. Roxana Daneshjou et al., *Disparities in Dermatology AI Performance on a Diverse, Curated Clinical Image Set*, SCI. ADVANCES, Aug. 2022, at 1.

110. Dana G. Jones, *The Emperor Has No Clothes: Addressing AI-Powered Medical Device Bias: A Transatlantic Perspective on Regulation*, MICH. INT'L L. REV., (forthcoming 2026).

111. Obermeyer et al., *supra* note 45, at 447.

112. *Id.*

113. *Id.*

114. *See id.*

unified ethical guidelines.[115] This failure of policy and morality has established an ephemeral regulatory landscape that shifts with each presidential administration.[116] The current administration's posture is hostile toward diversity, antithetic toward fairness, and creates environments that hinder people's ability to thrive.[117] In the first six months of 2025, executive actions and the passage of the "One Big Beautiful Bill"[118] articulate the administration's aims to erode DEI principles.[119] Thus, in turn, the legislation[120], restructures or restrict access to Medicaid and the Affordable Care Act[121], and threaten veteran benefits.[122]

These contemporary policy shifts represent a resurgence of race-based political strategies that disadvantage low-income people, perpetuate health injustice, and embolden biased systems under the guise of efficiency, fairness, and reform. The ethics of dominant politics, coupled with an intentionally weakened statutory and regulatory environment, produces a future in which AI drives the worst possible outcomes in American healthcare.[123] Experts advocate for a comprehensive regulatory strategy that can address the entire spectrum of AI

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115. *AI Watch: Global Regulatory Tracker—United States*, WHITE & CASE (Sept. 24, 2025), https://www.whitecase.com/insight-our-thinking/ai-watch-global-regulatory-tracker-united-states

116. *See* Michelle L. Price & Zeke Miller, *Trump's Orders to End DEI Programs Reflect His Push for a Profound Cultural Shift,* ASSOCIATED PRESS NEWS (Jan. 22, 2025, 5:05 PM), https://apnews.com/article/trump-executive-orders-dei7ef0bf4ce1d4
65f6b61f3fcfde544593.

117. *Id.*

118. One Big Beautiful Bill Act, Pub. L. No. 119-21, 139 Stat. 72 (2025).

119. *Trump's Executive Orders on Diversity, Equity, and Inclusion, Explained*, LEADERSHIP CONF. ON CIV. AND HUM. RTS. (Feb. 12, 2025), www.civilrights.org/resource/anti-deia-eos/.

120. Jacqueline Howard, *Trump Administration Cut $2.7 Billion in NIH Research Funding Through March, Senate Committee Minority Report Says*, CNN (May 13, 2025, 2:02 PM), www.cnn.com/2025/05/13/health/trump-administration-nih-funding-sanders-report.

121. Renuka Rayasam & Sam Whitehead, *U.S. Uninsured Rates Could Resurge If Trump's Budget Bill Passes*, NAT'L PUB. RADIO (June 27, 2025), www.npr.org/sections/shots-health-news/2025/06/27/nx-s1-5445275/uninsured-medicaid-aca-trump-congress.

122. Zachary Wolf & Tami Luhby, *Here's How Trump's Megabill Will Affect You*, CNN (July 3, 2025, 5:52 PM), www.cnn.com/2025/07/01/politics/congress-senate-bill-tax-spending-trump-gop-explainer.

123. *See* Margot E. Kaminski, *Regulating the Risk of A.I.*, 103 B.U. L. REV., 1347, 1364 (2023).

risks and harms to vulnerable communities, rather than relying on fragmented governance that leaves major structural vulnerabilities unresolved.[124] This lack of investment in comprehensive regulation increases the chances that AI systems lacking sufficient oversight will worsen existing inequalities and lead to unfair outcomes in areas such as healthcare delivery.[125] Systemic regulation, along with transparency and bias-mitigation frameworks, are essential to prevent these harms.[126]

It is essential to thoroughly assess the ethical obligations associated with incorporating dominance politics into AI-driven health and race policy efforts in the United States. As a guiding principle for America to model itself upon, the United Nations Sustainable Development Goal 16 framework[127] should be considered. The framework's normative foundation aligns with established human rights principles by promoting societies that respect individual rights.[128] These rights include privacy, freedom of expression, and access to information, while positioning peace as a fundamental precondition for social and economic development.[129]

The current landscape in America represents a critical juncture in AI governance in healthcare policies. In September 2024, Senators Edward J. Markey of Massachusetts and Mazie Hirono of Hawaii introduced the "AI Civil Rights Act to Eliminate AI Bias, Enact Guardrails on the Use of Algorithms in Decisions Impacting People's Rights, Civil Liberties and Livelihoods" (US AI Civil Rights Act).[130] The Act proposes establishing strict guardrails for the use of algorithms in consequential decisions by companies, aiming to ensure that

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124. *Id.* at 1365-69.

125. *Id.* at 1363-64.

126. *Id.* at 1378.

127. *Goal 16: Peace, Justice and Strong Institutions*, SUSTAINABLE DEV. GOALS, U.N., https://www.un.org/sustainabledevelopment/peace-justice/ (last visited July 21, 2025) (on file with the North Carolina Civil Rights Law Review).

128. *Id.*

129. *Id.*

130. Press Release, Sen. Edward J. Markey, U.S. Senator, introducing AI Civil Rights Act to Eliminate AI Bias, Enact Guardrails on Use of Algorithms in Decisions Impacting People's Rights, Civil Liberties, Livelihoods (Sep. 24, 2024), https://www.markey.senate.gov/news/press-releases/senator-markey-introduces-ai-civil-rights-act-to-eliminate-ai-bias-enact-guardrails-on-use-of-algorithms-in-decisions-impacting-peoples-rights-civil-liberties-livelihoods (on file with the North Carolina Civil Rights Law Review).

algorithms are thoroughly tested before and after deployment to eliminate and prevent bias.[131]

The US AI Civil Rights Act could influence healthcare policy by establishing guidelines to eliminate bias in AI systems, in a manner similar to the European Union Artificial Intelligence Act (EU AI Act), which addresses high-risk AI applications, including healthcare.[132] The EU AI Act mandates specific requirements for high-risk AI systems to ensure adherence to safety, transparency, and accountability norms. If used, these requirements could parallel the objectives of the US AI Civil Rights Act.[133] However, the Senator Markey proposal remains stalled in Congress[134], mired in bipartisan gridlock, with deliberate efforts to obstruct equitable and diverse resolutions that promote inclusivity, racial, and technological progress in the industry.[135] It is no surprise that these legislative efforts fall against the backdrop of systematic attacks on DEI initiatives across federal agencies and healthcare institutions.[136] The repeal of President Biden's February 2023 Executive Order 13985 on "Advancing Racial Equity and Support for Underserved Communities"[137], along with proposed restrictions on federal healthcare programs, represents what this analysis terms a "resurgence of race-based, supremacy-leaning, political strategies" that threaten to undermine equitable AI governance and protection.

A. *Dismantling Diversity, Equity and Inclusion (DEI)*

Donald Trump's return to the presidency looms heavily over the future of DEI efforts, both domestically and internationally. "His history of antagonism and outspoken opposition to these initiatives" marks the beginning of a new era characterized by significant policy

131. *Id.*

132. Felix Busch et al., *Navigating the European Union Artificial Intelligence Act for Healthcare*, 7 NPJ DIGIT. MED. 1, 1 (Aug. 12, 2024), https://pmc.ncbi.nlm.nih.gov/articles/PMC11319791/.

133. *Id.* at 1–3.

134. Artificial Intelligence Civil Rights Act of 2024, S. 5152, 118th Cong. (2024).

135. Matt Brown and Matt O'Brien, *Markey Touts Win as U.S. Senate Scraps Proposal to Ban State AI Regulation*, WBUR (July 1, 2025), https://www.wbur.org/news/2025/07/01/ai-regulation-states-scrapped.

136. Exec. Order No. 13,985, 3 C.F.R. 409 (2021).

137. *Id.*

changes and a renewed emphasis on dismantling DEI.[138] Trump's rhetoric and legislation signal a rollback of progress made in recent years.[139] Previous anti-DEI agendas, such as those seen during President Trump's first term, created a climate of fear which exacerbated existing inequalities, and had a chilling effect on DEI initiatives across various sectors.[140] "Laws and policies prohibiting discussion of what the first Trump administration in 2020 labeled 'divisive concepts' hampered efforts to discuss, teach, and use the best and most state-of-the-art science to understand and improve US population health and health equity in the context of a growing body of literature on the science of racism and its effects on health".[141] Executive Order 13950, "Combating Race and Sex Stereotyping" prohibited among executive branch department and agencies, including federal contractors and federal grant recipient, trainings related to concepts that "promote divisiveness in the workplace and distract from the pursuit of excellence and collaborative achievements in public administration.[142] The concerning trainings discussed critical race theory, white privilege, intersectionality, systemic racism, positionality, racial humility, and unconscious bias, all of which were prohibited.[143]

Trump began his second term with a series of executive orders targeting federal DEI programs, gender expression, abortion, immigration, travel bans and foreign aid.[144] Three executive orders primarily drove his anti-DEI agenda[145]. The first effectively dismantled DEI

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138. Eddy Ng et al., *The Anti-DEI Agenda: Navigating the Impact of Trump's Second Term on Diversity, Equity and Inclusion*, 44 EQUAL., DIVERSITY AND INCLUSION: AN INT'L J. 137, 138 (2025).

139. *Id.* at 137–138.

140. *Id.* at 139.

141. Derek Griffith & Andrew Twinamatsiko, '*Divisive Concepts' Prohibitions: Implications For Health and Equity*, HEALTH AFFS. (Jan. 16, 2025) https://www.healthaffairs.org/content/briefs/divisive-concepts-prohibitions-implications-health-and-health-equity (on file with the North Carolina Civil Rights Law Review).

142. Exec. Order No. 13,950, 3 C.F.R. 433 (2020).

143. OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, M-20-37, ENDING EMPLOYEE TRAININGS THAT USE DIVISIVE PROPAGANDA TO UNDERMINE THE PRINCIPLE OF FAIR AND EQUAL TREATMENT FOR ALL (2020).

144. *See* Brown and O'Brien, *supra* note 135; Exec. Order No. 14,168, 90 Fed. Reg. 8615 (Jan. 20, 2025); Exec. Order No. 14,170, 90 Fed. Reg. 8621 (Jan. 20. 2025).

145. *See* Brown and O'Brien, *supra* note 135; Exec. Order No. 14,168, 90 Fed. Reg. 8615 (Jan. 20, 2025); Exec. Order No. 14,170, 90 Fed. Reg. 8621 (Jan. 20. 2025).

efforts established under the previous President Joe Biden's administration, terminating mandates, programs, and funding.[146] The second goes further, aiming to eradicate DEI initiatives across the federal government by rescinding previous orders that promote equal opportunities and targeting specific practices deemed discriminatory.[147] The third order dismissals treat gender as purely ideological, ignoring the multifaceted and evolving biological understanding of gender experiences, which severely harmed the transgender community.[148] Federal research dollars are also at risk of drifting away from projects deemed too aligned with DEI or not aligned with the administration's definitions of biological sex.[149] These orders, along with drastic measures to downsize government agencies and defund medical research at higher education institutions, instilled fear and uncertainty, prompting numerous reactions and legal challenges.[150]

Since taking office, President Trump has issued multiple executive orders and supported federal actions aimed at dismantling DEI initiatives across the federal government and the private sector.[151] These include:

- **Executive Order 14173:** This order rescinds affirmative action requirements under EO 11246, mandates federal contractors to certify that they do not operate "illegal" DEI programs and directs the U.S. attorney general to identify enforcement targets in the private sector. This EO has False Claims Act (FCA) implications for noncompliance. It also orders the Office of Federal Contract Compliance Programs (OFCCP) to halt the enforcement of EO 11246, including all active litigation and audits related to affirmative action policies.[152]
- **Executive Order 14168:** Defines "sex" as an "individual's immutable biological classification as either male or female," eliminating protections for gender identity and seeking

146. Exec. Order No. 14,151, 90 Fed. Reg. 8339 (Jan. 20, 2025); Exec. Order 13,985, 86 Fed. Reg. 7009 (Jan. 20, 2021).

147. *See* Proclamation No. 14,151, 90 Fed. Reg. 8339 (Jan. 20, 2025); *see* Exec. Order No. 13,985, 86 Fed. Reg. 7009 (Jan. 20, 2021).

148. Proclamation No. 14,173, 90 Fed. Reg. 8633-34 (Jan. 21, 2025).

149. *See* Proclamation No. 14,168, 90 Fed. Reg. 8615 (Jan. 20, 2025).

150. *See id.*

151. Emma Beavins, *How Trump's DEI Executive Orders Could Impact Healthcare,* FIERCE HEALTHCARE (Jan. 27, 2025), https://www.fiercehealthcare.com/regulatory/trumps-dei-executive-orders-could-impact-healthcare.

152. Hinkle & Michael, *supra* note 78.

legislative action to overturn the Supreme Court's decision in *Bostock v. Clayton County*, the landmark United States Supreme Court civil rights decision in which the Court held that Title VII of the Civil Rights Act of 1964 protects employees against discrimination based on sexuality or gender identity.[153]

- **Executive Order 14151:** Orders the removal of DEI offices and programs across the federal government, including eliminating DEI-related personnel, halting celebrations of certain demographic groups, and prohibiting the use of preferred pronouns in government e-mail addresses.[154]
- **DOJ memorandum on DEI enforcement:** Attorney General Pam Bondi directed the Department of Justice (DOJ) Civil Rights Division to investigate and penalize DEI initiatives in the private sector, including potential criminal investigations.[155]

B. *From Ideology to Infrastructure*

Through successive statutes and executive actions that narrow equity mandates, a legal architecture in which supremacy politics governs healthcare and AI oversight is slowly developing and eroding equity.[156] Influenced by Project 2025, an initiative developed by the Heritage Foundation aimed to advance conservative policies and principles within the United States, and the removal of anti-discrimination protections, such as rescinding President Lyndon Johnson's Executive Order 11246 mandating affirmative action by federal contractors, signifies a broad effort to eliminate DEI from federal regulations and legislation.[157] In right-wing narratives, the DEI label is frequently used to incite racial animosity.[158] It is increasingly being adopted as a subtle racist signal to cast doubt on and undermine the legitimacy, qualifications, and skills of individuals from racialized communities in the

153. *Id.*

154. *Id.*

155. Memorandum from the U.S. Att'y Gen. on Ending Illegal DEI and DEIA Discrimination and Preferences (Feb. 5, 2025) (on file with the North Carolina Civil Rights Law Review).

156. *See* Tahir, *supra* note 101.

157. *Id.*

158. Jennifer Saul, *Why the Term "DEI" Is Being Weaponized as a Racist Dog Whistle*, THE CONVERSATION (April 24, 2024), https://theconversation.com/why-the-term-dei-is-being-weaponized-as-a-racist-dog-whistle-228074.

United States.[159] A "dog whistle" is a term that carries a dual function, with one aspect being less socially acceptable and concealed beneath the surface.[160] It represents a coded, indirect form of language that allows individuals to convey ideas that would be deemed too offensive if they were expressed openly.[161] DEI has now become a dog whistle.

The 2025 legislation titled "The Big Beautiful Bill," further erodes inclusivity by imposing restrictions on Medicaid, which provides government-sponsored healthcare for low-income and disabled Americans.[162] The U.S. The Congressional Budget Office estimates that the bill will result in 11.8 million Americans losing their Medicaid coverage over the next decade.[163] It also leaves the governance of AI to the states, a stark departure from the progress made under the Biden administration's Blueprint for an AI Bill of Rights, which emphasized that AI progress must not come at the expense of civil rights or democratic values.[164]

Presidents frequently use executive orders to push for policy changes when they encounter obstacles in the legislature. During President Trump's presidency, these orders became strategic instruments for implementing policies without requiring congressional approval, thus significantly influencing healthcare policy changes.[165] The executive orders enable swift policy shifts that bypass the typically legislative process, rapidly affecting healthcare accessibility and equity.[166] To comply with the President Trump's executive orders, federal agencies have eliminated health equity plans, strategies, and guidance focused on mitigating disparities.[167] For example, the administration

159. *Id.*

160. *Id*.

161. *Id.*

162. Kaia Hubbard & Catlin Yilek, *Here's What's in Trump's "Big, Beautiful Bill" Passed by Congress*, CBS NEWS (July 4, 2025), https://www.cbsnews.com/news/whats-in-trump-big-beautiful-bill-senate-version/.

163. *Id*.

164. OFF. SCI. & TECH. POL'Y, EXEC. OFF. OF THE PRESIDENT, BLUEPRINT FOR AN AI BILL OF RIGHTS (2022), https://bidenwhitehouse.archives.gov/ostp/ai-bill-of-rights/ (last visited July 4, 2025) (on file with the North Carolina Civil Rights Law Review).

165. C.J. Deering & F. Maltzman, *The Politics of Executive Orders: Legislative Constraints on Presidential Power*, 52 POL. RES. Q. 767, 767 (1999).

166. *Id*.

167. Latoya Hill et al., *Elimination of Federal Diversity Initiatives: Implications for Racial Equity*, KAISER FAM. FOUND. (Mar. 21, 2025),

ordered the Centers for Medicare and Medicaid Services to disband its Health Equity Advisory Committee, which was charged with addressing systemic barriers to access, including structural racism.[168] Furthermore, the Federal Drug Administration was prohibited from drafting guidance on diversity in clinical trials (although it was restored according to a court order).[169] Focused plans and initiatives aimed at mitigating health disparities seek to address the underlying inequities that drive these disparities and meet the needs and preferences of diverse populations.[170] This shift in presidential policy impacts research and development, thereby hindering the growth of equitable and inclusive AI systems. It further creates subliminal messaging that the absence of DEI initiatives could exacerbate existing disparities in healthcare delivery and its outcomes.

III. THEORETICAL FOUNDATIONS: CRITICAL RACE THEORY AND WOKENESS MEET DIGITAL GOVERNANCE

When creating and implementing AI in the healthcare sector, it is essential to emphasize the importance of equity and inclusivity.[171] It is important for developers and implementers to evaluate the suitability of the data used to develop AI tools, unpack the underlying biases in the data, consider how the tool should be deployed, and question whether various deployment environments can adversely affect equity and inclusivity in the long term. Health disparities are widely acknowledged to stem from various social determinants and flawed incentives in the current health-care system.[172] These technical choices are made within a policy regime shaped by supremacy politics that chills DEI initiatives and dilutes oversight.

Executive orders that attempt to sanitize critical race theory, diversity, and "wokeness" from AI development take an extreme course of action. "Wokeness" typically refers to a heightened

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https://www.kff.org/racial-equity-and-health-policy/issue-brief/elimination-of-federal-diversity-initiatives-implications-for-racial-health-equity/.

168. Amanda Becker, *Trump Disbands Health Equity Panel Examining Medicare and Medicaid*, 19TH (Feb. 20, 2025, 2:13 PM), https://19thnews.org/2025/02/trump-disbands-health-equity-advisory-medicare-medicaid/.

169. *Id*.

170. *Id*.

171. *See* Stephen Cave & Kanta Dihal, *The Whiteness of AI*, 33 PHIL. & TECH. 685, 685 (2020).

172. Backman, *supra* note 34.

awareness of social injustices faced by Black people.[173] In the United Staes, "wokeness" refers to political correctness gone awry, and the term itself is usually used sarcastically by Republican-leaning politicians to mock the Democrats.[174] The intersection of AI bias and racial justice underscores the importance of incorporating diverse perspectives into AI development and deployment. Ensuring that AI systems are *aware* of potential discriminatory impacts requires ongoing scrutiny and adjustment of algorithms and training data sets. However, the politicization of risk hampers meaningful progress toward equitable AI outcomes.

President Trump's Executive Order on AI, dated July 23, 2025, is specifically aimed at eliminating regulatory obstacles to bolster American leadership in the field of AI. The AI Action Plan aims to guarantee that the United States will continue to lead the world in AI, enhancing human prosperity, economic competitiveness, and safeguarding national security.[175] To uphold a leading role in AI innovation, the order emphasizes the importance of ensuring that AI systems remain free from ideological bias and are not designed to advance social agendas.[176] A subsequent order, "Preventing Woke AI In the Federal Government"[177], describes DEI as, "one of the most pervasive and destructive ideologies in the AI context".[178] The order recites that "DEI includes the suppression or distortion of factual information about race or sex; manipulation of racial or sexual representation in model outputs; incorporation of concepts like critical race theory, transgenderism, unconscious bias, intersectionality, and systemic racism; and discrimination on the basis of race or sex."[179] The executive order additionally notes that "DEI shifts the focus from a commitment to truth towards desired outcomes, posing a significant threat to the reliability of AI."[180]

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173. Aja Romano, *A History of "Wokeness"; Stay Woke: How a Black Activist Watchword Got Co-opted in the Culture War*, VOX (Oct. 9, 2020, 10:00 AM), https://www.vox.com/culture/21437879/stay-woke-wokeness-history-origin-evolution-controversy.

174. *Id*.

175. Exec. Order No. 14,179, 90 Fed. Reg. 8741 (July 23, 2025).

176. *Id.*

177. Exec. Order No. 14,319, 90 Fed. Reg. 35389 (July 23, 2025).

178. *Id.*

179. *Id.*

180. *Id*.

The Order points to examples of AI exhibiting problematic behavior; "one major AI model changed the race or sex of historical figures, including the Pope, the Founding Fathers, and Vikings, when prompted for images because it was trained to prioritize DEI requirements at the cost of accuracy".[181] By highlighting such cases, Executive Order 14319 is justified in its restrictive stance toward DEI; however, its scope is narrowly focused, and the directive applies exclusively to the federal government's procurement of AI systems.[182] This signals a targeted effort to reshape how public agencies evaluate and adopt emerging technologies under the guise of neutrality and objectivity.

"While it sets forth sweeping and broad requirements [regarding the type] of AI the federal government may purchase and deploy, it does not purport to restrict what AI companies can offer in the commercial marketplace, impose requirements on private employers' AI use, or create new legal obligations for AI developers serving non-government customers."[183] Notably, federal procurement standards have traditionally shaped wider market practices over time.[184] There is a concern that American tech companies, in their efforts to remain eligible to sell AI models to the government, might significantly modify their development strategies.[185] This revision potentially impacts the development and marketing of AI tools in the private sector.[186] These collaborative actions, whether addressing DEI within federal frameworks or critical race theory in educational environments, symbolize a wider ideological effort that frames equity-focused dialogue as a destabilizing influence, jeopardizing both societal harmony and the integrity of national institutions.

Recently, conservative legislators throughout the United States have targeted critical race theory, enacting laws to prohibit or restrict

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181. *Id.*

182. *Id.*

183. Anette Tyman & Joseph R. Vele, *Trump Administration Releases AI Action Plan and Three Executive Orders on AI: What Employment Practitioners Need to Know*, SEYFARTH (July 25, 2025), https://www.seyfarth.com/news-insights/trump-administration-releases-ai-action-plan-and-three-executive-orders-on-ai-what-employment-practitioners-need-to-know.html.

184. *Id.*

185. *Id.*

186. *Id.*

discussions about race in classrooms.[187] "Their argument is often framed as a defense [against] national unity and identity issues."[188] "Critics claim that teaching structural racism and inequality will cause students to feel ashamed of their country or adopt a hostile view of American history."[189] United States executive orders that roll back DEI initiatives, driven by concerns over critical race theory or "wokeness", may impede the progress of ethical AI applications in healthcare settings. This could affect both the private market and federal AI systems used by major federal agencies responsible for healthcare policy and benefits distribution. Responsible AI frameworks should prioritize inclusiveness and fairness, to ensure that AI solutions do not disadvantage specific groups.[190] DEI frameworks have historically served as ethical compasses in the development and deployment of AI tools, particularly in healthcare settings where disparities are deeply entrenched.[191] These initiatives help ensure that AI systems are designed with a nuanced understanding of diverse patient populations and structural inequities.[192] However, the repeal or erosion of DEI policies threatens to remove critical guardrails, thereby weakening the ethical infrastructure needed for responsible AI governance. In the absence of explicit integration of DEI principles, AI systems risk perpetuating bias, exacerbating health disparities, and undermining legal and ethical commitments to equity in care delivery. AI for health should be designed to respect human dignity, fundamental rights and values.[193] Systems should promote equity, fairness, inclusiveness and accountability.[194]

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187. Eric Dolan, *Lack of Racial Knowledge Predicts Opposition to Critical Race Theory*, PSY POST (Apr. 9, 2025), https://www.psypost.org/lack-of-racial-knowledge-predicts-opposition-to-critical-race-theory-new-research-finds/.

188. *Id*.

189. *Id*.

190. *AI Principles*, ORG. FOR ECON. COOP. AND DEV., https://www.oecd.org/en/topics/sub-issues/ai-principles.html (visited July 24, 2025).

191. *See* Gaelle Cachat-Rosset & Alain Klarsfeld, *Diversity, Equity, and Inclusion in Artificial Intelligence: An Evaluation of Guidelines*, APPLIED A.I., e2176618-717, e2176618-720 (2023).

192. *See generally* Nicole Turner Lee et al., *Research: Health and AI: Advancing responsible and ethical AI for all communities,* BROOKINGS (March 3, 2025), https://www.brookings.edu/articles/health-and-ai-advancing-responsible-and-ethical-ai-for-all-communities/.

193. Rabaï Bouderhem, *Shaping the Future of AI in Healthcare Through Ethics and Governance*, HUMANS. & SOC. SCIS. COMMC'NS, Mar. 2024, at 2.

194. *Id.*

Although DEI frameworks offer the necessary ethical foundations for inclusive AI governance, they are increasingly vulnerable to political retrenchment. Executive orders that attempt to sanitize critical race theory, diversity, and wokeness from AI development take an extreme course of action. Supremacy politics includes ideological and regulatory efforts that resist the acknowledgment of racial differences and seek to dismantle protections for marginalized communities, particularly in algorithmic systems. Legislative and executive actions aimed at dismantling DEI mandates do more than shift public discourse; they systematically erode the normative architecture that enables algorithmic tools to address structural bias. In effect, the fear of "wokeness" becomes embedded in the design of public-facing AI, stripping these systems of their capacity to reduce inequality and rendering them vehicles for reproducing it. To confront these realities, this analysis turns to anti-subordination and distributive justice as guiding frameworks. These principles reject formal equality's thin commitments to neutrality and instead demand attention to the ways in which law, policy, and technology sustain hierarchies of race, class, and ableism. Anti-subordination theory, expanded by critical race scholars, reveals that algorithmic tools do not merely reflect bias; they often encode and enforce it.[195]

A. *Explaining Systemic Injustice: Anti-Subordination and Distributive Justice Approaches*

Unlike formal equality approaches that focus on equal treatment, anti-subordination theory examines how legal and social structures maintain the subordination of marginalized groups and seeks to dismantle these hierarchical arrangements.[196] Critical race theorists have expanded this framework to recognize that subordination operates through multiple intersecting systems of oppression that cannot

195. Anya E.R. Prince & Daniel Schwarcz, *Proxy Discrimination in the Age of Artificial Intelligence and Big Data,* 105 IOWA L. REV. 1257, 1296 (2020) ("Laws that are based on anti-subordination principles are fundamentally about changing social and economic structures that reflect and reinforce historical discrimination. Proxy discrimination by AIs affirmatively thwarts this objective by reproducing and reinforcing these legacies of historical discrimination on the implicit ground that they make economic sense for discriminators.").

196. *See generally* Justin Driver, *The Strange Career of Anti-Subordination*, 91 U. CHI. L. REV. 651 (2024).

be understood in isolation from one another.[197] Anti-subordination theory reveals how the design process can embed subservient assumptions. "Discrimination can arise when algorithmic decisions are based on historical data, which [often] incorporate asymmetries, stereotypes, and injustices, as past inequalities are more prevalent."[198] The "rubbish in, rubbish out" effect occurs when the data is skewed.[199] Additionally, "biased or incomplete databases can incentivize algorithmic discrimination."[200] This "algorithmic invisibility" operates as a form of subordination by excluding specific communities from the benefits of technological innovation while subjecting them to harm. AI-driven resource allocation in healthcare presents particularly acute distributive justice challenges because these systems make life-or-death decisions regarding access to scarce medical resources.

The COVID-19 pandemic highlighted these issues when hospitals utilized algorithmic systems to monitor the virus, triage, screen patients, and identify those most likely to develop severe symptoms.[201] When integrated into a society's basic structure, AI should support citizens' fundamental liberties, promote fair equality of opportunity, and provide the most significant benefits to those who are the worst off.[202] Moreover, the deployment of AI outside the basic structure must be compatible with the institutions and values required to ensure justice.[203]

When AI systems developed in wealthy countries, such as the United States, are deployed in low-resource settings without adequate adaptation, they can exacerbate global health inequalities by providing care that is either inappropriate or ineffective.[204] Technological

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197. *See generally* Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 UNIV. CHI. LEGAL F. 139, 140 (1989).

198. Miren Gutiérrez*, Invisibilsation and Algorithmic Discrimination*, DATOS.GOB.ES (June 10, 2023), https://datos.gob.es/en/blog/invisibilisation-and-algorithmic-discrimination.

199. *Id*.

200. *Id*.

201. Casey Ross, Rebecca Robbins, & Erin Brodwin, *STAT's Guide to How Hospitals Are Using AI to Fight Covid-19*, STAT NEWS (Mar. 31, 2020), https://www.statnews.com/2020/03/31/hospitals-artificial-intelligence-coronavirus/.

202. *Id.*

203. *Id*.

204. *See* Abeba Birhane, *Algorithmic Colonization of Africa*, 17 SCRIPTED 389 (2020).

colonialism operates through the imposition of algorithmic systems that reflect the priorities and contexts of dominant nations, rather than the needs of local communities.[205] The advancement of digital technologies has stimulated immense excitement about the possibilities of transforming healthcare, especially in resource-constrained contexts such as rural areas.[206] However, critics warn that if dominated by major powers, Al development risks creating a new form of digital colonialism, particularly in Africa and other parts of the Global South.[207]

These patterns of global Al inequality mirror the domestic health disparities examined earlier in this article, suggesting that the structural forces driving supremacy politics operate across multiple scales, from neighborhood-level environmental racism to international technological imperialism.[208] These interconnected challenges, from local environmental health disparities to global technological colonialism, point toward a fundamental institutional problem: the existing governance frameworks for Al in healthcare operate primarily at the national level, while the technologies themselves and their impacts are inherently global[209]. The theoretical tension at the heart of this analysis, between algorithmic efficiency and health equity, finds potential resolution through SDG 16's institutional framework, which rejects the false choice between technological progress and social justice.[210] Unlike narrower approaches that focus solely on technical bias mitigation or regulatory compliance, SDG 16 provides a comprehensive vision of institutional transformation that directly confronts the mechanisms through which supremacy politics operates.[211]

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205. *See id.*

206. *See id.*

207. ALEX KRADSODOMSKI ET AL., ARTIFICIAL INTELLIGENCE AND THE CHALLENGE FOR GLOBAL DOMINANCE: NINE ESSAYS ON ACHIEVING RESPONSIBLE AI 26-27 (2024).

208. *See* Mehdi Muhammad, *From Colonialism to Al: How the Global South Became the World's Inequality Hotspot*, DAWN, (July 11, 2025), https://www.dawn.com/news/1915399.

209. *See generally* Salvador Santino F. Regilme*, Artificial Intelligence Colonialism: Environmental Damage, Labor Exploitation, and Human Rights Crises in the Global South*, 44 SAIS REV. INT'L AFFS. 75 (2024).

210. *See id*. at 76.

211. *See generally* U.N. Deputy Sec'y-Gen., Remarks at the Opening of the ECOSOC Special Meeting "Harnessing Artificial Intelligence for Sustainable

B. *Weaponization In Health Care Programs*

An example of the weaponization of supremacy politics can be illustrated by how the elderly are denied medically necessary care. One of the most visible intersections between AI and supremacy politics emerges in the Medicare Advantage program, a federally subsidized, privately administered health plan serving over 30 million older adults.[212]

These denials intentionally coded to delay or refuse care to aging patients, exacerbate the theory of supremacy politics as the system favors profits over people, resulting in AI being the culprit in recipient deaths[213] While these systems are often framed as tools for efficiency and fraud prevention, their deployment within Medicare Advantage reflects the structural dynamics of supremacy politics. Elderly patients, the program's core population, face heightened vulnerability to these algorithmic determinations, especially when DEI oversight mechanisms are dismantled.[214] The removal of equity-focused review bodies within relevant federal agencies eliminates the institutional expertise needed to detect and mitigate bias, allowing cost-containment priorities to be embedded invisibly into technical decision-making systems.[215]

1. Case Examples: Algorithmic Denials in Medicare Advantage

In 2024, the Office of Inspector General (OIG) reported that some Medicare Advantage (MA) plans were inappropriately denying prior authorization for medically necessary care, often using automated tools to review requests.[216] Errors in programming or delays in

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Development Goals (SDGs)" (May 8, 2024), https://www.un.org/sg/en/content/dsg/statement.

212. Meredith Freed, Jeannie Fuglesten Biniek, Anthony Damico, & Tricia Neuman, *Medicare Advantage in 2024: Enrollment Update and Key Trends*, KAISER FAM. FOUND. (Aug. 8, 2024) https://www.kff.org/medicare/medicare-advantage-in-2024-enrollment-update-and-key-trends/.

213. Dana G. Jones, *Artificial Intelligence Can Kill You* (forthcoming).

214. *See* Sara Raza, et al., *Medicare Advantage Becoming a Disadvantage with Use of Artificial Intelligence in Prior Authorization Review*, NPJ DIGIT. MED., Feb. 2026, at 2.

215. *See* Hill et al., *supra* note 167.

216. OFF. OF INSPECTOR GEN., U.S. DEP'T OF HEALTH & HUM. SERVS.,

updating the claims processing systems of Medicare Advantage Organizations (MAOs) can lead to the denial of payments or care that should be authorized.[217] An MAO using automation initially rejected a $668 radiation therapy request for a 74-year-old prostate cancer patient, mistakenly claiming that there was no prior authorization on record for the service date.[218] The provider contested this decision and provided a screenshot as evidence that prior authorization had indeed been secured.[219] The MAO acknowledged that its system had failed to accurately recognize the authorized timeframe from the approved request.[220] Consequently, the MAO overturned the denial and announced that it had updated its system to rectify the mistake.[221] Seen in isolation, this radiation-therapy episode reads like a correctable "system error," but the architecture is not neutral. A denial-first authorization registry that forces clinicians to disprove the machine's memory operationalizes policy choices that tolerate predictable harm and make redress contingent on provider time, expertise, and persistence.

When age, frailty, and administrative lag compress that margin, as with 86-year-old JoAnne Barrows**,** the same design logic ceases to be a fixable glitch and becomes outcome-determinative. Plaintiff JoAnne Barrows was enrolled in the MA Plan through Humana.[222] In November 2021, 86-year-old JoAnne Barrows fell at home and fractured her leg.[223] On or around November 23, 2021, Ms. Barrows was admitted to the Methodist Hospital in St. Louis Park, Minnesota, where she was placed in a cast and put on a non-weight-bearing order for six weeks.[224] On or around November 26, 2021, Ms. Barrows was discharged from the Methodist Hospital and admitted to the Good Samaritan Society Ambassador rehabilitation facility in Robbinsdale,

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CARE. OEI-09-18-00260, SOME MEDICARE ADVANTAGE ORGANIZATION DENIALS OF PRIOR AUTHORIZATION REQUESTS RAISE CONCERNS ABOUT BENEFICIARY ACCESS TO MEDICALLY NECESSARY (2022).

217. *Id.*

218. *Id.* at 14.

219. *Id.*

220. *Id.*

221. *Id.*

222. Compl. at 12, Barrows v. Humana, Inc., No. 3:23-CV-00654, 2025 WL 2375645 (W.D. Ky. Dec. 12, 2023).

223. *Id.*

224. *Id.*

Minnesota.[225] On or around December 9, 2021, Humana informed Ms. Barrows that they would terminate her coverage in two days, after only approximately two weeks of care.[226] Ms. Barrows and her doctor were bewildered by Humana's premature termination of coverage because Ms. Barrows was still under a non-weight-bearing order for four weeks.[227] Ms. Barrows's doctor recommended that she continue rehabilitation treatment, but Humana refused to cover the additional treatment costs. [228]

Ms. Barrows and her family made a strong effort to contest Humana's refusal, but their attempts were in vain.[229] The appeals were rejected, and Humana decided that Ms. Barrows was fit to go home, even though she was bedridden and required a catheter.[230] Since Ms. Barrows was not yet ready to return home, her family had to cover the expenses of her stay at the Good Samaritan Society Ambassador Rehabilitation Facility.[231] Faced with the high costs of this facility, Ms. Barrows' family reluctantly opted to move her to a more affordable assisted living facility.[232] Unfortunately, the care at this new facility was inadequate, leading to a decline in Ms. Barrow's health and well-being.[233] Consequently, her family had to make another difficult decision to discontinue her care because of the poor quality of care she was receiving.[234] On December 22, 2021, Ms. Barrows returned home, but she was not physically capable of doing so safely.[235] She was unable to use her injured leg, needed help using the restroom, and had a catheter.[236] Humana's unjust denial of coverage severely affected Ms. Barrows's health, as she could not afford the necessary care.[237] She experienced considerable financial setbacks because she had to pay out-of-pocket for treatments that her plan should have covered.[238] On July 9, 2025, the court mandated that the plaintiff replace the designated party

225. *Id.*
226. *Id.* at 13.
227. *Id.*
228. *Id.*
229. *Id.*
230. *Id.*
231. *Id.*
232. *Id.*
233. *Id.*
234. *Id.*
235. *Id.*
236. *Id.*
237. *Id.* at 14.
238. *Id.*

with the Estate of Joanne Barrows.[239] Tragically, Ms. Barrows passed away before she could advance her claims, and her death was a direct result of the algorithmic care denials that impacted her health.[240]

This scenario exemplifies the conversion of supremacy politics into algorithmic processes, where institutional incentives and a lack of transparency dictate the distribution of prompt medical attention. In this setting, Barrows's case highlights the human toll when AI denial of care is coded unjustly.[241] Within the insurance industry, the prior-authorization infrastructure, which is increasingly automated[242], creates a denial-first posture. Medicare Advantage plans have issued tens of millions of prior-authorization decisions annually, with millions denied, and federal reviewers have documented denials even when requests met Medicare coverage rules.[243] Although the HHS's 2024 §1557 final rule bars discrimination through "patient care decision support tools" and imposes an ongoing duty to identify risk, current reforms to prior authorization remain largely procedural, leaving oversight fragmented and underenforced for those least able to appeal.[244]

This architecture is far from being a mere byproduct of modernization; it serves as an operational embodiment of supremacy politics. Policy decisions shift discretion away from clinicians and patients, placing it instead in the hands of opaque, privately controlled

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239. Def.'s Mot. to Dismiss Pls' First Amendment Class Action Compl., Barrows v. Humana, Inc., No. 3:23-CV-00654-RGJ, 2025 WL 2375645 (W.D. Ky. July 8, 2025)

240. Order on Mot. to Substitute, Barrows v. Humana, Inc. No. 3:23-CV-00654-RGJ, 2025 WL 2375645 (W.D. Ky. July 8, 2025).

241. Compl., *supra* note 211, at 1.

242. Prasad Thammineni, *Prior Authorization is Going Electronic—What Small Practices Should Know About CMS-0057*, AGENTMAN (Feb. 24, 2026), https://agentman.ai/blog/prior-auth-is-going-electronic-what-small-practices-need-to-know.

243. Jeannie Fuglestein Biniek, Nolan Sroczynski, Meredith Freed & Tricia Neuman, *Medicare Advantage Insurers Made Nearly 50 million Prior Authorization Determinations in 2023,* KAISER FAM. FOUND., https://www.kff.org/medicare/issue-brief/nearly-50-million-prior-authorization-requests-were-sent-to-medicare-advantage-insurers-in-2023/ (last visited Jan. 28, 2025) (noting that in 2023 MA insurers fully or partially denied 3.2 million prior authorization requests, which are 6.4% of all requests).

244. *See* 45 C.F.R. § 92.210 (2024) (prohibiting discrimination in the use of "patient care decision support tools" and requiring covered entities to identify, mitigate, and monitor risk of discrimination).

tools.[245] This shift imposes a burden of proof and delay on those with the least power. This scenario highlights the governance gap that SDG 16 seeks to bridge: when the code enacts supremacy politics and patient rights are reduced to mere delays, the call for accessible justice and accountable, inclusive institutions becomes the essential corrective structure.[246]

IV. SDG-16 FRAMEWORK: PEACE, JUSTICE AND STRONG INSTITUTIONS IN AI GOVERNANCE

The 2030 Agenda for Sustainable Development, endorsed by all United Nations Member States in 2015, serves as a collective framework for ensuring peace and prosperity for both people and the planet, now and in the future.[247] Central to this agenda are the 17 Sustainable Development Goals (SDGs), which represent an urgent appeal for action from all nations, whether developed or developing, in global collaboration.[248] These goals emphasize that eradicating poverty and other hardships must be accompanied by strategies that enhance health and education, decrease inequality, and stimulate economic growth while addressing climate change and striving to protect our oceans and forests.[249]

Sustainability and Development Goal 16 (SDG 16), emphasizes access to justice and the development of inclusive, accountable institutions.[250] This goal serves as a normative benchmark for evaluating United States health governance. While a comprehensive analysis of how United States algorithmic policy in healthcare aligns (or fails to align) with SDG 16 standards will be presented in a companion piece *Supremacy Politics II*[251], this article identifies the preliminary fault lines between United States administrative practice and international human rights commitments. By invoking the SDGs as a diagnostic framework, this piece begins to surface a broader question: what

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245. *See* Denise Anthony and Amanda Stanhaus, *Disrupting the Information Order in Health Care: Institutions, Policy Regimes, and the Value of Data*, 395 SOC. SCI. & MED., Apr. 2026, at 2.

246. SUSTAINABLE DEV. GOALS, *supra* note 127.

247. G.A. Res. 70/1, at 3 (Oct. 21, 2015).

248. *Id.* at 1; *The 17 Goals,* U.N. DEP'T OF ECON. & SOC. AFFS., https://sdgs.un.org/goals#history (last visited Sept. 12, 2025).

249. G.A. Res. 70/1, *supra* note 247, at 3-11.

250. *Id.* at 14.

251. Okidegbe, *supra* note 6.

happens when domestic administrative governance becomes increasingly disconnected from global legal principles designed to protect marginalized populations? The framework thus offers not merely critique of existing systems, but a pathway for reconstructing technology in service of justice rather than supremacy.

A challenge lies in finding a framework that assuages DEI fears while balancing transparency that informs and transforms practical governance mechanisms that can effectively regulate AI systems in the health care sector. This also involves preserving the beneficial potential of the guiding principles while balancing the influence of human decision makers and regulators who have developed race-based regulations and policies. The United Nations Sustainable Development Goals provide a comprehensive framework for understanding how artificial intelligence governance in healthcare should be anchored in the principles of peace, justice, and strong institutions.[252] This framework is particularly relevant as healthcare systems increasingly rely on algorithmic decision-making tools that can either perpetuate or mitigate existing inequalities.[253]

A. *SDG-16 As A Normative Framework*

The relationship between AI and the SDGs is symbiotic; AI provides tools and solutions to accelerate progress towards the SDGs, while the pursuit of these goals offers a framework for the responsible and ethical development and implementation of AI technologies.[254] SDG 16 aims to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels."[255] The SDG 16 framework provides normative guidance and practical tools for developing equitable AI governance systems in healthcare policies. By exposing the structural motivations behind algorithmic bias and

252. *See How do OECD AI Principles Support UN Sustainable Development Goals*, EVALCOMMUNITY ACAD. (Feb. 16, 2026), https://academy.evalcommunity.com/how-do-oecd-ai-principles-support-un-sustainable-development-goals/

253. *See* Ellison B. Weiner et al., *Ethical Challenges and Evolving Strategies in the Integration of Artificial Intelligence into Clinical Practice*, PLOS DIGIT. HEALTH (Apr. 8, 2025), https://doi.org/10.1371/journal.pdig.0000810.

254. *See* Ricardo Vinuesa et al., *The Role of Artificial Intelligence in Achieving the Sustainable Development Goals*, 11 NATURE COMMC'N, Jan. 2022, at 2, 6.

255. *Goal 16*, U.N. DEP'T OF ECON. & SOC. AFFS., https://sdgs.un.org/goals/goal16 (last visited Sept. 6, 2025).

emphasizing legal accountability, this analysis offers a pathway toward an AI infrastructure that respects human rights and promotes health equity. However, AI must be ethical and transparent in its use.[256] Amina J. Mohammed, the Deputy Secretary-General of the United Nations and the Chair of the United Nations Sustainable Development Group stated that "[w]e cannot simply take current AI models and datasets, which have bias and discrimination baked into them, and hope that they will rescue the SDGs. We need inclusivity in data that underpins these models, and diversity among the people that are building them."[257]

The three targets of SDG 16 represent the first principles for crafting the United States AI policy framework that mitigates bias and insulates society against swings in policy that currently occur with each successive presidential administration.

B. *Target 16.3: Rule of Law and Equal Access to Justice In Algorithmic Context*

Target 16.3 aims to "promote the rule of law at the national and international levels and ensure equal access to justice for all."[258] In fragile and conflict-affected states, increasing access to justice and the rule of law to benefits those left furthest behind aligns with the aspirations of the 2030 Agenda for Sustainable Development.[259] When applied to healthcare AI systems, this target requires the establishment of mechanisms that ensure that patients can meaningfully challenge algorithmic decisions that affect their care.[260]

The principle of equal access to justice in algorithmic contexts faces unique challenges because traditional legal frameworks assume that human decision-makers can be held accountable through established judicial processes.[261] Owing to issues with AI transparency,

256. Deputy Sec'y-Gen., *supra* note 211.

257. *Id*.

258. G.A. Res. 70/1, *supra* note 247, at 25.

259. U.N. DEP'T OF ECON. & SOC. AFFS., *supra* note 255.

260. *See* Tao Yun and Le Zhang, *International Partnerships in AI-Driven Healthcare: Opportunities and Challenges for Advancing the UN Sustainable Development Goals—A Perspective*, HEALTHCARE, Aug. 2025, at 9; G.A. Res. 70/1, *supra* note 247, at 25.

261. Philip Sales, Just. of the Sup. Ct. of the U.K., Judicial Review Methodology in the Automated State, Presentation for the Conference on Automation in

some legal scholars have suggested that for algorithmic governance in privacy and data protection, priority should be given to accountability over openness.[262] However, for the use of AI applications in healthcare, institutions must develop new procedural safeguards that preserve the essence of due process while accounting for algorithmic decision-making. This includes establishing transparent chains of accountability that extend from algorithm developers to healthcare institutions to individual practitioners, ensuring that patients have meaningful recourse when AI systems make mistakes or exhibit biases.

C. *Target 16.6: Accountable and Transparent Institution in AL-Driven Policy AI-Deployment*

Strengthened institutions, the rule of law, and enforcement contribute to the implementation of multilateral environmental agreements and progress towards internationally agreed-upon global ecological goals.[263] Similarly, in healthcare AI governance, institutional accountability requires fundamental changes in how healthcare organizations make decisions regarding technology adoption and implementation.

Addressing these risks requires robust governance frameworks that ensure that AI systems are developed, tested, implemented, and maintained with a focus on fairness, transparency, and accountability. Researchers recommend "an adoption-centered governance framework as an essential structure for successfully implementing AI systems in clinical settings".[264]

Effective institutional accountability in AI-driven healthcare requires multilayered governance structures that extend beyond traditional hospital administrative models. Healthcare institutions need specialized AI ethics committees with diverse memberships, including

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Public Governance—Theory, Practice, and Problems 8 (Sept. 2024) (on file with the North Carolina Civil Rights Law Review).

262. *See* Petar Radanliev, *Privacy, Ethics, Transparency, and Accountability in AI Systems of Wearable Devices*, 7 FRONTIERS IN DIGIT. HEALTH, June 2025, at 8.

263. *Target 16.6: Develop Effective, Accountable and Transparent Institutions at All Levels*, SDG16 NOW, https://sdg16now.org/report/target16-6/ (last visited Feb. 15, 2026).

264. *See* Masooma Hassan, Elizabeth M. Borycki, and Andre W. Kushniruk, *Artificial Intelligence Governance Framework for Healthcare*, 38 HEALTHCARE MGMT. F. 125, 127 (2024)

clinicians, technologists, ethicists, and community representatives, with the authority to make binding decisions regarding AI deployment.

D. *Target 16.7 Inclusive Decision-Making In Healthcare Technology*

This target calls for "responsive, inclusive, participatory, and representative decision-making at all levels."[265] Experts from UCL Law helped define the UN's SDG Target on Civil Justice and provided guidance on measuring progress towards people-centered justice systems worldwide.[266] A people-centered approach is essential for deploying AI systems that impact patient care and community health outcomes.

The deployment of AI in healthcare often occurs without meaningful input from the communities most likely affected by these technologies.[267] This development raises numerous ethical concerns regarding the use of AI and machine learning in healthcare. Inclusive decision-making requires structural changes in how healthcare institutions approach technology adoption, moving beyond token consultations to genuine power-sharing arrangements.

Community advisory boards should be established with real authority over AI implementation decisions, including representatives from historically marginalized communities, patients with firsthand experience of the healthcare system, and advocates for vulnerable populations. These boards will require sufficient resources and technical support to meaningfully evaluate AI systems and understand their potential impact on diverse communities. An African American community in Tennessee, established by individuals formerly enslaved, is

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265. *Target 16.7: Ensure Responsive, Inclusive, Participatory, and Representative Decision-Making at all Levels*, SDG16 NOW, https://sdg16now.org/report/target16-7/ (last visited May 14, 2026).

266. *Developing an SDG Target that puts people at the heart of legal frameworks*, UNIV. COLL. LONDON, (Oct. 8, 2020), https://www.ucl.ac.uk/sustainable-development-goals/case-studies/2020/oct/developing-sdg-target-puts-people-heart-legal-frameworks; *see also Partnerships for the Goals*, THE GLOB. GOALS, https://globalgoals.org/goals/17-partnerships-for-the-goals (outlining the targets of the Global Goals).

267. *See* Athmeya Jayaram and Kellie Owens, *AI in Healthcare*, HASTINGS CTR. FOR BIOETHICS (Mar. 25, 2026), https://www.thehastingscenter.org/briefingbook/ai-in-healthcare/.

profoundly aware of the repercussions of the absence of community engagement in the development of artificial intelligence.[268] "Elon Musk quietly transformed a portion of a South Memphis, Tennessee, community established by a group of formerly enslaved people in 1863 into what the world's wealthiest man called "Colossus", the planet's most powerful supercomputer".[269] "The artificial intelligence venture turned an old manufacturing plant into a powerful 550-acre supercomputer designed to train Grok, which is his AI company's "anti-woke" chatbot that deliberately pushes boundaries on controversial topics.[270] The neighborhood, which remains predominantly Black, was already choking on industrial pollution, but Musk promised hundreds of jobs and millions in tax revenue." [271] Musk's company called xAI deployed three dozen gas-powered turbines across the purchased land site.[272] The company bypassed standard environmental review processes and has been operating dozens of unpermitted methane gas turbines without public notice, permits, or air pollution controls.[273] This is in a city known for experiencing some of the worst smog pollution in the nation and in a neighborhood with a cancer risk four times the national average.[274] Roughly 45% of the residents report poor or fair health, which is three times higher than the national average.[275] According to the Clean Air Act, facilities classified as "major" sources of emissions, such as a group of gas turbines, are required to obtain a Prevention of Significant Deterioration (PSD) permit.[276]

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268. *See* Adam Mahoney, *A Historic Black Community Takes on the World's Richest Man Over Environmental Racism*, CAPITAL B (June 18, 2025), https://capitalbnews.org/musk-xai-memphis-black-neighborhood-pollution/ (last visited Sep. 11, 2025).

269. *Id.*

270. *Id.*

271. *Id.*

272. *Id.*

273. Ren Brabenec, *A Billionaire, an AI Supercomputer, Toxic Emissions and a Memphis Community that Did Nothing Wrong,* TENN. LOOKOUT (July 7, 2025, at 5:00 AM), https://tennesseelookout.com/2025/07/07/a-billionaire-an-ai-supercomputer-toxic-emissions-and-a-memphis-community-that-did-nothing-wrong/.

274. Bracey Harris, Jon Gerberg, and Stephanie Gosk, *Up Against Musk's Colossus Supercomputer, a Memphis Neighborhood Fights for Clear Air*, NBC NEWS (May 15, 2025, 3:54 PM), https://www.nbcnews.com/news/us-news/musk-xai-colossus-supercomputer-boxtown-memphis-tennessee-rcna206242

275. *Places: Local Data for Better Health*, CDC, https://experience.arcgis.com/experience/22c7182a162d45788dd52a2362f8ed65 (last visited Sep. 11, 2025).

276. Molly Taft, *Despite Protest Elon Musk Secures Air Permit for xAI*,

However, in August, officials from the Shelby County Health Department informed local journalists that xAI did not need this permit because its turbines were not intended to be permanently installed.[277] With growing local opposition, xAI eventually submitted a permit application to the Shelby County Health Department in January, several months after the turbines had become operational.[278]

Collectively, temporary exceptions, post-hoc permitting, and community exclusion illustrate the dynamics of supremacy politics, characterized by the exercise of administrative discretion to favor industrial entities while neglecting the health risks posed to marginalized communities. A similar power structure is evident in the deployment of AI, which often lacks adequate safeguards and meaningful community engagement in governance.[279] The deployment of AI systems in communities without sufficient safeguards poses the risk of exacerbating existing health inequities by embedding environmental racism[280] into algorithmic decision-making processes.[281] Inclusive decision making has the potential to significantly reduce pronounced disparities.

With concentrated environmental and health disadvantages, the framework of the United Nations' Sustainable Development Goal (SDG) 16 becomes particularly relevant.[282] SDG 16's call for peaceful, just, and inclusive societies provides both normative guidance and practical tools for developing equitable AI governance systems that

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WIRED (July 2, 2025), https://www.wired.com/story/xai-data-center-air-pollution-permit/.

277. *Id.*

278. *Id.*

279. *See* Esmat Zaidan & Imad Antonie Ibrahim, *AI Governance in a Complex and Rapidly Changing Regulatory Landscape: A Global Perspective*, 11 HUMANITIES & SOC. SCIS. COMMC'NS, Sept. 2024, at 4.

280. *See* Maudlyne Ihejirika, *What is Environmental Racism*, NAT. RES. DEF. COUNCIL (May 24, 2023), https://www.nrdc.org/stories/what-environmental-racism?utm_source=chatgpt.com ("The phrase *environmental racism* was coined by civil rights leader Dr. Benjamin F. Chavis Jr. He defined it as the intentional siting of polluting and waste facilities in communities primarily populated by African Americans, Latines, Indigenous People, Asian Americans and Pacific Islanders, migrant farmworkers, and low-income workers.").

281. Emari Pam, *How AI is Fueling a New Wave of Environmental Racism*, FEMINIST MAJORITY FOUND. (July 29, 2025), https://feminist.org/news/how-ai-is-fueling-a-new-wave-of-environmental-racism/.

282. SUSTAINABLE DEV. GOALS, *supra* note 127.

can address, rather than perpetuate, place-based health disparities.[283] By exposing the structural motivations behind algorithmic bias and emphasizing legal accountability, this analysis offers a pathway toward an AI infrastructure that respects human rights and promotes health equity. The framework outlines explicit methods for ensuring that legal responsibilities are fulfilled.[284] It provides specific guidance on building an AI infrastructure that supports equity and fundamental freedoms, aiming to create fair and democratic AI systems that are free from supremacist rhetoric.

As noted in the 2025 SDG report, which details the international progress on achieving the SDGs by 2030, implementing these changes demands significant investment, strong policies, and swift action.[285]It involves bridging the digital gap and ensuring that technology, including artificial intelligence, is used inclusively and responsibly.[286]

The domestic framework discussed in this article, grounding AI governance in SDG 16 principles of justice, accountability, and inclusion has significant implications for America's position in the emerging global landscape of AI regulation. As the European Union implements its comprehensive AI Act and other nations follow suit[287], the United States faces critical choices about how to balance innovation with equity in its international AI policy.

V. REFORMS

The analysis above makes clear that without deliberate structural interventions, AI governance in U.S. healthcare will continue to reflect the logic of supremacy politics, a system of opaque decision-making, exclusion of affected communities, and consolidation of control in the hands of those least affected by the harms. SDG 16 offers a normative counterpoint: it envisions institutions that are transparent,

283. *Id.*

284. *See id.*

285. U.N. DEPT. OF ECON. AND SOCIAL AFFS., THE SUSTAINABLE DEVELOPMENT GOALS REPORT 2025, U.N. Sales No. E.25.I.4 (2025), https://unstats.un.org/sdgs/report/2025/The-Sustainable-Development-Goals-Report-2025.pdf

286. *Id.*

287. *EU Leads the Way on Artificial Intelligence Regulation*, BARCLAY DAMON (July 2, 2024), https://www.barclaydamon.com/alerts/eu-leads-the-way-on-artificial-intelligence-regulation

participatory, and accountable to the people they serve.[288] Translating this vision into practice requires targeted reforms. First, Congress and state legislatures should legislate algorithmic due process in healthcare, codifying enforceable rights for patients to challenge AI-driven decisions. These protections must mandate multilayered transparency—patient-facing, provider-facing, and developer-facing—so that algorithmic authority cannot be shielded from scrutiny. Such legal safeguards would ensure that the exercise of algorithmic power remains answerable to both the individuals it affects, and the public institutions charged with oversight.

Second, healthcare institutions must replace symbolic ethics reviews with standing multidisciplinary AI governance committees vested with binding authority over the procurement, deployment, and auditing of AI tools. By granting these bodies real decision-making power rather than merely advisory roles, governance shifts away from the supremacy politics dynamic in which corporate or administrative priorities eclipse patient protections.

Third, regulation must institutionalize community power in AI governance. Community advisory boards, representative of populations most affected by health inequities, should be given not only consultative input but also the authority to amend or veto AI adoption proposals. This structural redistribution of decision-making power transforms participation from a procedural formality into a substantive check on technological deployment, which could exacerbate inequality.

Fourth, the U.S. healthcare AI policy should be harmonized with global equity norms by embedding SDG 16's justice, accountability, and inclusion benchmarks into domestic regulatory frameworks and aligning with emerging international models, such as the EU AI Act.[289] Such alignment would resist the inward-looking policy reversals characteristic of supremacy politics and affirm equity as a non-negotiable standard in the governance of healthcare technologies.

Finally, AI systems must undergo both pre-deployment and periodic equity impact audits to identify and remediate any disparate effects. Public disclosure of audit results would disrupt the invisibility

288. SUSTAINABLE DEV. GOALS, *supra* note 127.

289. SUSTAINABLE DEV. GOALS, *supra* note 127; *EU AI Act: First Regulation on Artificial Intelligence*, EUR. PARL. (Aug. 6, 2023), https://www.europarl.europa.eu/topics/en/article/20230601STO93804/eu-ai-act-first-regulation-on-artificial-intelligence#ai-regulation-in-europe-the-first-comprehensive-framework-4.

that allows structural inequities to persist, ensuring that harm is not only identified but also addressed transparently. Taken together, these reforms reorient healthcare AI governance away from supremacist logics, where opacity, exclusion, and concentrated control dictate healthcare outcomes, and toward a rights-based framework that operationalizes justice in both the design and deployment of the technology.

CONCLUSION

This article mapped the converging harms of algorithmic opacity and structural inequality in public healthcare, arguing that supremacy politics—when embedded in the design and deployment of artificial intelligence—reproduces exclusion, harm, and abandonment in systems ostensibly designed to serve. By invoking *Sustainable Development Goal 16*, which calls for just, accountable, and inclusive institutions[290], this article establishes a normative baseline for evaluating supremacy leaning political action that impact AI governance and equitable, inclusive AI design. However, SDG 16 is only the starting point.

The global nature of AI development and deployment demands a broader view that considers comparative legal regimes, transnational data flows, and emerging diplomatic pressure. These dimensions will be explored in *Supremacy Politics II: Architecting Reform In Artificial Intelligence Governance,* which proposes a comprehensive policy and legal framework aimed at recalibrating AI governance in alignment with international human rights principles and domestic obligations to health equity for all.

This article is a critique and a call to action: a critique of the systemic neglect and tacit normalization of supremacy politics impacting digital healthcare infrastructures, and a call to reconceptualize algorithmic systems for public accountability and health justice.

290. SUSTAINABLE DEV. GOALS, *supra* note 127.

APPENDIX A: ABBREVIATED OPERATIONAL CRITERIA FOR IDENTIFING "SUPREMACY POLITICS" IN HEALTHCARE AI

This appendix lists the core observable indicators of a system that translates supremacy politics into code and governance. Each item flags what to look for and is a practical proxy.

1. Equity Rollbacks (Legal/Policy): Repeated narrowing of DEI/civil rights mandates.

   Indicators: rescinded directives, budget/FTE cuts to equity/civil-rights offices, dissolved committees, and timelines of repeal/replace.

2. Data Suppression & Knowledge Gaps: limits that make it difficult to detect harm.

   Indicators: missing/removed fields (race, ethnicity, gender, disability status); fewer stratified reports; algorithmic decision-making that lacks transparency in dataset training.

3. Denial-First Architecture (Deployment Rules): defaults that externalize risk onto patients/clinicians.

   Indicators: prior-auth denial rates, overturn rates/time on appeal, auto-denial flags, and shortened review windows.

4. Opacity + Weak Oversight: Barriers that block correction and accountability.

   Indicators: environmental racism; AI systems built in marginalized communities; lack of pre-deployment equity audit or continuous monitoring; sparse investigations/penalties; long time-to-resolution.

Inference cue: When two or more of these co-occur at moderate intensity, presume "Supremacy Politics" is operating unless the plan/vendor/state or federal actor shows effective mitigation and non-discriminatory justification.